



Arizona Medical Board

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Thursday, July 8, 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

Lois E. Krahn, M.D., Secretary

Jodi A. Bain, M.A., J.D., LL.M.

Bruce A. Bethancourt, M.D., F.A.C.P.

David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.

Laura Dorrell, M.S.N., R.N.

Gary R. Figge, M.D.

Pamela E. Jones

Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the Board's meeting to order at 5:06 p.m.

B. ROLL CALL

The following Board members participated in the virtual meeting: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the virtual meeting: Patricia McSorley, Executive Director; Carrie Smith, Assistant Attorney General (AAG); Raquel Rivera, Investigations Manager; Kathleen Coffey, M.D., Internal Medical Consultant; Michelle Robles, Board Operations Manager; and, Andrea Cisneros, Minutes Administrator. AAG Elizabeth Campbell participated in the virtual meeting to provide the Board with independent legal advice on the hearing matter(s) 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 on NPDB Compliance Issue

Executive Director McSorley updated the Board regarding the NPDB's compliance issue, and that she planned to submit a formal letter to the NPDB by mid-August. She stated that some concerns relate to due process and ADA issues, and that she will update the Board if there are further developments.

- Update on the Telehealth Registration

Executive Director McSorley reported that the telehealth registration application was ready and that the Committee determined a \$250 fee was warranted. She explained that the Governor's Office has clarified that the next legislative session would be an opportunity for corrections, particularly with regard to whether a renewal fee may be collected. Executive Director McSorley asked the Board to consider tabling this topic until its next meeting in light of the new information received from the Governor's Office and for the Board to consider whether to maintain or increase the \$250 fee for initial telehealth registration.

- Update on Budget Appropriation

Executive Director McSorley reported that the Board's request for an increase in its appropriation was approved. She clarified that the majority of the increase in funding will be applied to IT improvements, and informed the Board that staff will be meeting with the Governor's Office of Strategic Budgeting and Planning to review and discuss how that increase will be spent.

E. CHAIR'S REPORT

- Discussion Regarding Recent Appointments for the Executive Director

Chairman Farmer announced that the Executive Director has been appointed President of the Administrators in Medicine, collaborating frequently with the FSMB. He reported that she also has been serving in the FSMB workgroup for emergency preparedness and response. Chairman Farmer applauded the Executive Director's leadership, and he stated his appreciation for her hard work and efforts.

Dr. Krahn stated her appreciation for the Chair's efforts and effective job of conducting the Board's meetings. Dr. Krahn also thanked the Board staff for their hard work and efforts in facilitating the Board's meetings.

F. LEGAL ADVISOR'S REPORT

G. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

Chairman Farmer reported that the Board will continue to meet using its current meeting format. He recognized the lengthy delay in holding the Public Statements during today's proceedings, instructed staff to research possible remedies and possible future Board discussion including the potential for agendizing legal matters at a different time. Dr. Figge stated that based on his experience on the Board, the Public Statements portion of the meetings have included a number of speakers and typically has taken at least an hour. He proposed agendizing timed items later into the Board's meeting to allow for time for the Public Statement speakers to address the Board rather than wait one to two hours before making their statements.

Ms. Robles reported that the average Public Statements takes at least one hour. Ms. Jones noted that a few individuals appeared to have disconnected from the teleconference prior to the Board's consideration of Public Statements and stated it may have been due to the lengthy delay while the Board considered other legal matters. She spoke in favor of scheduling legal matters for later in the evening. Dr. Beyer suggested the staff play the sound of the bell that indicates the three minutes have expired when the instructions are being provided at the start of Public Statements to help speakers become familiar with the signal.

H. APPROVAL OF MINUTES

- May 6, 2021 Special Teleconference Meeting, including Executive Session

MOTION: Dr. Figge moved for the Board to approve the May 6, 2021 Special Teleconference Meeting, including Executive Session.

SECOND: Vice-Chairman Gillard

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell,

Dr. Figge, Ms. Jones and Ms. Oswald. The following Board member was absent: Ms. Bain.

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

MOTION PASSED.

LEGAL MATTERS

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

1. MD-17-0906A, GARY N. SPIRTOS, M.D., LIC. #26761

Dr. Spirtos and Attorney Buddy Rake participated in the virtual meeting 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. Board members indicated that they received and reviewed the administrative record in this matter.

