



Arizona Medical Board

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DRAFT MINUTES FOR BOARD REVIEW COMMITTEE A TELECONFERENCE MEETING

Held on Thursday, February 11, 2021

1740 W. Adams St., Board Room A • Phoenix, Arizona

Committee 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
Bruce A. Bethancourt, M.D., F.A.C.P.
Pamela E. Jones
Lois E. Krahn, M.D.
Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the Committee's meeting to order at 8:04 a.m. and read aloud the Board's Mission: "To protect public safety through the judicious licensing, regulation and education of all allopathic physicians."

B. ROLL CALL

The following Committee members participated in the virtual meeting: Chairman Farmer, Dr. Gillard, Dr. Bethancourt, Dr. Krahn and Ms. Oswald. The following Committee member was absent: Ms. Jones.

ALSO PRESENT

The following Board staff participated in the virtual meeting: Patricia McSorley, Executive Director; Raquel Rivera, Investigations Manager; William Wolf, M.D., Chief Medical Consultant; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator. Carrie Smith, Assistant Attorney General ("AAG") was also present.

C. OPENING STATEMENTS

The Committee recognized and welcomed the Board's newest member, Ms. Oswald, and acknowledged her extensive experience and background in quality assurance.

D. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals that addressed the Committee during the Public Statements portion of the virtual meeting appear beneath the matter(s) referenced.

E. APPROVAL OF MINUTES

- December 3, 2020 Board Review Committee A Teleconference

MOTION: Dr. Gillard moved for the Committee to approve the December 3, 2020 Board Review Committee A Teleconference.

SECOND: Dr. Krahn

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt, Dr. Krahn and Ms. Oswald. The following Committee member was absent: Ms. Jones.
VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

LEGAL MATTERS

F. FORMAL INTERVIEWS

1. MD-20-0152A, LOGAN WINELAND, M.D., LIC. #46227

Dr. Krahn was recused from this matter. Dr. Wineland and Attorney Jessica Gale participated in the virtual meeting during the Committee's consideration of this matter, made statements and answered Committee members' questions.

Board staff summarized that Dr. Wineland disclosed on his 2019 renewal application that action was taken against his Kansas license based on a 2016 academic probation that he failed to disclose on his license renewal application in 2017. Board staff contacted the licensee to request documentation related to the 2016 matter as well as the Kansas Board sanction in order to conduct a substantive review of the renewal application. Board staff reported that Dr. Wineland failed to cooperate with the investigation and failed to provide the requested documentation, and also instructed the Kansas Board's Program to not release his information to the Arizona Board. Thereafter, the physician ceased communication with the Board altogether. After receiving the Staff Investigational Review Committee ("SIRC") recommendation to revoke the license, Dr. Wineland began cooperating with the investigation.

Ms. Gale provided an opening statement on behalf of Dr. Wineland and asked the Committee to consider issuing a non-disciplinary sanction to resolve this matter.

Dr. Wineland stated that the refusal to cooperate with the Board's investigation stemmed from his naivety to the Board's processes for applying and reapplying for licensure. He stated that he disagreed with the information described in the academic probation paperwork, and that he wanted to move on with his career. Dr. Wineland stated that he corrected those mistakes and never had any issues with his patient care, medical knowledge or surgical skills. He stated that he was under the impression that the Board was aware of the issues that occurred during his residency and that he was told by the former Urology Residency Program Director that the Board was already notified of his academic probation. Dr. Wineland apologized for his behavior and brash responses to Board staff, and stated that he has learned his lesson in regard to interacting with a regulatory board.

Chairman Farmer commented that being a physician takes more than just a sum of knowledge and technical expertise, and that physicians have to have personal qualities that are conducive to responsible patient care. Chairman Farmer noted that the issues described by the Mayo Clinic outlined patient care problems as well as documentation issues that were severe enough to impact patient care. The quality of care concerns raised during the physician's residency included a case involving a patient who underwent unnecessary stent placement, system related issues, inadequate preparation prior to caring for patients, failure to know all patient medical history and anatomy prior to surgery or patient care, failure to respond to pages while on call on several occasions and a lack of surgical awareness while on transplant rotation.

