



Arizona Medical Board

1740 W. Adams St., Suite 4000 • Phoenix, Arizona 85007

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Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

DRAFT MINTUES FOR SPECIAL TELECONFERENCE MEETING

Held on Wednesday, November 10, 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 5:01 p.m.

B. ROLL CALL

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

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the teleconference: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy 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 virtual meeting. AAG Monique Coady participated in the teleconference to provide the Board with independent legal advice on the hearing matters as stated herein.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

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

D. EXECUTIVE DIRECTOR'S REPORT

- Update on Audit
- Update on Board Processes and Procedures

Executive Director McSorley informed the Board that the audit would begin at the end of the week and that it was determined that the State's General Accounting Office would be the most appropriate entity to perform the audit. Executive Director McSorley reported that she would keep the Board updated as they progress through the audit process.

E. CHAIR'S REPORT

Chairman Farmer stated his appreciation for the Board members and staff for their hard work and efforts.

F. LEGAL ADVISOR'S REPORT

G. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

Chairman Farmer reported that the Board planned to meet in-person for its February 2022 meeting, and that the Board's Ad Hoc Committee would be reviewing the proposed meeting format.

H. THIS ITEM WAS PULLED FROM THE AGENDA.

LEGAL MATTERS

I. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT PROPOSED CONSENT AGREEMENT

1. MD-17-0567A, MARCIA A. MASTRIN, M.D., LIC. #31029

Attorney Mandi Karvis participated in the teleconference on behalf of Dr. Mastrin during the Board's consideration of this matter. AAG Smith participated on behalf of the State. AAG Coady participated to provide the Board with independent legal advice.

Ms. Smith stated that this matter stemmed from allegations of inappropriate prescribing by Dr. Mastrin, the physician entered into an Interim Consent Agreement for Practice Restriction prohibiting her from prescribing controlled substances and the matter progressed through the investigation process. The Board considered this matter at its September 2021 telephonic meeting and declined the physician's proposed settlement offer. Subsequently, AAG Mary Williams discussed with Ms. Karvis resolving this matter with voluntary surrender of licensure and the physician requested additional time to close her practice. AAG Smith asked the Board to accept the proposed Consent Agreement signed by Dr. Mastrin for the voluntary surrender of her medical license and rescind the referral to Formal Hearing.

Ms. Karvis stated that rather than proceed to a lengthy and expensive Formal Hearing in January 2022, the physician has elected to surrender her license voluntarily and requested the Board allow her an additional month before the surrender became effective to allow more time for her to close up her practice. She stated the physician was sad to have to surrender as she believed there were less restrictive means available to resolve this matter, but that she determined that this was best decision under the circumstances. AAG Smith stated that the State took no position with regard to the request for extension of the deadline to surrender.

Dr. Figge spoke in favor of accepting the proposed Consent Agreement, effective immediately. He stated that he did not find sufficient basis to extend the effective date.

MOTION: Dr. Figge moved for the Board to rescind the referral to Formal Hearing and accept the proposed Consent Agreement for surrender of licensure.

SECOND: Dr. Krahn

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

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

MOTION PASSED.

CONSENT AGENDA

J. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Krahn moved for the Board to issue an Advisory Letter in item numbers 2-7.

SECOND: Ms. Bain

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

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

MOTION PASSED.

1. MD-20-0555A, MARLOU B. HEILAND, M.D., LIC. #33507

Complainants KB and BF addressed the Board during the Public Statements portion of the teleconference. Dr. Heiland and Attorney Steve Perlmutter also addressed the Board during the Public Statements.

Dr. Beyer recognized the unfortunate outcome and recalled the comments made during the Public Statements. He stated that he did not find fault with the physician in this matter and spoke in favor of dismissal. Dr. Krahn stated that it was not clear how much Dr. Heiland was aware that there was a back evaluation performed the day prior based on the physician's notes. Board staff addressed counsel's comments made during the Public Statements and opined that it was not unreasonable for a urologist to perform a back examination when looking for potential urological problems.

MOTION: Dr. Beyer moved for dismissal.

Motion failed due to lack of a second.

MOTION: Dr. Krahn moved for the Board to issue an Advisory Letter for failure to obtain appropriate postoperative tests and failure to examine the patient's region of primary complaint postoperatively. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: Dr. Figge

Dr. Figge spoke in favor of the motion and stated that it was unclear whether the back specialist was available at the time that the physician saw the patient and that it was not clear whether the back specialist's exam was available at the time the physician saw the patient. He also stated that the documentation was not clear as to whether the physician performed a back exam. Board staff clarified that the first postoperative visit took place two weeks after the urological procedure and that documentation dictated that the patient told the physician that she had seen a back specialist who prescribed Flexeril. Based on further review of the information gathered in this case, Board staff determined that the back specialist was, in fact, a pain specialist.

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

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

MOTION PASSED.

2. MD-21-0116A, STANLEY M. HIGGINS, M.D., LIC. #49004

RESOLUTION: Issue an Advisory Letter for failing to identify a comminuted fracture of the tarsal navicular bone on an x-ray. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.

