



Arizona Medical Board

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DRAFT MINUTES FOR TELECONFERENCE MEETING

Held on Friday, February 12, 2021

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.
Shiva K. Y. Gosi, M.D.
Pamela E. Jones
Lois E. Krahn, M.D.
Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the meeting to order at 8:13 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 Board members participated in the teleconference:

Chairman Farmer, Vice-Chair Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Dr. Gosi, Dr. Krahn and Ms. Oswald. The following Board member was absent: Ms. Jones.

ALSO PRESENT

The following Board staff participated in the teleconference:

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") also participated in the teleconference, and AAG Elizabeth Campbell participated to provide the Board with independent legal advice on the hearing cases as stated herein.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals that addressed the Board during the Public Statements appear beneath the matter(s) referenced.

D. EXECUTIVE DIRECTOR'S REPORT

- Update and Correspondence with Medical Examiners Regarding the Signing of Death Certificates by Physicians and the Authority to Order Autopsy

EO addressed the Board during the Public Statements portion of the teleconference.

Executive Director McSorley reported that this matter arose from cases previously considered by the Board that involved the signing of death certificates and the Medical Examiner's Office. She stated that she reached out to the Medical Examiner's Office per the Board's prior instruction, one of which indicated that discussion they have had with the physician being asked to sign the death certificate is driven by the facts of the case. The second Medical Examiner's Office responded stating that the one case in particular resulted in them revisiting some of their policies for when physicians are not comfortable signing a death certificate. Executive Director McSorley stated that it appeared the two offices are aware of this issue and will try to be more cognizant when dealing with physicians.

Executive Director McSorley stated that the issue of authority to order autopsy was the result of a case previously considered by the Board. She stated that physicians do not have the authority to order autopsy and clarified that Arizona statute gives the Medical Examiner broad authority in that decision. Dr. Krahn stated that this places physicians in an uncomfortable and unacceptable position when the cause of death is not clear and they have the medical knowledge that makes them wonder about other causes, but have no authority or control over getting additional information through autopsy. The Board discussed whether this issue should be addressed through the pursuit of a legislative remedy with the involvement of other stakeholders.

Executive Director McSorley confirmed that she would further research this issue, engage the appropriate stakeholders for their input and return to the Board to revisit this topic.

- Review, Discussion and Possible Action Regarding the Requirements for Emergency Licenses for Retired and Unlicensed Physicians

Executive Director McSorley reported that she recently informed an application for temporary emergency licensure that he did not qualify under the terms as set forth by the Board in April of 2020 granting such a waiver for individuals who have been retired and out of practice for four years or less. She asked the Board to consider whether to continue with these criteria or to modify the requirements to allow individuals that have been out of practice for a lengthier period of time in order to qualify for temporary emergency licensure.

The Board observed that a new amendment was made to the PREP Act on January 29, 2021 that placed a five year limit for the time a physician has been out of practice, and that the range among other states is 3-6 years. The Board discussed whether to pursue requesting authorization from the Governor's Office and AzDHS to issue temporary emergency licensure to individuals that have been out of practice for a lengthier period of time versus granting individual exceptions on a case by case basis. The Board also recognized that the individual mentioned in the Executive Director's summary had applied for a temporary emergency license in order to help with vaccinations, and the Board considered whether to seek approval from the Governor's Office and AzDHS to grant temporary emergency licenses limited to helping with vaccine efforts for the duration of the state of emergency. Dr. Beyer spoke in favor of the Board granting emergency licenses to individuals that wish to participate in vaccination efforts. He stated that the help is needed and is exactly the intent of these emergency licenses.

Chairman Farmer pointed out that after obtaining a temporary emergency license, the physician has the ability to practice independently and questioned what would prevent an individual from practicing beyond the parameters intended by the emergency license. Dr. Bethancourt pointed out that physicians are subject to an extensive credentialing process in the event they apply for hospital privileges. In a response to Board member inquiry, AAG Smith recommended the Board consult with the Governor's Office and AzDHS as this is a

policy decision for the Board. Chairman Farmer spoke in support of the Board having the ability to issue temporary licenses during the health emergency for specific purposes with approval from the Governor's Office and AzDHS.

Dr. Beyer pointed out that the Board was not considering vaccination efforts back in April 2020 when the Board initially considered licensure waivers under the Governor's Executive Orders. He proposed extending the time out of practice to up to ten years for individuals applying for temporary licensure for the purpose of participating in vaccine efforts. Ms. Oswald and Dr. Gosi spoke in support of the Board's ability to issue temporary emergency licensure for the purpose of individuals to participate in vaccination efforts. The Board recognized that the temporary licenses are due to expire at the time that the declared state of emergency has been lifted by the Governor. Dr. Figge suggested that individuals who do not qualify for temporary emergency licensure due to the number of years that they have not held a license should seek exception from AzDHS as he believed it was out of this Board's purview to do so. In response to Board member inquiry regarding the process for implementation, AAG Smith informed the Board that if approval is obtained from the Governor's Office and AzDHS, the Board would need to convene a meeting to implement the change in public session.

The Board instructed the Executive Director to engage with the AzDHS and the Governor's Office to request authorization for the Board to grant temporary emergency licenses for the sole purpose of assisting with vaccination efforts, including individuals that have been without a license for ten years or less.

- **Update on Telehealth Bill HB 2454 and Current Telehealth Requirements**

Executive Director McSorley updated the Board regarding HB2454 and current telehealth requirements. She stated that HB2454 defines telehealth to include audio, video or other electronic media, and allows use under certain circumstances for audio only between the doctor and client. She stated that the other significant change is how the Board regulates the practice of telehealth in Arizona. She explained that the current practice is to require Arizona licensure if you are treating an Arizona resident. In the event that HB2454 passes, providers that are not licensed in Arizona will have the ability to treat Arizona residents via telehealth services provided that they are licensed in another state in good standing, and register with the Arizona Board. Executive Director McSorley clarified that if HB2454 passes, the Board would be required to establish a mechanism for such registration.

Dr. Bethancourt questioned whether the registration requirement applied to radiologists. Executive Director McSorley stated that if an individual practices radiology via telehealth for Arizona residents, they would need to be registered with the Board. Chairman Farmer questioned whether the Board would have the authority to investigate complaints against a registered physician. Executive Director McSorley stated that the Board would have to rely on the registered provider to obtain the necessary documentation for review as the Board does not have subpoena power in other states. Chairman Farmer stated his concerns regarding whether the Board had the ability to revoke a registration as well as investigative limitations. Dr. Beyer stated that the Board needed a mechanism to have the authority to investigate complaints against registered providers in the even that HB2454 passes. Dr. Krahn stated her concerns regarding the importance for patients to have somewhere to turn when they are dissatisfied with the care they received.