AAG Smith summarized that this complaint was initiated in September of 2017 and regarded the care and treatment of an 88 year-old male patient alleging multiple quality of care concerns and unprofessional conduct violations including failure to provide the Board with medical records despite multiple opportunities to do so. The Medical Consultant ("MC") reviewed limited records obtained from other providers, observed that Dr. Spirtos prescribed medications including controlled substances to a patient while out of state, and opined that Dr. Spirtos deviated from the standard of care by taking on the role of medical provider and patient advocate when he had the patient sign documents naming him medical power of attorney. Dr. Spirtos failed to report criminal charges to the Board and had his California license revoked during the pendency of the investigation.

AAG Smith stated that this matter has been pending since 2017, that Dr. Spirtos argued at hearing that he prepared and maintained records, but was prohibited from accessing them at the monastery where he treated the patient at issue in the case. AAG Smith reported that staff confirmed with the monastery that there was no medical clinic at the monastery, no records were submitted to the monastery and no records were being maintained by the monastery. Dr. Spirtos's 2017 Pinal County criminal charges were not reported to the Board within ten days as required by statute. In 2020, Dr. Spirtos allowed his Arizona medical license to expire. AAG Smith asked the Board to adopt the ALJ's recommended decision and revoke the license.

Mr. Rake stated that Dr. Spirtos testified under oath that he maintained adequate medical records that were retained at the monastery after his departure six years ago. Mr. Rake stated that Dr. Spirtos accompanied the patient to a monastery in Texas and to see a psychiatrist who prescribed 1mg Ativan to the patient for his Anxiety. Mr. Rake stated that Texas statutes did not prohibit Dr. Spirtos from changing the patient's Ativan prescription from 1mg to 0.5mg and that Dr. Spirtos did not engage in unauthorized practice. Mr. Rake stated that Dr. Spirtos was not aware of the medical power of attorney until after the patient left his care. Dr. Spirtos stated that he has been practicing medicine for 40 years and that it has been his job to serve the public. He stated that he took care of the patient with whom he traveled and cared for indigent people. Dr. Spirtos stated that he has no prior Board history and stated his concerns regarding the possibility of having his license revoked.

AAG Smith stated that a credible MC provided a fair review of the case and identified multiple deviations from the standard of care including concerns relating to Dr. Spirtos's dual relationship. AAG Smith reiterated her request for the Board to adopt the ALJ's recommendation to revoke the license given the serious concerns raised in this matter.

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

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

The Board entered into Executive Session at 5:26 p.m.

The Board returned to Open Session at 5:40 p.m.

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

MOTION: Dr. Figge 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-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

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

MOTION PASSED.

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

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

Vice-Chairman Gillard spoke in favor of issuing a Decree of Censure and noted that the Board's Order would remain on the physician's record and can be reviewed by the Board in the event he reapplied for Arizona licensure. Dr. Krahn observed that this case involved egregious behaviors including the failure to report criminal charges pursuant to statute and failure to cooperate with obtaining medical records. She stated that Dr. Spirtos' response that he had no recourse with regard to the records is not an acceptable excuse, and that a Decree of Censure would reflect the seriousness of this case that some of information described was entirely inappropriate and unacceptable. Dr. Figge stated that this was a very unique situation in that there was no harm and the care was isolated to the monastery. Dr. Figge stated his concerns that there was the potential for significant patient harm had this occurred in a regular practice. Chairman Farmer commented that these are egregious violations and stated that revocation was warranted in this matter.

MOTION: Vice-Chairman Gillard moved for the Board to issue a Decree of Censure.

SECOND: Dr. Beyer

Vice-Chairman Gillard reiterated that the Board would have the ability to review this matter in the event that the physician reapplied for Arizona licensure. AAG Campbell stated that the discipline imposed needed to be reasonable based upon the Findings of Fact and Conclusions of Law. She cautioned the Board that it cannot discipline the physician based upon the same facts should he reapply for licensure. AAG Campbell clarified that revoking the license would prohibit the physician from reapplying for a minimum of five years while the issuance of a Decree of Censure would not prohibit the physician from reapplying for licensure at any time.

Vice-Chairman Gillard spoke in support of his motion and pointed out that the Board had the authority to require the physician complete evaluations prior to reinstatement. He stated that this matter does not rise to the level of license revocation. Dr. Krahn stated her concerns that the physician did not cooperate with the Board's investigative process and she questioned whether the physician could be regulated by this Board.