Dr. Wineland stated that early into his residency, documentation became an issue that got him into trouble multiple times, and that he had a difficult time interacting with the Program Director thereafter. Dr. Wineland stated that almost all of the issues identified during his residency involved interactions with the Program Director. He reported that he

was closely monitored during his academic probation that he successfully completed after three months. Dr. Wineland also reported that he successfully completed his monitoring agreement with the Kansas Board.

Chairman Farmer observed the email correspondences between the physician and Board staff, and stated that he found the physician's responses to Board staff to have been extremely rude, uncooperative and unprofessional. Dr. Wineland stated that he was upset after receiving Board staff's email and was having a bad day. He reiterated that he was under the impression that the Board was already notified of his academic probation. In response to Ms. Oswald's questioning, Dr. Wineland stated that the biggest takeaway from the professional development plan in Kansas was to make sure he is staying on top of all of his documentation and to make sure he is interacting with colleagues and other staff in a good way.

During closing comments, Dr. Wineland offered to provide the Board with character references and stated that he is not the person he appears to be in his emails. Ms. Gale stated that Dr. Wineland is sorry for what has taken place and has remedied the issues that resulted in his academic probation that occurred nearly five years ago. She asked the Committee to consider a non-reportable, non-disciplinary sanction to resolve this matter.

Chairman Farmer stated that he found the physician engaged in unprofessional conduct in this matter including failure to furnish information in a timely manner to the Board and making a false or misleading statement to the Board.

MOTION: Chairman Farmer moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(ee) and (kk) for reasons stated by SIRC.

SECOND: Dr. Bethancourt

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt and Ms. Oswald. The following Committee member was recused: Dr. Krahn. The following Committee member was absent: Ms. Jones.

VOTE: 4-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

Chairman Farmer expressed concerns regarding the physician's attitude and minimalization of what occurred during his residency training. He stated that the physician's interactions with staff during the course of the investigation led SIRC to find that he was not able to be regulated by this Board resulting in a recommendation for license revocation. Dr. Bethancourt agreed that the physician acted unprofessionally in his interactions with Board staff during the course of the investigation. Dr. Gillard stated that he echoed Dr. Bethancourt's concerns, and stated that failing to cooperate with the Board is a serious problem. Ms. Oswald stated that she concurred with other members' comments, and stated her concerns that the physician has not remedied the issues identified and was not able to adequately answer her question as to what he learned from the professional development plan.

Chairman Farmer questioned whether CME would be appropriate to help the physician remedy the Board's concerns regarding his insight issues. Dr. Gillard stated that the failure to cooperate with the Board's investigation rises to the level of disciplinary action and that he did not find that CME was warranted. Dr. Bethancourt spoke in favor of requiring the physician to complete CME and Board members discussed various options for CME.

MOTION: Dr. Gillard moved for the Committee to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to furnish information to the Board in a timely manner and for failing to cooperate with the investigation. There is

insufficient evidence to support disciplinary action. Within six months, complete CPEP's ProBE course in ethics and boundaries. The CME hours shall be in addition to the hours required for license renewal.
SECOND: Dr. Bethancourt

The Committee discussed whether to require completion of only ProBE versus both a PACE and ProBE course. Ms. Rivera clarified that CPEP's ProBE course is an intensive ethics course that she believed would address the Board's concerns in this matter. Dr. Gillard amended his motion to remove the PACE communication course and only require completion of ProBE as he believed it would cover the issues that have been identified and Dr. Bethancourt agreed with the amendment.

Chairman Farmer pointed out that while the Advisory Letter and CME Order are non-disciplinary, it is part of the physician's permanent file. He stated that the Committee's discussion was clear in that there were serious concerns raised in this case. The Committee observed that Dr. Wineland has practice for five years without any other concerns reported.

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt and Ms. Oswald. The following Committee member was recused: Dr. Krahn. The following Committee member was absent: Ms. Jones.