Chairman Farmer stated that the Board's concerns regarding this bill needed to be relayed to the individuals sponsoring it, and offered to meet with the Executive Director and other interested parties to further discuss the Board's concerns.

- **Update on Board Processes and Staffing**

Executive Director McSorley reported that temporary staff has been hired and stated her appreciation for staff taking on additional responsibilities to continue moving the application

process along. She also reported that Pushpa Gregory has been promoted to the position of Manager of the IT Department, and that the Deputy Director will be working on the newsletter as well as the upcoming rules process.

- **Update on Changes to USMLE Examination**

Executive Director McSorley reported that Step 2 of the USMLE exam was suspended in May of 2020 and has since been discontinued. Chairman Farmer questioned whether the discontinuation of that part of the exam had any impact on the Board's rules. Executive Director McSorley stated that no rule changes were needed at this time.

- **Update on FSMB Annual Meeting (virtual)**

Executive Director McSorley informed the Board that the FSMB's Annual Meeting will be held virtually on April 29th to May 1st and asked members to inform her if they wished to attend/participate.

E. CHAIR'S REPORT

- **Welcome to New Board Members**

Chairman Farmer welcomed Dr. Gosi to the Board and recognized his background as a hospitalist and in public health. Chairman Farmer also welcomed Ms. Oswald to the Board and recognized her extensive background in quality assurance.

- **Expression of Appreciation to Dr. Edward Paul for his Service on the AMB**

Chairman Farmer stated his appreciation for Dr. Paul's years of service on the Board and stated that the Board will miss his even keel and steady hands, and wished him well. Dr. Paul stated it has been an honor to serve on the Board, recognized Board staff's exceptional work and expressed his gratitude to be a part of the team.

Chairman Farmer stated his appreciation for the Board members and staff for their exceptional work over the course of the past year. He recognized Dr. Krahn for assuming the leadership position for the Board's committees and providing outstanding service. Chairman Farmer also recognized Ms. Bain and stated his appreciation for her spearheading efforts to maintain the monitoring of legislative and administrative matters.

F. LEGAL ADVISOR'S REPORT

G. DISCUSSION AND POSSIBLE ACTION REGARDING ELECTION OF OFFICERS

Chairman Farmer stated that he would be willing to continue serving as Board Chair and was also willing to allow another member to step into that role. Dr. Krahn commended Chairman Farmer for being an exemplary Chair through challenging issues and handling the process in accordance with law and rule in an outstanding manner. She spoke in favor of him retaining the role of Board Chair.

MOTION: Dr. Krahn nominated Chairman Farmer to retain the role of Board Chair.

SECOND: Dr. Beyer

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

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

MOTION PASSED.

Vice-Chairman Gillard stated that he would be happy to continue serving in the role of Vice-Chair.

MOTION: Dr. Bethancourt nominated Vice-Chairman Gillard to retain the position of Vice-Chair.

SECOND: Dr. Figge

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

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

MOTION PASSED.

Chairman Farmer spoke in favor of Dr. Krahn serving in the role of Board Secretary given her experience and leadership in having served on the Board's committees.

MOTION: Chairman Farmer nominated Dr. Krahn for Secretary.

SECOND: Vice-Chairman Gillard

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

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

MOTION PASSED.

Dr. Krahn accepted the nomination and stated that she will do her best to serve in the capacity of Board Secretary. Vice-Chairman Gillard commended Dr. Paul for his service and due diligence as Board Secretary.

H. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

The Board discussed the Chair and Executive Director's active interactions with the Governor's Office and AzDHS with regard to whether or not the Board may return to conducting its meetings in person. Chairman Farmer reported that guidance was received from AzDHS within the last week instructing the Board to continue meeting virtually. He stated that the Agency will continue to interact with the Governor's Office and AzDHS on a monthly basis for guidance moving forward. Chairman Farmer stated his appreciation for the Board members and staff for their hard work and efforts under the current circumstances.

The Board discussed whether to use the Zoom platform for its regular meetings as it has been helpful for the committees to conduct Formal Interviews. The Board recognized the logistical challenges in using the Zoom platform to conduct regular meetings due, in part, to the number of individuals that are typically in attendance. Dr. Beyer stated that the current process of using Zoom for a small panel has worked very well, is more efficient and a better use of the Board's time and attention. He spoke in support of continuing the current process. Dr. Krahn noted that a number of cases were pulled from the committees' agendas due to the licensees electing to enter into Consent Agreements, and stated that she found this an acceptable consequence of the process. Dr. Figge stated his concerns regarding time specific items, noting that Committee B's first Formal Interview was canceled with the second scheduled for 8:30 a.m. which resulted in a 20 minute recess. He also commented on whether the Board should continue utilizing the process of committees to conduct its Formal Interviews, noted the large reduction in cases agendaized for Formal Interviews this month, and the resources needed that pulls staff away from their usual duties.

Ms. Robles explained to the Board the different factors to consider when changing the meeting times, including notification to the parties involved in the cases and the posting of the Board's agendas. Chairman Farmer commented that the more involved he has become with the Board's different processes, the more impressed he is with the logistics required to facilitate the Board's meetings. Ms. Robles also pointed out the difficulties and challenges faced by Board staff when attempting to schedule multiple meetings on the same day. Chairman Farmer stated his

appreciation for staff's efforts and input in these processes. Dr. Beyer stated his concerns regarding the numbering/lettering of the Board's agendas, stating that he has difficulty continuing his notes after the agenda has been revised and the numbering/lettering has changed. Ms. Robles explained that while staff recognizes the challenges associated with revising the Board's agenda, discussion topics and/or legal matters are often added after it is first published that causes a change in the numeration, and that staff does their best to keep the Board members updated when changes are made.

Dr. Krahn recognized Board staff and stated her appreciation for their hard work and efforts. She stated that the Executive Director's summaries and recommendations in a number of items considered today were very helpful in her review of the material. Chairman Farmer stated that the staff's efforts is a great example of a group working effectively, and stated that he appreciated the time and attention of the Board members.

I. APPROVAL OF MINUTES

- January 7, 2021 Special Teleconference Meeting, including Executive Session

Dr. Figge noted a typographical error under Agenda Item No. G, and requested the draft be modified to remove the repeated "in support" from the summary.

MOTION: Dr. Figge moved for the Board to modify and approve the January 7, 2021 Special Teleconference Meeting, including Executive Session.