VOTE: The following Board members voted in favor of the motion: Vice-Chairman Gillard, Dr. Beyer and Dr. Figge. The following Board members voted against the motion: Chairman Farmer, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Ms. Dorrell, Ms. Jones and Ms. Oswald. The following Board member was absent: Ms. Bain.
VOTE: 6-yay, 3-nay, 0-abstain, 0-recuse, 1-absent.
MOTION FAILED.

MOTION: Dr. Figge moved for the Board to adopt the ALJ's recommendation to revoke the license.

SECOND: Dr. Krahn

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

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

2. MD-19-0249A, JUJHAR S. BAINS, M.D., LIC. #54547

Dr. Bains was not present 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.

AAG Smith summarized that in March of 2019, the Physician Health Program ("PHP") reported concerns regarding Dr. Bains' conduct while being monitored under a confidential Order. Shortly thereafter, Dr. Bains entered into an Interim Practice Limitation ("IPL") prohibiting him from practicing medicine while this matter was pending. Multiple attempts were made to engage the physician in the rehabilitative process and were unsuccessful. Dr. Bains did not participate in the Formal Hearing and AAG Smith asked the Board to adopt the ALJ's recommendation for license revocation.

MOTION: Dr. Figge moved for the Board to adopt the ALJ's recommended Findings of Fact.

SECOND: Ms. Jones

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

VOTE: 9-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. Krahn

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

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

MOTION: Dr. Krahn moved for the Board to adopt the ALJ's recommendation for license revocation.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

J. MOTION FOR REHEARING/REVIEW (Formal Interview)

1. MD-20-0331A, ROHIT DWIVEDI, M.D., LIC. #30335

Dr. Dwivedi and Attorney Andrew Plattner participated in the teleconference during the Board's consideration of this matter. He stated that he was not in the best emotional state at the time that he was leaving his practice, and that he relied on someone else to contact his patients only as he believed his former practice would not be honest with his patients about how to find him. Dr. Dwivedi asked the Board to consider reducing its Order from disciplinary to non-disciplinary. Mr. Plattner stated that the physician's only intent was to obtain his patient records and notify them. He stated that a disciplinary sanction could affect the physician's practice and career. Mr. Plattner stated that this matter did not involve medical care, did not involve hands-on patient care or the physician's ability to practice clinical medicine. He asked the Board to reconsider and issue a non-disciplinary sanction to comply with the CME requirement.

Vice-Chairman Gillard questioned whether a HIPAA investigation was conducted relating to this matter. AAG Smith stated that there was a complaint filed with the OIG regarding the HIPAA violation, and she clarified that HIPAA law was relevant in this case insofar as it described the confidentiality of records. Dr. Beyer stated that based on his review of the file and the transcripts from the prior meeting, he found that the penalty was excessive.

MOTION: Dr. Beyer moved for the Board to grant a review to revise its Order based on A.A.C. R4-16-103(D)(5); excessive or insufficient penalty.

SECOND: Vice-Chairman Gillard

Vice-Chairman Gillard recalled the Board's vote at its prior meeting and stated that after reviewing the records again, he found the penalty was excessive and he spoke in favor of granting a review. Dr. Figge stated that while he found the physician's conduct to be egregious, it was worth reconsidering given his remediation efforts. He proposed issuing an Advisory Letter with a Non-Disciplinary CME Order. Ms. Jones agreed that the physician's conduct was egregious and observed that the physician reported completion of CME. Board staff clarified that 1.5 hours of the CME hours completed related to HIPAA. Chairman Farmer stated that he was impressed by the physician's comments today and stated there is some merit to what the Board has been discussing.

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

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

MOTION PASSED.

MOTION: Vice-Chairman Gillard moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for inappropriately accessing patient information without authorization and providing to a third party, and for providing misleading information to the Board during the investigation. While the licensee has demonstrated substantial compliance through rehabilitation or remediation, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course for ethics. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Ms. Jones

Dr. Beyer stated that it was clear the physician's conduct was inappropriate that should have never happened. He spoke in favor of the motion and stated that this was an appropriate resolution to this matter.

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

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

MOTION PASSED.

CONSENT AGENDA

K. CASES RECOMMENDED FOR DISMISSAL

MOTION: Ms. Jones moved for the Board to dismiss item numbers 1, 2, 3, 4, 6, 7 and 8.

SECOND: Vice-Chairman Gillard

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

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

MOTION PASSED.

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

RESOLUTION: Dismiss.

2. MD-20-0776A, STEPHEN V. WARD, M.D., LIC. #21344

RESOLUTION: Dismiss.