VOTE: 4-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

G. FORMAL INTERVIEWS

1. MD-19-0589A, JEFFREY V. RIBBINK, M.D., LIC. #18860

Dr. Van Leer Ribbink participated in the virtual meeting during the Committee's consideration of this matter and answered Committee members' questions.

Board staff summarized that this matter stemmed from notification of a malpractice settlement involving patient AB and alleged a number of quality of care concerns relating to surgery for primary hyperparathyroidism performed in April of 2014. The Medical Consultant ("MC") who reviewed the case identified deviations from the standard of care in that the physician failed to identify and preserve parathyroid tissue during AB's re-operation. The MC opined that the standard of care required the physician to cease the surgery when unable to identify the tissue rather than removing the remaining parathyroid glands.

Dr. Gillard questioned the physician regarding the initial surgery. Dr. Van Leer Ribbink explained that these are complicated surgery cases of which he is familiar based on his extensive training and background in performing parathyroid surgery. He stated that during the procedure, the laryngeal nerve was found embedded in scar tissue, transection of the nerve was immediately identified, and that a micro surgeon was obtained to assist with the surgery. Dr. Van Leer Ribbink stated that the surgical complication is a known complication in patients who undergo repeat parathyroid surgery. Dr. Gillard noted that the parathyroid tissue was marked with sutures during the first procedure. Dr. Van Leer Ribbink explained that intraoperative concerns were raised during the second procedure and that it was conceivable that the suture and attached clips became dislodged from the parathyroid gland at some point between the first and second surgeries.

During his closing comments, Dr. Van Leer Ribbink explained the reasoning for performing the left thyroid lobectomy, stating that he had exhausted all means preoperatively and that the technique suggested was not a practical option in this case. He stated that they could not find the parathyroid gland, that the pathologist found the

parathyroid tissue under microscope which they did not have the advantage of having intraoperatively. He stated that he disagreed with the settlement that he felt was unjustified, and that he believed his strategy used during the surgical procedure was very good.

Dr. Gillard stated that it was obvious the physician was experienced and has training in this area. He found that the physician engaged in unprofessional conduct given that the tissue was removed.

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

SECOND: Chairman Farmer

Dr. Bethancourt recognized that this was a complicated surgery and the physician's explanation as to his surgical decision making. Dr. Krahn stated that the physician appeared to carefully weigh the risks, benefits and alternatives, and made a decision in a complicated situation that had to be made intraoperatively. She found that there was no clear evidence of unprofessional conduct in this case and spoke against the motion. Ms. Oswald agreed that there was no evidence of unprofessional conduct in this matter. Dr. Gillard spoke in favor of the motion and stated that the case involved serious patient harm.

VOTE: The following Committee member voted in favor of the motion: Dr. Gillard. The following Committee members voted against the motion: Chairman Farmer, Dr. Bethancourt, Dr. Krahn and Ms. Oswald. The following Committee member was absent: Ms. Jones.

VOTE: 1-yay, 4-nay, 0-abstain, 0-recuse, 1-absent.

MOTION FAILED.

MOTION: Dr. Krahn moved for dismissal.

SECOND: Dr. Bethancourt

Dr. Gillard stated that this was a very unfortunate case that involved patient harm, and that he did not believe this matter rises to the level of discipline.

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt, Dr. Krahn and Ms. Oswald. The following Committee member was absent: Ms. Jones.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

H. FORMAL INTERVIEWS

1. THIS CASE WAS PULLED FROM THE AGENDA.

CONSENT AGENDA

I. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-19-0985A, THANES J. VANIG, M.D., LIC. #24745

Dr. Gillard recalled that the Committee interviewed the physician at its December 3, 2020 meeting.

MOTION: Dr. Gillard moved for the Committee to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Two Year Probation. Within 12 months, complete the intensive, in-person course regarding medical recordkeeping offered by CPEP; and, complete no less than 5 hours of

Board staff pre-approved Category I CME in prescribing opioids and benzodiazepines. Within 30 days of completing the Board ordered CME, the physician shall enroll into CPEP's Personalized Implementation Program ("PIP"). The CME hours shall be in addition to the hours required for license renewal. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Dr. Vanig's request shall be accompanied by proof of successful completion of the CME.