SECOND: Ms. Dorrell

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

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

MOTION PASSED.

LEGAL MATTERS

J. REVIEW, CONSIDERATION AND POSSIBLE ACTION ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

1. MD-18-0637A, JOSE M. PISCOYA, M.D., LIC. #25569

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

AAG Smith summarized that the licensee was subject to terms and conditions of Probation pursuant to an Order entered in MD-17-0083A which required completion of a neuropsychological re-evaluation and to enter into treatment for his health issues. Dr. Piscoya complied with this requirement by completing the evaluation; however, his treating provider notified the Board that she could not opine as to whether he was safe to practice medicine. Dr. Piscoya was issued an Interim Order to complete a psychosexual re-evaluation with which he failed to comply and ceased responding to Board staff or treating provider. For these reasons, this matter proceeded to Formal Hearing for license revocation. Dr. Piscoya did not respond to the Complaint and Notice of Hearing, a Formal Hearing was held in his absence, and the ALJ recommended that the Board revoke the license. AAG Smith requested the Board adopt the ALJ's recommended decision to revoke the physician's license.

Vice-Chairman Gillard noted that the ALJ issued a recommended decision for license revocation after a full evidentiary hearing was held, and he spoke in favor of the Board adopting the ALJ's recommendation.

MOTION: Vice-Chairman Gillard moved for the Board to adopt the ALJ's recommended Findings of Fact.

SECOND: Dr. Bethancourt

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Vice-Chairman Gillard moved for the Board to adopt the ALJ's recommended Conclusions of Law.

SECOND: Dr. Paul

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Vice-Chairman Gillard moved for the Board to adopt the ALJ's recommended Order for license revocation.

SECOND: Dr. Bethancourt

Vice-Chairman Gillard spoke in support of the ALJ's recommendation to revoke the license and noted Dr. Piscoya's prior history of disciplinary action. Chairman Farmer also spoke in favor of the ALJ's recommendation for license revocation and stated that there was a definite threat to public safety here. Dr. Beyer stated that the evidence is clear in demonstrating that Dr. Piscoya cannot be regulated by this Board and that license revocation was warranted.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

K. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON SETTLEMENT OFFER IN LIEU OF FORMAL HEARING

1. MD-18-1230A, LUIS A. PIEDRAHITA, M.D., LIC. #34023

Complainant MM addressed the Board during the Public Statements portion of the teleconference.

Dr. Piedrahita and Attorney Chris Smith participated in the teleconference during the Board's consideration of this matter. AAG Smith participated on behalf of the State and AAG Campbell participated to provide the Board with independent legal advice.

The Board observed that Mr. Smith submitted a lengthy settlement packet late yesterday, and considered tabling this matter to its next meeting in order to provide the Board members an opportunity to review the information. Vice-Chairman Gillard noted that this was a complicated case and spoke in favor of proceeding to Formal Hearing. Dr. Beyer

stated that he has not had an opportunity to review the material included with the proposal and spoke in support of tabling this matter to the Board's next meeting. Dr. Krahn echoed Dr. Beyer's comments and also spoke in support of tabling this matter.

MOTION: Dr. Beyer moved for the Board to table this matter until its next meeting.

SECOND: Dr. Paul

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

L. FORMAL LICENSING INTERVIEWS

1. MD-20-0634A, FRANCISCO M. RALLS, M.D., LIC. #N/A

Dr. Ralls participated in the teleconference during the Board's consideration of this matter and answered Board members' questions.

Board staff summarized that Dr. Ralls applied for licensure and subsequently disclosed multiple misdemeanor convictions. Dr. Ralls completed his Court-ordered requirements, and the cases have since been closed. This matter was previously reviewed by the Board at its January 7, 2021 meeting, at which time the Board voted to invite the physician for a Formal Licensing Interview.

Dr. Ralls stated that the arrests occurred 30-40 years ago and that he tried his best to address mistakes and help others not to do the same. Dr. Krahn questioned the physician regarding his failure to disclose the information on his license application. Dr. Ralls explained that the incidents occurred long ago and was not at the forefront of his mind when he completed the application. Dr. Krahn observed that the most recent incident occurred in 2014. Dr. Ralls stated that he was aware that the information was public record and denied attempting to mislead the Board. He added that he may have misunderstood the question at the time and that he answered it to the best of his ability with the information he had available to him at the time.

During the Board's deliberations, Dr. Krahn stated that she found today's interview to be valuable and a learning experience for the applicant. She stated her optimism for the physician to approach renewal and licensure forms in a different way going forward.

MOTION: Dr. Krahn moved for the Board to grant licensure.

SECOND: Vice-Chairman Gillard

Vice-Chairman Gillard spoke in favor of the motion and noted that there were no patient concerns identified in this matter. Chairman Farmer also spoke in favor of the motion, and stated that the physician appeared sincere and has received the message that the process should be taken seriously and approached with maximal accuracy and integrity.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

M. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-20-0379A, MD-20-0897A, CHARLES E. KELLY, M.D., LIC. #42668

Dr. Kelly and Attorney Michael Goldberg participated in the teleconference during the Board's consideration of this matter.

Board staff summarized that the investigations stemmed from patient complaints alleging performance of an inappropriate exam, inappropriate contact during an exam, and inappropriate conduct during the performance of a colonoscopy. Dr. Kelly denied all allegations and was issued an Interim Order for psychosexual evaluation on October 21, 2020. Dr. Kelly completed a forensic fit-to-practice evaluation with psychosexual focus at Acumen. On January 8, 2021, Acumen provided a preliminary report noting significant concerns and recommended that the licensee enroll in IOP, complete a boundary protection plan, have a female chaperone present for all female patient visits, periodic chart reviews, practice monitoring, and polygraph testing.

Dr. Kelly was offered an Interim Consent Agreement ("ICA") for practice restriction with Acumen's recommendations incorporated into the terms and conditions. On February 8, 2021, Dr. Kelly's counsel informed Board staff that the physician would not be signing the ICA as written, acknowledged Acumen's recommendations and indicated that the licensee would comply with the terms of the ICA with the exception of the polygraph requirement. Two days later, Mr. Goldberg informed staff that the licensee would not be signing the ICA as it is a public document, but that the physician would comply with the recommendations except for the polygraph testing component. Board staff reported that they have not yet received correspondence confirming enrollment in the recommended IOP or a copy of the recommended protection boundary plan. Board staff stated that they were unable to currently determine whether the licensee has complied with the recommendations as he has declined to enter into the ICA while the investigation continues and asked the Board to consider summary action at this time.