3. MD-20-0425A, CHARLES WOO, M.D., LIC. #21992

RESOLUTION: Dismiss.

4. MD-20-0562A, SUSAN H. SENFT, M.D., LIC. #21048

RESOLUTION: Dismiss.

5. MD-20-1066A, JUAN J. CHIPOLLINI, M.D., LIC. #55267

Ms. Jones stated her concerns regarding the physician's response, and she questioned whether the subsequent complications were related to the retained sponge. Ms. Jones noted that the Medical Consultant ("MC") stated that the patient suffered a series of infectious complications relating to the retained sponge. She proposed issuing an Advisory Letter.

Dr. Bethancourt noted that the physician relied on the nurse's report that the sponge count was complete. Ms. Oswald stated that the MC was clear in that the responsibility for the retained sponge was shared among the team members. Dr. Beyer stated that the physician should be able to rely on the sponge count being correct and he spoke in favor of dismissal. Board staff pointed out that the count is always correct in these instances and stated that the counts exist for this very reason. Dr. Coffey pointed out that the Committee struggled with this case, considered recommending the issuance of an Advisory Letter, and ultimately recommended dismissal based on the mitigating factors noted.

Chairman Farmer spoke in favor of dismissal, stated that the physician met the standard of care and that he found it mitigating the physician participated in establishing protocols to prevent a similar occurrence. Dr. Bethancourt stated that the surgeon got a complete count from the circulating nurse and spoke in favor of dismissal. Dr. Krahn stated that the surgeon has to be able to rely on the circulating nurse; otherwise the system breaks down and could become difficult for surgeons to have confidence in the sponge count. She stated that this matter has already been addressed through the court system and that issuing a sanction would not add anything other than recognizing that this was a very unfortunate situation. Ms. Jones reiterated her concerns regarding the physician's response and lack of accountability.

MOTION: Ms. Jones moved for an Advisory Letter.

Motion failed due to lack of a second.

MOTION: Dr. Bethancourt moved for dismissal.

SECOND: Dr. Beyer

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

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

MOTION PASSED.

6. MD-20-0527A, KHALED O. HADELI, M.D., LIC. #26115

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

RESOLUTION: Dismiss.

7. MD-20-0870A, M. MARGARET JONES, M.D., LIC. #24023

RESOLUTION: Dismiss.

8. MD-20-1013A, KURT E. HEILAND, M.D., LIC. #24997

Complainant KK addressed the Board during the Public Statements portion of the virtual meeting.

RESOLUTION: Dismiss.

L. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Krahn moved for the Board to issue an Advisory Letter in item numbers 1, 3, 4, 5, 6 and 10.

SECOND: Ms. Dorrell

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

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

MOTION PASSED.

1. MD-20-0866A, JUDE REGIS, M.D., LIC. #57969

RESOLUTION: Issue an Advisory Letter for inappropriate use of a prescription pad and for prescribing controlled substances to an immediate family member. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.

2. MD-20-0262A, LUIS A. MUNOZ, M.D., LIC. #9794

Dr. Munoz and Attorney John Checkett addressed the Board during the Public Statements portion of the teleconference.

Dr. Bethancourt observed that Dr. Munoz took precaution to the drugs the patient was taking and that he did not believe this had any bearing on the liver failure. Dr. Bethancourt spoke in favor of dismissal.

MOTION: Dr. Bethancourt moved for dismissal.

SECOND: Vice-Chairman Gillard

Vice-Chairman Gillard spoke in favor of the motion and noted that this case involved patient non-compliance. Board staff pointed out that there were signs of concern for chronic liver damage that should have been recognized before proceeding to the operating room. Dr. Bethancourt questioned whether a patient's painful hernia should be

ignored due to liver disease. Board staff clarified that every hernia is usually due to pain and discomfort and that it is better to assess the patient's liver status.

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

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

MOTION PASSED.

3. MD-21-0169A, BAL M. RAJAGOPALAN, M.D., LIC. #42909

RESOLUTION: Issue an Advisory Letter for action taken by the Medical Board of California. 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.

4. MD-20-0226A, ABHISHIEK SHARMA, M.D., LIC. #52138

Dr. Sharma addressed the Board during the Public Statements portion of the virtual meeting.

Dr. Bethancourt noted that the patient complained she did not have full disclosure as to why a halo was placed, and that Dr. Sharma had indicated that verbal informed consent was obtained but not documented.