SECOND: Dr. Bethancourt

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt, Dr. Krahn and Ms. Owsald. The following Committee member was absent: Ms. Jones.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-18-0863A, MD-19-0723A, MD-19-0954A, MD-20-0049A, MICHAEL S. KUNTZELMAN, M.D., LIC. #13565

Dr. Kuntzelman addressed the Committee during the Public Statements portion of the Committee's meeting.

Dr. Gillard recalled the comments made during Public Statements and that the Committee interviewed the physician at its December 3, 2020 meeting. Dr. Gillard also noted Dr. Kuntzelman's prior Board history of disciplinary action as well as an unfavorable chart review.

MOTION: Dr. Gillard moved for the Committee to approve the draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure and Five Year Probation with Practice Restriction. Dr. Kuntzelman shall be prohibited from prescribing controlled substances until receiving permission from the Board to do so. Once the physician has complied with the terms of Probation, he must affirmatively petition the Board to request Probation termination.

SECOND: Dr. Bethancourt

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt, Dr. Krahn and Ms. Owsald. The following Committee member was absent: Ms. Jones.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

GENERAL BUSINESS

J. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES

Chairman Farmer reported that he and the Executive Director routinely interact with the Governor's Office and/or AzDHS regarding the Board's ability to return to in-person meetings versus remote/virtual means. He stated that the current recommendations are to continue to function remotely, and that he and the Executive Director will continue to monitor the situation and keep the Committee updated. Chairman Farmer stated his appreciation for the current structuring of the Board's committee meetings and teleconferences, and stated that the Board and staff are doing an effective job carrying out the Board's mission under the current circumstances. Chairman Farmer stated that utilizing the Zoom platform for the Committee's meetings has worked very well as it allows for a more thoughtful, in-depth review of cases. Chairman Farmer also recognized Ms. Robles and stated his appreciation for her hard work and efforts in coordinating and facilitating the meetings.

The Committee discussed potentially utilizing the Zoom platform for the Board's teleconferences going forward, and recognized the challenges associated with having a larger volume of meeting attendees and the staff/resources needed to do so. Dr. Gillard pointed out the difficulties with using the Zoom platform with a poor internet connection. The Committee discussed whether the

current structure was needed going forward given that a number of cases were pulled from the agenda due to the licensees electing to enter into Consent Agreements with the Board. Ms. Robles explained to the Committee the processes involved with scheduling the meetings as well as the notifications that are sent out to the parties involved in the cases. Dr. Krahn spoke in favor of continuing the current Committee process and stated that shorter meeting agendas allow her more time to prepare for the Board's teleconference that is scheduled for the following day. Dr. Bethancourt stated that he found the process to be going very well. Ms. Oswald echoed Dr. Krahn's comments regarding the ability to have more time to prepare for the Board's teleconference. Executive Director McSorley reported that staff has not received any negative feedback from individuals that have participated in the Committee's Zoom meetings.

The Committee considered whether the Board should consider holding its teleconferences via the Zoom platform, and recognized the technical issues involved with having to rely on a secure internet connection versus telephone line. Ms. Robles described the types of challenges Board staff would encounter if the Board were to elect to hold its teleconferences via Zoom going forward, including the process for signing individuals in to address the Board. The Committee noted that this topic was agendaized for the Board's discussion and consideration at its February 12, 2021 teleconference.

K. ADJOURNMENT

MOTION: Dr. Krahn moved for the Committee to adjourn.

SECOND: Dr. Bethancourt

VOTE: The following Committee members voted in favor of the motion: Chairman Farmer, Dr. Gillard, Dr. Bethancourt, Dr. Krahn and Ms. Oswald. The following Committee member was absent: Ms. Jones.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Committee's meeting adjourned at 10:18 a.m.



Patricia E. McSorley, Executive Director