Mr. Goldberg stated that Dr. Kelly was not unwilling to comply with most of the stipulations outlined in the ICA, and that their concern related to summary suspension of the physician's license. Mr. Goldberg stated that Dr. Kelly is not a sexual predator, that he acknowledges he has issues that need improvement, and that the failure to sign up for a treatment plan is not for lack of trying. He stated that they were looking for a program that was more tailored to the physician's specific needs. Mr. Goldberg asked the Board to consider allowing the licensee to utilize female Medical Assistants ("MAs") to serve as chaperone when seeing female patients versus having to hire a licensed individual due to the length of time it would take to do so given the practice location. He asked the Board to not summarily suspend the license and allow the physician the time needed to work on the issues outlined in the Acumen report and to comply with the terms of the ICA in such a way that is not reported publicly.

Dr. Beyer questioned the recommendation for the polygraph testing and stated that it was not a recommendation he saw often in the reports. Ms. Rivera explained that it was included in the ICA offered to the physician based on the recommendations of the evaluating facility, and that the polygraph component is often used as an accountability measure or truth inducer. Dr. Krahn stated she had significant concerns in that it appeared Acumen struggled to obtain enough information from the licensee and found that they were lacking information rather than able to entirely resolve the issues identified. Dr. Krahn stated that the accountability measure of polygraph testing was very significant and that she would support summary action if the physician did not accept the ICA terms as currently written.

Dr. Beyer agreed with Dr. Krahn's comments and stated that summary action was warranted for the public's protection. He questioned the licensee as to why he believed the Board should not summarily act on his license as it appeared to be needed. Mr. Goldberg addressed the allegations made by the complainants and Acumen's report

regarding their reliability. He asked the Board to recognize that Dr. Kelly needs help in some areas but is not a sexual danger that needs to be summarily suspended. Dr. Kelly stated that the exams he performs are proper and that he has no romantic inclination toward any patient. Dr. Krahn spoke in support of summary suspension and stated her concerns regarding the process for obtaining patient consent relating to the presence of a chaperone that appeared to encourage patients to decline a chaperone. Dr. Bethancourt stated that based on his review of Acumen's report, concerns were raised that the physician was oblivious to his actions and that without some intervention or treatment, this will continue. Dr. Bethancourt spoke in favor of summary action.

MOTION: Vice-Chairman Gillard 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. Figge

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 10:34 a.m.

The Board returned to Open Session at 10:57 a.m.

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

MOTION: Vice-Chairman Gillard moved for the Board to table this matter to allow the AAG to work with the licensee and counsel in negotiating the terms of an ICA in lieu of summary action, and return to this matter later during today's proceedings.

SECOND: Dr. Bethancourt

Vice-Chairman Gillard stated that this matter did require Board action today and spoke in favor of allowing the AAG to negotiate the terms of an ICA and return to the Board for consideration before the end of today's meeting. AAG Smith asked the Board for direction regarding the polygraph component. Vice-Chairman Gillard stated that he was not against removing the polygraph testing requirement as it was unclear how it would add to the case. Dr. Krahn reiterated her concerns that the polygraph testing does have value in this specific situation and stated that this requirement should be factored into the ICA. Dr. Krahn stated that the ICA should also specify that the chaperone have no pre-existing relationship with the physician in order to ensure the chaperone's independence. Ms. Bain concurred with Dr. Krahn regarding the chaperone requirements and ensuring the individual does not have a conflict of interest and is a neutral party.

Dr. Figge noted that these were ongoing investigations and stated that he believed the ICA would achieve the Board's mission of protecting the public without the polygraph component. Dr. Paul stated that he agreed with other Board members' comments, and he spoke in support of including the polygraph testing with the suggested follow up questions per Acumen's report in the terms of the ICA as well as the chaperone requirements as discussed. Dr. Bethancourt spoke in support of requiring a chaperone that is in no way related to the licensee as well as including the polygraph component in the ICA as recommended by Acumen as he believed it would give the Board the best ongoing evaluation of the physician. Ms. Dorrell concurred with Dr. Bethancourt and spoke in support of including in the ICA the requirements for polygraph testing and the need for an independent chaperone as discussed by the Board members. Dr. Gosi spoke in favor of the Board following Acumen's recommendations. Ms. Oswald stated that she agreed with including the neutral chaperone as well as the polygraph testing in the terms of the ICA. Chairman Farmer clarified that based on the Board's discussion, the ICA shall

include the requirement for polygraph testing and a female chaperone that does not have a pre-existing relationship with the licensee.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board returned to this matter after AAG Smith and Mr. Goldberg had an opportunity to enter into negotiation discussions regarding the ICA. Mr. Goldberg remained on the line during the Board's consideration of this matter.

AAG Smith asked the Board for direction regarding the chaperone provision. She stated that the parties were in agreement with all other terms of the ICA, but have requested the Board to consider allowing the utilization of an MA to chaperone for a period of time as dictated by the Board while a suitably licensed chaperone that meets the requirements of this provision is obtained. Dr. Krahn spoke against modifying the chaperone provision. Dr. Beyer supported the option to allow an MA to chaperone in the short term. Dr. Gosi noted the difficulties with finding the appropriate individual at this time and spoke in favor of allowing an MA to serve as chaperone for up to 60 or 90 days.

AAG Smith clarified that Mr. Goldberg had mentioned thirty days to allow time to obtain the appropriately licensed individual. Vice-Chairman Gillard stated that he agreed with Dr. Krahn's comments and he pointed out that the Board in the past has allowed MAs to serve as chaperone. Ms. Rivera clarified that the prior matter wherein an MA was authorized to serve as chaperone involved a practice located on a Reservation with a physician who had an MA chaperone if the licensed health care provider was not available. She stated that the difference when compared to the current matters was that there was not a concern of inappropriate examinations and the conduct involved inappropriate boundaries with a patient outside of the office. Ms. Rivera stated that the utilization of a licensed health care provider to serve as chaperone allows for the Board to hold that individual accountable if it is determined that the chaperone was aware of inappropriate conduct that continued to occur, and would be reported to their respective regulatory board. Ms. Rivera pointed out that MAs are not licensed or regulated by any board, and work directly under the physician's supervision.