MOTION: Dr. Bethancourt moved for dismissal.

SECOND: Vice-Chairman Gillard

Vice-Chairman Gillard noted that the physician recognized there were issues with the medical record and reported completion of six hours CME in recordkeeping. Ms. Oswald spoke in favor of the motion and stated that she was impressed by the physician's response to the complaint and the comments made during Public Statements. She also noted that evidence of consent for the halo was found in that the patient's husband signed a general consent form.

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

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

MOTION PASSED.

5. MD-20-0836A, MAVEL GUTIERREZ-MARAMILLO, M.D., LIC. #56630

Dr. Gutierrez-Maramillo addressed the Board during the Public Statements portion of the virtual meeting.

RESOLUTION: Issue an Advisory Letter for prescribing controlled substances to a family member and failing to maintain medical records. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

6. MD-20-0736A, VISHAL VERMA, M.D., LIC. #36148

RESOLUTION: Issue an Advisory Letter for actions taken by multiple states. 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.

7. MD-20-0809A, DIANA V. BENENATI, M.D., LIC. #27541

RESOLUTION: Issue an Advisory Letter for failing to perform a physical examination, inadequate follow-up, and failure to perform the appropriate electrodiagnostic study. 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.

8. THIS CASE WAS PULLED FROM THE AGENDA.

9. THIS CASE WAS PULLED FROM THE AGENDA.

10. MD-20-0555D, ELLISON F. HERRO, M.D., LIC. #8949

RESOLUTION: Issue an Advisory Letter for performing injections without appropriate indications and 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.

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

1. MD-20-0195A, STEPHEN E. HANKS, M.D., LIC. #31740

Complainant TD addressed the Board during the Public Statements portion of the virtual meeting. Dr. Figge was recused from this matter.

Vice-Chairman Gillard spoke in favor of the recommendation to issue an Advisory Letter and stated that he did not find that CME was warranted.

MOTION: Vice-Chairman Gillard moved for the Board to 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.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

2. MD-20-0972A, ROBERT J. FAUER, M.D., LIC. #14204

MOTION: Dr. Figge moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for providing inappropriate medical advice to a former patient with significant potential harm. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete CPEP's ProBE course in ethics and complete no less than 3 hours of Board staff pre-approved Category I CME in the proper prescribing of Seroquel. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Krahn

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

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

MOTION PASSED.

3. THIS CASE WAS PULLED FROM THE AGENDA.

N. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Figge moved for the Board to uphold the dismissal in item numbers 1-7.

SECOND: Ms. Jones

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

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

MOTION PASSED.

1. MD-20-0504A, DAVID E. STEIDLEY, M.D., LIC. #31495

Complainant WT addressed the Board during the Public Statements portion of the virtual meeting. Dr. Krahn and Ms. Oswald were recused from this matter.

RESOLUTION: Uphold dismissal.

Staff: Ms. Press, Dr. Coffey

2. MD-20-1071A, ROBERT R. MC CULLOCH, M.D., LIC. #17702

Attorney Steve Perlmutter addressed the Board on behalf of Dr. McCulloch during the Public Statements portion of the virtual meeting.

RESOLUTION: Uphold the dismissal.

3. MD-20-0917A, ROBERT R. MC CULLOCH, M.D., LIC. #17702

Attorney Steve Perlmutter addressed the Board on behalf of Dr. McCulloch during the Public Statements portion of the virtual meeting.

RESOLUTION: Uphold the dismissal.

4. MD-20-0585A, VANDANA SINHA, M.D., LIC. #19425

Attorney Uchechi Megwa addressed the Board on behalf of the complainant during the Public Statements portion of the virtual meeting. Complainant CC and EC also addressed the Board during the Public Statements.

RESOLUTION: Uphold the dismissal.

5. MD-20-0329A, SHERWOOD K. DUHON, M.D., LIC. #20868

RESOLUTION: Uphold the dismissal.

6. MD-19-1085A, JAMES E. BERTZ, M.D., LIC. #12096

RESOLUTION: Uphold the dismissal.

7. MD-21-0159A, DEAN W. MCKENZIE, M.D., LIC. #37977

RESOLUTION: Uphold the dismissal.

O. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Krahn moved for the Board to accept the proposed Consent Agreements in item numbers 1 and 2.

SECOND: Vice-Chairman Gillard

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

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

MOTION PASSED.