3. MD-21-0490A, GABRIEL A. GONZALES-PORTILLO, M.D., LIC. #27332

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

4. MD-21-0449A, THREASA H. FROUGE, M.D., LIC. #17670

RESOLUTION: Issue an Advisory Letter for failure to diagnose a perirectal abscess on a CT scan. 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-20-1029A, CHING C. WANG, M.D., LIC. #30864

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.

6. MD-21-0200A, LORNA L. OGDEN, M.D., LIC. #48272

Attorney Kendal Steele addressed the Board during the Public Statements portion of the teleconference.

RESOLUTION: Issue an Advisory Letter for failing to report the correct laterality of a malignant tumor. 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-20-0658A, ARVIND K. GUPTA, M.D., LIC. #47011

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

RESOLUTION: Issue an Advisory Letter for failing to diagnose a pulmonary embolus in a patient presenting with acute hypoxic respiratory failure. 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. MD-21-0364A, ROOPESH K. KANTALA, M.D., LIC. #41766

Dr. Kantala and Attorney Steve Perlmutter addressed the Board during the Public Statements portion of the teleconference.

Dr. Figge noted that the patient was seen on one occasion by this oncologist and that the physician did not know the patient's cause of death. He stated the physician did not have an established doctor-patient relationship with the patient and was not responsible for

signing the death certificate in this matter. Dr. Figge commented that this issue arises in the emergency room frequently and that physicians do not sign death certificates for patients with whom they have not established a relationship.

MOTION: Dr. Figge moved for dismissal.

SECOND: Dr. Krahn

Vice-Chairman Gillard stated his concerns regarding the medical examiner's knowledge of the law and stated that this was clearly a case for the coroner's office.

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

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

MOTION PASSED.

9. MD-21-0442A, DYAN M. COLE, M.D., LIC. #TP00979

Vice-Chairman Gillard noted that the funeral director was encouraged by the medical examiner to file this complaint with the Board alleging failure to sign the patient's death certificate within 72 hours. He observed that the physician in this case was filling in on a temporary license.

MOTION: Dr. Figge moved for dismissal.

SECOND: Ms. Oswald

Dr. Figge noted that the primary care physician signed the patient's death certificate after 22 days. He also noted that Dr. Cole saw the patient on one occasion for a medication refill. Ms. Jones questioned staff regarding the physician's registration with the Database Application for Vital Events ("D.A.V.E.") System. Board staff reported that Dr. Cole's registration was delayed due to her unresponsiveness, and that as of July 28, 2021, Dr. Cole was registered with the D.A.V.E. System. Vice-Chairman Gillard commented that if a physician is unclear as to the patient's cause of death, the doctor should not be forced into signing the patient's death certificate.

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

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

MOTION PASSED.

K. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

1. MD-21-0418A, TIMOTHY L. HODGES, M.D., LIC. #31263

Dr. Hodges and Attorney Scott King addressed the Board during the Public Statements portion of the teleconference.

MOTION: Dr. Figge moved for the Board to uphold the dismissal.

SECOND: Dr. Krahn

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

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

MOTION PASSED.

2. MD-21-0270C, PATRICK A. DE VALERIA, M.D., LIC. #27810

Dr. Krahn was recused from this matter.

Dr. Beyer spoke in favor of dismissal and stated that there was no basis to find fault with the physician. He noted that the patient's complaint related to multiple providers and questioned whether those other providers were also investigated. Board staff reported that multiple matters were opened based on the patient's complaint.

MOTION: Dr. Beyer moved for the Board to uphold the dismissal.

SECOND: Ms. Dorrell

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

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

MOTION PASSED.

L. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. MD-16-1314A, MD-17-0087A, MUHAMMAD J. AKHTAR, M.D., LIC. #10007

Vice-Chairman Gillard noted that Dr. Akhtar signed the proposed Consent Agreement for voluntary surrender of licensure on October 25th and that this matter involved the suspension of hospital privileges.

MOTION: Dr. Figge moved for the Board to accept the proposed Consent Agreement for surrender of licensure.

SECOND: Dr. Beyer

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

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

MOTION PASSED.

M. LICENSE APPLICATIONS

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

MOTION: Dr. Beyer moved for the Board to approve the license application and grant the waiver of documentation where applicable.

SECOND: Ms. Jones

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

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

MOTION PASSED.

1. MD-21-0509A, LAWRENCE M. STOKAR, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

2. MD-21-0540A, DYAN M. COLE, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

3. MD-21-0911A, SHELLY S. YUSUFF, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

4. MD-21-0957A, JOSEPH D. PARKHURST, M.D., LIC. #N/A
RESOLUTION: Approve the license application.
5. MD-21-0557A, CESAR A. VELARDE, M.D., LIC. #N/A
RESOLUTION: Approve the license application.
6. MD-21-0519A, ARVIND C. CHAKRAVARTHY, M.D., LIC. #N/A
RESOLUTION: Approve the license application.
7. MD-21-0886A, KEALY R. H. MALMGREN, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

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

OTHER BUSINESS

N. GENERAL CALL TO THE PUBLIC

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

O. ADJOURNMENT

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

SECOND: Ms. Oswald

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

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

MOTION PASSED.

The Board's teleconference adjourned at 6:07 p.m.



Patricia E. McSorley, Executive Director