Dr. Krahn pointed out that concerns were raised in the Acumen report regarding the physician's overall practice environment and she spoke against allowing an MA to serve as chaperone in the interim. Dr. Krahn stated that she has significant concerns about this entire situation, noted that the MA is supervised by the physician, and stated that she believed that a licensed individual is more likely to speak up and notify others if things are being done that do not promote patient safety. Dr. Beyer stated that he did not disagree with Dr. Krahn's comments, and that he would rather see the physician utilize an MA as chaperone temporarily versus abruptly disrupting the practice. Chairman Farmer proposed limiting the practice to male patients only while the physician obtains the appropriately licensed individual to serve as chaperone. Dr. Krahn stated that she was comfortable with that interim limitation. AAG Smith offered to discuss that option with Mr. Goldberg. Vice-Chairman Gillard noted that Dr. Kelly practices in an underserved area and Dr. Beyer stated that is why he supports allowing an MA to chaperone for up to thirty days versus risking what could be detrimental to public health.

Mr. Goldberg informed the Board that Dr. Kelly had female patients scheduled for appointments within the next thirty days and stated that allowing him to use an MA to chaperone for thirty days would give them time to make the transition. Dr. Bethancourt spoke in favor of allowing the physician to use an MA for thirty days to obtain a licensed

individual. Ms. Dorrell noted the difficulties with working in rural settings and questioned whether two MAs should chaperone female patient visits. Mr. Goldberg confirmed that Dr. Kelly did have two MAs on staff. Dr. Krahn stated that the use of two MAs to chaperone in the interim would address her concern provided that neither had a close relationship with the physician. Mr. Goldberg confirmed that Dr. Kelly's MAs are just employees.

MOTION: Vice-Chairman Gillard moved for the Board to direct AAG Smith to return to negotiation discussions with the parties to incorporate the use of two MAs to chaperone female patient visits for thirty days to find an appropriately licensed individual that meets the requirements of the ICA, and return to the Board before the end of today's proceedings.

SECOND: Dr. Bethancourt

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board returned to this matter later in the meeting to receive an update from AAG Smith. Mr. Goldberg was no longer participating in the teleconference at this time. AAG Smith reported that the parties came to an agreement with the terms of the ICA and that the physician has signed the ICA. She stated that the ICA would allow the physician to use two female MAs during all exams of female patients while locating a licensed provider that fits the Board's requirements within thirty days. She asked the Board to consider taking no action with regard to summary action given that the licensee has entered into the ICA.

MOTION: Dr. Beyer moved for the Board to take no action on this item based on the signed ICA.

SECOND: Dr. Krahn

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

CONSENT AGENDA

N. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Krahn moved for dismissal in item numbers 1, 3 and 4.

SECOND: Vice-Chairman Gillard

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-19-0790A, KALPESH R. PATEL, M.D., LIC. #33679

Attorney Tony Langan addressed the Board on behalf of Dr. Patel during the Public Statements portion of the teleconference.

RESOLUTION: Dismiss.

2. MD-19-1168A, JACK R. HANNALLAH, M.D., LIC. #51583

Attorney Adam Anderson addressed the Board on behalf of Dr. Hannallah during the Public Statements portion of the teleconference.

Chairman Farmer observed that this matter involved a patient who had a cardiac arrest during a conscious sedation procedure with a nurse providing sedation delegated by the proceduralist. Chairman Farmer stated that he found the treatment plan was appropriate, and stated his concerns regarding the timeline of events. He proposed that the Board consider returning this matter in order for Board staff to interview the proceduralist and nurse responsible for sedation to better clarify the timeline followed by further review by SIRC. Ms. Dorrell stated that she had difficulty following the timeline presented in this case and questioned whether a referral to the Arizona Board of Nursing was warranted. Dr. Bethancourt spoke in favor of returning the case for further investigation.

MOTION: Chairman Farmer moved for the Board to return this matter for further investigation to interview the proceduralist and the nurse responsible for sedation, and return to SIRC for further consideration.

SECOND: Vice-Chairman Gillard

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Wolf confirmed that the case would return for further investigation for Board staff to interview the proceduralist and nurse in charge of sedation to clarify the timeline of events for SIRC's review.

3. MD-20-0594A, STUART M. HOFFMAN, M.D., LIC. #47994

Dr. Beyer stated that he knows Dr. Hoffman professionally and that it would not affect his ability to adjudicate the case. Beyer also stated that he knew the physician professionally but stated it would not affect his ability to adjudicate the case.

RESOLUTION: Dismiss.

4. MD-20-0453A, CRAIG H. WEINSTEIN, M.D., LIC. #33990

RESOLUTION: Dismiss.

O. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Vice-Chairman Gillard moved for the Board to issue an Advisory Letter in item numbers 2, 4, 5, 6 and 7.

SECOND: Dr. Figge

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-20-0377A, MARSHA E. BROOKS-CANDELA, M.D., LIC. #35633

Dr. Figge stated that he knows Dr. Brooks-Candela and that it would not affect his ability to adjudicate the case.

Vice-Chairman Gillard observed that this matter stemmed from notification of a malpractice settlement for care that was rendered in December of 2016. Vice-Chairman Gillard stated that he had trouble faulting the physician for misdiagnosing the patient with

ectopic pregnancy given that it appeared in the ER that ectopic pregnancy was likely including the patient's history of ectopic pregnancy.

MOTION: Vice-Chairman Gillard moved for dismissal.

This motion failed due to lack of a second.

Board staff clarified that the standard of care required the physician to repeat an HCG, which the licensee failed to do in this case, and that methotrexate was initiated without performing further studies. According to the American College of Obstetrics and Gynecology, if ectopic pregnancy is not confirmed by visualization, it is appropriate to follow with HCGs. Vice-Chairman Gillard stated that the patient did have elevated HCG and no intrauterine pregnancy seen on ultrasound.

Vice-Chairman Gillard stated that after hearing the discussion on this case, he recognized that more serial data was needed before proceeding with treatment, and he spoke in favor of issuing the recommended Advisory Letter.

MOTION: Vice-Chairman Gillard moved for the Board to issue an Advisory Letter for misdiagnosing a patient with an ectopic pregnancy and inadequate documentation. 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.

SECOND: Dr. Figge

Dr. Figge spoke in favor of the motion and stated that there was a missed opportunity to conduct further studies before initiating treatment. Dr. Krahn spoke in support of the motion and stated that dismissal was not appropriate. She stated that this case involved fundamental type of medical decision making and that while she appreciated the comments regarding factors that may have made this appear as an ectopic pregnancy, a basic step was overlooked. Dr. Beyer spoke in favor of the motion and stated that an Advisory Letter was warranted.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-19-1066A, BRETT K. SHARPE, M.D., LIC. #56506

RESOLUTION: Issue an Advisory Letter for action taken by the California Medical Board. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

3. MD-20-0142A, JAMES I. EWING, M.D., LIC. #47444

Attorney Flynn Carey addressed the Board on behalf of Dr. Ewing during the Public Statements portion of the teleconference.