1. MD-20-0136A, WILLIAM R. LEWIS, M.D., LIC. #26552

AAG Smith clarified that the proposed Consent Agreement in this matter was non-disciplinary.

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

2. MD-20-0600A, GIUSEPPE F. RAMUNNO, M.D., LIC. #44840

RESOLUTION: Accept the proposed Consent Agreement for License Reactivation, Decree of Censure and Five Year Probation to participate in PHP. The physician shall continue treatment with a PHP Contractor approved addiction psychiatrist and shall comply with any and all treatment recommendations. After one year, the physician may petition the PHP Contractor to request termination of this requirement. The physician shall not be eligible for early termination of this Order.

P. 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 and waiver in item numbers 3 and 4.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

1. MD-21-0357A, ASHKAN ALKHAMISI, M.D., LIC. #N/A

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

SECOND: Ms. Jones

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

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

MOTION PASSED.

2. MD-21-0345A, JOSEPH N. DEVITIS, M.D., LIC. #N/A

Vice-Chairman Gillard questioned whether CME in ethics was warranted versus inviting the applicant for a Licensing Interview. He noted that concerns were raised regarding serious behavioral problems, lack of professionalism and work ethic. He stated that an interview was warranted in this matter.

MOTION: Vice Chairman Gillard moved for the Board to invite Dr. Devitis to appear before the Board for a Licensing Interview.

SECOND: Ms. Oswald

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

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

MOTION PASSED.

3. MD-21-0592A, JEROME PURYEAR, M.D., LIC. #N/A

RESOLUTION: Grant the license and waiver.

4. MD-21-0591A, MARK I. JACOBSON, M.D., LIC. #N/A

RESOLUTION: Grant the license and waiver.

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

MOTION: Vice-Chairman Gillard moved for the Board to grant licensure by endorsement in item numbers 1 and 2.

SECOND: Dr. Krahn

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

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

MOTION PASSED.

1. ARSALAN DARMAL, M.D., LIC. #N/A

Dr. Darmal addressed the Board during the Public Statements portion of the teleconference.

RESOLUTION: Grant licensure by endorsement.

2. RICHARD B. AGUILAR, M.D., LIC. #N/A

RESOLUTION: Grant licensure by endorsement.

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

OTHER BUSINESS

Q. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-18-0606A, MD-18-0134A, SCOTT J. ELLIS, M.D., LIC. #27064

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

Dr. Beyer recalled the comments made during the Public Statements and noted that the physician has complied with the terms of his Board Order. Dr. Beyer spoke in favor of granting the request for termination.

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

SECOND: Vice-Chairman Gillard

Chairman Farmer questioned whether the information reported by AE during her Public Statements comments would come to the Board's attention in the future. AAG Smith stated in the event there was a publicly available indictment or other criminal charges issued against the physician, the Board would have the ability to consider the information at the time they occur and take the appropriate action based on the information available.

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

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

MOTION PASSED.

R. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED DRAFT CONFIDENTIAL HEALTH QUESTIONS ON THE INITIAL AND RENEWAL APPLICATIONS

Dr. Nick Ahrendt of the Arizona Psychiatric Association addressed the Board during the Public Statements portion of the virtual meeting.

Executive Director McSorley reported that after multiple discussions with the Board and stakeholders, the application questions have been revised in an effort to strike a balance between protecting the public, allowing the Board to gather the information needed regarding prior Board Orders, and trying to make less of a stigma for physicians who require or are seeking mental health services. She also reported that the language was shared with the Arizona Medical Association and the Arizona Psychiatric Association and were in agreement with the proposed draft questions. Executive Director McSorley asked the Board to approve the revisions to allow the rulemaking process to begin and updating the questions thereafter. Chairman Farmer stated his appreciation

MOTION: Dr. Krahn moved for the Board to approve the draft confidential health questions on the initial and renewal applications as proposed.

SECOND: Vice-Chairman Gillard

Chairman Farmer spoke in support of the motion, stated his appreciation for stakeholders input during this process and emphasized the importance of physicians receiving access to mental health care without stigmatization. He also commented on how updating the questionnaires enhances public safety.

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

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

MOTION PASSED.

S. GENERAL CALL TO THE PUBLIC

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

T. ADJOURNMENT

MOTION: Ms. Jones moved for the Board to adjourn.

SECOND: Dr. Bethancourt


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

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

MOTION PASSED.

The Board's meeting adjourned at 8:46 p.m.




Patricia E. McSorley, Executive Director