AAG Smith informed the Board that the staff recommendation in this case was amended to dismissal given that there were no formal charges filed in this case. Chairman Farmer recognized that there is some confusing with regard to A.R.S. § 32-3208 and what is required under this statute, and stated that the broader issue was worth agendaizing for a future meeting for further discussion by the Board.

MOTION: Vice-Chairman Gillard moved for dismissal.

SECOND: Dr. Beyer

Dr. Beyer stated his concerns regarding the physician's behavior. Vice-Chairman Gillard agreed with Dr. Beyer's comments and noted that the case did not involve the practice of medicine or patient harm.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

4. MD-19-1038A, RICHARD L. KELLY, M.D., LIC. #20150

RESOLUTION: Issue an Advisory Letter for failing to timely notify the patient of the results of an abdominal Ct scan and failing to document the recommendation for a gastroenterology referral. 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.

5. MD-20-0025A, BOSCO C. F. S. MARTIN, M.D., LIC. #18637

Attorney Gary Fadell addressed the Board on behalf of Dr. Martin during the Public Statements portion of the teleconference.

RESOLUTION: Issue an Advisory Letter for performing a wrong-sided supraclavicular nerve block. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

6. MD-20-0238A, WILLIAM M. JACOBS, M.D., LIC. #38147

Complainant CH addressed the Board during the Public Statements portion of the teleconference. Attorney Ann Holmgren addressed the Board on behalf of Dr. Jacobs during the Public Statements.

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

7. MD-20-0282A, RICHARD J. TEFF, M.D., LIC. #51781

RESOLUTION: Issue an Advisory Letter for the performance of wrong level spine surgery. 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.

8. MD-20-0581A, FERNANDO CRUZADO, M.D., LIC. #30961

Dr. Beyer spoke in favor of dismissal, stating that the physician's scribe contributed to the documentation issues identified in this case.

MOTION: Dr. Beyer moved for dismissal.

SECOND: Vice-Chairman Gillard

Dr. Krahn stated that the physician is ultimately responsible for ensuring that the documentation is adequate. Dr. Figge agreed with Dr. Krahn's comments and stated that physicians are responsible for signing the charts, attesting to what has been captured in the chart.

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chair Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Gosi, Dr. Krahn and Ms. Oswald. The following Board member voted against the motion: Dr. Figge. The following Board member was absent: Ms. Jones.
VOTE: 10-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

P. CASES RECOMMENDED FOR ADVISORY LETTERS WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION ORDERS

1. THIS CASE WAS PULLED FROM THE AGENDA.
2. MD-20-0550A, ALVIN C. BURSTEIN, M.D., LIC. #20447

Complainant SN addressed the Board during the Public Statements portion of the teleconference. Dr. Krahn was recused from this matter.

Dr. Beyer noted that the MC did not identify concerns relating to the physician's care of the patient. He recognized the MC's concerns regarding the physician's medical recordkeeping and also noted that Dr. Burstein's chart notes were handwritten. Dr. Beyer questioned whether CME was warranted, and spoke in favor of issuing an Advisory Letter for inadequate medical records.

MOTION: Dr. Beyer moved for the Board to issue an Advisory Letter for inadequate medical records. There is insufficient evidence to support disciplinary action.
SECOND: Vice-Chairman Gillard

Vice-Chairman Gillard spoke in favor of the motion and stated that he did not believe CME was warranted.

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chair Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Dr. Gosi, Dr. Krahn and Ms. Oswald. The following Board member was absent: Ms. Jones.
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

3. MD-20-0421A, BRANDON Z. MASSEY, M.D., LIC. #35576

Dr. Massey and Attorney Tony Langan addressed the Board during the Public Statements portion of the teleconference. Chairman Farmer stated that he knows the physician and that it would not affect his ability to adjudicate the case.

Vice-Chairman Gillard noted that hand injuries are a high liability in the ER, and observed that there were conflicting expert opinions in this case. He questioned whether CME was warranted. Board staff summarized the issues for the Board and clarified that the MC has 22 years' experience in hand surgery, and that the two subsequent providers that saw the patient have 26 and 25 years' experience in hand surgery. Chairman Farmer questioned the relevance of the mechanism of injury given that it was obvious there was enough trauma to cause extensive injuries. He stated that based on his review of the file, it appeared the experts differed in opinion with regard to the appropriateness of the duration of the pins being in place.

Board staff clarified that the issue in this case was whether the index finger MCP was pinned excessively long. Dr. Massey has indicated that the injury required a greatly increased period of immobilization. Board staff reported that the physical therapist noted on their first evaluation of the patient following his first surgery that something was approximately 1.5 inch out further than the initial x-rays had showed, and that similar findings did not appear in the physician's documentation. Vice-Chairman Gillard spoke in favor of issuing an Advisory Letter without CME as he did not find it was warranted in light of the physician having gone through the experience of the Board's investigation process and hearing from multiple experts on the matter.

MOTION: Vice-Chairman Gillard moved for the Board to issue an Advisory Letter for improper treatment of metacarpal-phalangeal joint injuries and inadequate medical recordkeeping. 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. Beyer

Dr. Beyer spoke in favor of the motion and stated that an Advisory Letter was appropriate. Chairman Farmer stated his concerns that complex injuries are hard to cover in the ER regardless of mechanism of injury, and that second guessing treatment in the ER could result in chasing people away from covering those injuries. He also stated that the MC had made an inaccurate statement regarding the implant positioning at the time of the surgery, noting that radiologic imaging confirmed it was in position. Chairman Farmer questioned whether an Advisory Letter was warranted in this matter.

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

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

MOTION PASSED.

Q. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

1. MD-20-0029A, MICHAEL L. HAM, M.D., LIC. #26357

Complainant JB addressed the Board during the Public Statements portion of the teleconference.

Ms. Rivera requested the Board return the case for further investigation.

MOTION: Dr. Krahn moved for the Board to return the case for further investigation.

SECOND: Vice-Chairman Gillard

Vice-Chairman Gillard spoke in support of the motion.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

R. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Vice-Chairman Gillard moved for the Board to accept the proposed Consent Agreements in item numbers 1-8.

SECOND: Dr. Figge

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chair Gillard, Dr. Paul, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Dr. Gosi, Dr. Krahm and Ms. Oswald. The following Board member was absent: Ms. Jones.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-20-0814A, JOHN G. RENFREW, M.D., LIC. #54908

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

2. MD-20-0434A, SAMEH M. M. SAID, M.D., LIC. #52079

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation to comply with the Minnesota Board's Order entered on May 9, 2020. The Probation shall not terminate except upon affirmative request of the licensee and shall establish that the physician has successfully satisfied the terms and conditions of the Minnesota Board's Order.

3. MD-19-1118A, ROBERT H. JOCHIM, M.D., LIC. #7074

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in the management of molar pregnancies. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon successful proof of completion of the CME.

4. MD-20-0217A, DAMON M. DELL'AGLIO, M.D., LIC. #56560

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation to participate in PHP. Dr. Dell'Aglio's PHP participation shall be retroactive to May 15, 2020. The physician shall continue to participate in any personalized aftercare programs or activities as recommended by the Assessor in his April 30, 2020 post-treatment assessment report, and shall continue to comply with the return to work recommendations if not already completed. The Probation shall not terminate except upon affirmative request of the licensee and approval by the Board and shall demonstrate evidence establishing successful completion of all terms and conditions of the Board's Order.

5. MD-19-0200A, GRAYSON H. WHEATLEY, M.D., LIC. #33217

Complainant PH addressed the Board during the Public Statements portion of the teleconference.

RESOLUTION: Accept the proposed Consent Agreement for a Decree of Censure and Civil Penalty. Dr. Wheatley shall pay a \$5,000 Civil Penalty via certified funds within 90 days.

6. MD-17-0572A, DUANE L. MILLER, M.D., LIC. #54412

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

7. MD-18-1003A, MICHAEL G. WATERS, M.D., LIC. #49026

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

8. MD-20-0110A, JAY R. MELLEN, M.D., LIC. #15628

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

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

1. MD-14-1331A, MIN Y. LIM, M.D., LIC. #40179

Vice-Chairman Gillard noted that the Board interviewed Dr. Lim at its December 2020 meeting as well as the concerns raised in this case relating to prescribing. He also observed that Dr. Lim's license is currently suspended.

MOTION: Vice-Chairman Gillard moved for the Board to approve the draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure.

SECOND: Dr. Figge

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

T. LICENSE APPLICATIONS

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

MOTION: Vice-Chairman Gillard moved for the Board to grant the license in item numbers 1-9.

SECOND: Ms. Bain

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-20-1081A, RODOLFO H. ZARAGOZA, M.D., LIC. #N/A

RESOLUTION: Grant the license.

2. MD-20-0654A, MAURICE R. PETERS, M.D., LIC. #N/A

RESOLUTION: Grant the license.

3. MD-20-0536A, CRAIG A. ARONCHICK, M.D., LIC. #N/A

RESOLUTION: Grant the license.

4. MD-20-0907A, PAUL S. STRAIT, M.D., LIC. #N/A

RESOLUTION: Grant the license.

5. MD-20-0957A, CARL L. TOMMASO, M.D., LIC. #N/A

RESOLUTION: Grant the license.

6. MD-21-0082A, MITZI R. KROCKOVER, M.D., LIC. #N/A

Dr. Krahn was recused from this matter.

RESOLUTION: Grant the license.

7. MD-20-0935A. CHARLES L. LAHAM, M.D., LIC. #N/A

RESOLUTION: Grant the license.

8. MD-21-0040A, MARVIN W. COUCH, M.D., LIC. #N/A

RESOLUTION: Grant the license.

9. MD-20-1012A, STEPHEN R. ROSALES, M.D., LIC. #N/A

RESOLUTION: Grant the license.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE APPLICATION AND CONSIDERATION OF RECOMMENDED ADVISORY LETTER

1. MD-21-0065A, HIEU LUU, M.D., LIC. #N/A

Vice-Chairman Gillard observed that Dr. Luu inadvertently allowed his license to expire and practiced for ten days on that expired license, and spoke in favor of granting licensure with the issuance of an Advisory Letter for practicing with an expired license.

MOTION: Vice-Chairman Gillard moved for the Board to approve the application and issue an Advisory Letter for practicing with an expired license. 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.

SECOND: Ms. Oswald

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

1. ATTIYA ALI, M.D., LIC. #N/A

Dr. Figge spoke in favor of granting licensure by endorsement, noting that the applicant has been practicing pediatric medicine in Florida with an active, unrestricted license since 1994.

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

SECOND: Vice-Chairman Gillard

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

OTHER BUSINESS

U. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-19-0574A, SCOTT G. CONKLIN, M.D., LIC. #53457

Vice-Chairman Gillard recognized that Dr. Conklin has complied with the terms of his Louisiana Board Order and that the Executive Director supported the termination.

MOTION: Vice-Chairman Gillard moved for the Board to grant the request to terminate the March 9, 2020 Board Order.

SECOND: Dr. Beyer

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-18-0534A, TRENT W. BATTY, M.D., LIC. #41253

Vice-Chairman Gillard recalled this case and noted that a Board Order for Letter of Reprimand and Probation was issued to Dr. Batty in July of 2019. He recognized that the physician has complied with the probationary terms and conditions, and spoke in favor of granting the request given the recent re-evaluation and the Executive Director's support for the termination.

MOTION: Vice-Chairman Gillard moved for the Board to grant the request to terminate the August 6, 2019 Board Order.

SECOND: Ms. Dorrell

Board staff asked about the status of the JRA and AAG Smith that the matter was not agendized for today's meeting and is separate of the request to terminate.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

3. MD-15-1416A, JAMES J. CHIEN, M.D., LIC. #40347

Vice-Chairman Gillard recognized that Dr. Chien has complied with the terms of his monitoring agreement and that Dr. Sucher supported the termination.

MOTION: Vice-Chairman Gillard moved for the Board to grant the request to terminate the April 6, 2017.

SECOND: Dr. Figge

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

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

MOTION PASSED.

4. MD-18-0913A, MADONNA C. MALLARI, M.D., LIC. #33207

Attorney Cody Hall addressed the Board on behalf of Dr. Mallari during the Public Statements portion of the teleconference.

Vice-Chairman Gillard recognized that Dr. Mallari has complied with all probationary terms and conditions, and that the Executive Director supported the termination. He also noted that Dr. Mallari planned to surrender her California medical license.

MOTION: Vice-Chairman Gillard moved for the Board to grant the request to terminate the March 5, 2020 Board Order.

SECOND: Dr. Krahn

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chair Gillard, Dr. Paul, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Dr. Gosi, Dr. Krahn and Ms. Oswald. The following Board member voted against the motion: Ms. Bain. The following Board member was absent: Ms. Jones.
VOTE: 10-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

5. MD-12-0960A, ADAM W. LEVINSON, M.D., LIC. #37231

Vice-Chairman Gillard observed that this matter involved probationary requirements relating to the New York Board's Order, and that the physician's New York Probation has since been terminated. He spoke in favor of granting the request to terminate given that this Board's sanction was based on the New York Board's Order and in light of the Executive Director's support for termination.

MOTION: Vice-Chairman Gillard moved for the Board to grant the request to terminate the December 3, 2015 Board Order.

SECOND: Dr. Krahn

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

6. MD-18-0251A, MD-18-0982A, WILLIAM T. MESHIER, M.D., LIC. #15822

Dr. Krahn recognized that Dr. Meshier has complied with the terms of his Probation and spoke in favor of granting the request for termination.

MOTION: Dr. Krahn moved for the Board to grant the request to terminate the August 6, 2019 Board Order.

SECOND: Vice-Chairman Gillard

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

7. MD-17-0998A, SHEL-DON J. LEGARRETA, M.D., LIC. #25100

Vice-Chairman Gillard noted the allegations involved in this matter and recognized that the physician's PHP participation was retroactive to February of 2019. He recognized that the licensee has been compliant with his PHP participation and that the Executive Director supported the termination.

MOTION: Vice-Chairman Gillard moved for the Board to grant the request to terminate the April 16, 2019 Board Order.

SECOND: Dr. Bethancourt

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

V. CONSIDERATION OF DUAL JURISDICTION OF THE AMB AND THE ARIZONA HOMEOPATHIC BOARD

1. MD-21-0024, DEAN R. SILVER, M.D., LIC. #38223

AAG Smith reported that the Homeopathic Board's Executive Director has confirmed that Dr. Silver's homeopathic license is currently not active. For this reason, AAG Smith informed the Board that the process of consideration of dual jurisdiction did not need to be followed in this instance and that the case would return for the usual investigatory review process. In response to a Board member's request, AAG Smith explained the process utilized by the Board when considering dual jurisdiction matters for informational purposes, given that there were new Board members participating in the teleconference.

MOTION: Vice-Chairman Gillard moved for the Board to take no action on this item and return the case for investigation.

SECOND: Dr. Berthancourt

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

W. APPEAL OF EXECUTIVE DIRECTOR DECISION

1. JAMES V. SPRINGROSE, M.D., LIC. #N/A

Executive Director McSorley reported that Dr. Springrose currently does not qualify for a temporary emergency license as he has been out of practice for 6.5 years and the Board's current criteria for this type of licensure only allows applicants to be out of practice for up to four years. She asked the Board to consider under the Executive Director's Report whether to continue with these criteria or pursue authorization from the Governor's Office and AzDHS to change the requirements for granting emergency temporary licensure.

Vice-Chairman Gillard questioned whether the Board had the ability to make an exception in this case and grant the license to allow Dr. Springrose to assist with vaccination efforts. Executive Director McSorley explained the different categories for which individuals are obtaining emergency temporary licensure. Chairman Farmer proposed that the Board seek authority to grant temporary emergency licensure with restriction for the sole purpose of assisting with vaccination efforts. Dr. Beyer spoke in favor of granting licensure for Dr. Springrose to help with vaccination efforts and stated that the emergency temporary license was set in place for this exact reason. Dr. Krahn agreed with Dr. Beyer's comments and stated that the current health care crisis requires expeditious attention and action by the Board.

Dr. Bethancourt spoke in support of granting Dr. Springrose an emergency temporary license and pointed out that providers would be subject to an extensive credentialing process in the event that they apply to work at a hospital. The Board recognized that once a license is issued, the physician has the ability to practice independently without restriction. Dr. Figge noted that this issue has come before the Board in the past on a number of occasions, and stated that Dr. Springrose does not qualify for temporary emergency licensure at this time. He observed that Dr. Springrose's Wisconsin license expired in 2013, that his Arizona license expired in 2014, and that he has been out of practice for more than four years. Dr. Figge also pointed out that the Board determined that four years was the appropriate criteria for issuing these types of licenses, and that the Fifth Amendment to the Public Readiness and Emergency Preparedness ("PREP") Act issued on January 29, 2021 placed a limit of five years for individuals that have been

out of practice. Dr. Figge suggested that the applicant seek exception from the AzDHS as his years out of active practice exceed the limit as defined in the PREP Act.

The Board discussed tabling this matter while pursuing authorization from the Governor's Office and AzDHS, whether to deny the appeal at this time, and whether denial of this application was a reportable agency action. Executive Director McSorley informed the Board that she informs the applicants when they do not qualify for emergency temporary licensure and that it is not considered a formal license denial and is not reported as such. Dr. Beyer pointed out that the Board was not considering vaccinations back in April of 2020 when emergency temporary licensure was put in place. He spoke in favor of extending the time for practitioners to be out of active practice if they are seeking licensure for the specific purpose of assisting with vaccine efforts. Dr. Figge proposed denying the appeal, and informing the applicant as to why he does not qualify at this time and that the Board is pursuing other avenues on this topic.

AAG Smith recommended the Board to consider tabling this item to a future meeting after the Board receives clarification from the Governor's Office and AzDHS. Chairman Farmer spoke in favor of tabling this matter until engaging with the Governor's Office and AzDHS. Dr. Beyer spoke in support of granting the license contingent upon the Governor's Office and AzDHS direction, and suggested a ten year limit for providers to have been out of active practice to qualify for emergency temporary licensure for the limited purpose administering vaccines. AAG Smith informed the Board that if the case were tabled, the applicant would not be required to reapply if the Board obtains approval from the Governor's Office and AzDHS.

MOTION: Vice-Chairman Gillard moved for the Board to table this item and instruct the Executive Director to engage with the Governor's Office and AzDHS to request authority for the Board to issue temporary emergency licensure for the limited purpose of vaccine administration, including individuals that have been without a license for no more than ten years with no disciplinary history.

SECOND: Dr. Figge

AAG Smith asked the Board to consider separating the two agenda items for the purposes of maintaining a clear record in the meeting minutes. Vice-Chairman Gillard and Dr. Figge withdrew their motion.

MOTION: Vice-President Gillard moved for the Board to table this item to a future meeting.

SECOND: Dr. Figge

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

X. GENERAL CALL TO THE PUBLIC

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

Y. ADJOURNMENT

MOTION: Dr. Bethancourt moved for adjournment.

SECOND: Dr. Paul

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

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board's meeting adjourned at 2:46 p.m.

Please note that due to technical difficulties there is no video/audio recording of this meeting.



Patricia E. McSorley, Executive Director

DRAFT