



## Arizona Medical Board

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

Home Page: <http://www.azmd.gov>

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

### FINAL MINUTES FOR TELECONFERENCE MEETING

Held on Thursday, August 4, 2022

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

Katie S. Artz, M.D., M.S.

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

Constantine Moschonas, M.D., F.A.A.N.

Eileen M. Oswald

### GENERAL BUSINESS

#### **A. CALL TO ORDER.**

Chairman Farmer called the Board's meeting to order at 8:04 a.m.

#### **B. ROLL CALL**

The following Board members participated in the teleconference: Chairman Farmer, Vice-Chair Gillard, Dr. Krahn, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas and Ms. Oswald.

The following Board member was absent: Ms. Bain.

#### **ALSO PRESENT**

The following Board staff participated in the teleconference: Patricia McSorley, Executive Director; Kristina Jensen, Deputy Director; Raquel Rivera, Investigations Manager; William Wolf, M.D., Chief Medical Consultant; Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") also participated in the teleconference.

#### **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 Hiring for the Chief Medical Consultant Position

Ms. McSorley informed the Board that staff has drafted a description of the CMC position and once finalized it will be posted. Ms. McSorley noted that Dr. Coffey has agreed to serve as an interim CMC and the Board has other in-house MCs who can assist.

- Update on Board Room A

Ms. Jensen reported that she met with the general contractor and demolition and repair will begin in the coming weeks and the room should be meeting ready by October but will not include audio/video. The Board can potentially have an in-person meeting in October.

- Update Regarding Possible Move to a New Database

Ms. McSorley reported that there is a possibility to move to a new database. Ms. McSorley commented that she has some concerns regarding this and working on what the best way to proceed is. This database does not currently have the functionality to best serve the needs of the agency.

Dr. Farmer commented that this is a complicated issue with a need for staff to educate those involved in the needs and differences of the Medical Board from other boards.

Ms. McSorley reported that she did meet with Thentia and determined they do not meet our needs. The Board's current database is superior to what they are offering. Ms. McSorley noted that staff has requested that if their request to remain with GLS is denied then the Board be allowed to go last so that they have time to improve.

- Update on Report from AZ General Accounting Office (Internal Audit)

Ms. McSorley provided information to show the extent of the Audit and noted that the GAO is not the only audit that the agency goes through.

Dr. Figge noted that the audit's findings were trivial.

- Discussion Regarding Proposed AMB Legislative Agenda in 2023

Ms. McSorley noted that these issues have been brought up and staff will be drafting proposals for the Administrative Joint Legislation and Rules Committee to consider.

Dr. Farmer would appreciate discussion or comments regarding these topics.

- Alternative Process for Failure to Renew License in Timely Manner
- Reducing Renewal Fees
- Funding of the Physician Wellness Program
- Alternatives to Advisory Letter

Dr. Krahn requested that this be agendaized for discussion regarding possible alternatives and what other State's utilize.

Dr. Farmer confirmed that a proposal will be drafted for review and discussion.

Ms. McSorley noted that this will be addressed at the committee level and noted that FSMB does have information regarding non-disciplinary actions in other states.

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

No report was given.

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

- Update re: Case 2:21-cv-01417-DLR *Issacson et. al. v Brnovich et. al.*

Ms. Smith provided an update and noted that the judge did issue a preliminary injunction at the hearing that occurred since the last meeting.

- Update on AAG Staffing for Medical Board

Ms. Smith informed the Board of the staffing changes at the AG's office and noted that Ms. Campbell will be a litigator for the Board and will be assisting with Board meetings.

## **G. REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE SUBMISSION OF THE 2022 ANNUAL REPORT AND THE 2023-2027 STRATEGIC PLAN TO THE GOVERNOR'S OFFICE**

#### **H. REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE SUBMISSION OF THE FIVE-YEAR REVIEW REPORT FOR ARTICLES 1 AND 4**

Ms. Jensen informed the Board that there are three documents for their review– the five-year review for medical assistants, proposed rules changes for MAs and the website's Frequently Asked questions page.

Ms. McSorley acknowledged Ms. Dorrell for assisting Ms. Jensen for preparing the Five-Year review report.

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

Dr. Farmer commented on the efficiency of the Committee meeting format and that the ADHOC will come up with an in-person format for future meetings.

Dr. Figge inquired about staff education and training on how to conduct formal interview presentations.

Ms. McSorley acknowledged that there is a need for further training on this issue.

Board members addressed parliamentary procedure and how it relates to the Board meetings.

Dr. Beyer suggested hybrid meetings once the Board room is available.

Board staff explained how the CenturyLink process works.

#### **J. APPROVAL OF MINUTES**

- June 9, 2022 Teleconference Meeting, including Executive Session
- June 10, 2022 Special Meeting

**MOTION:** Dr. Gillard moved to approve the minutes for the June 9, 2022 Teleconference; including Executive Session and the June 10, 2022 Special Meeting.

**SECOND:** Ms. Dorrell.

**VOTE:** The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahm, Dr. Bethancourt, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald. The following Board members abstained: Dr. Beyer, Dr. Artz and Dr. Moschonas. The following Board member was absent: Ms. Bain.

**VOTE:** 8-yay, 0-nay, 3-abstain, 0-recuse, 1-absent.

**MOTION PASSED.**

### **LEGAL MATTERS**

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

1. MD-18-1040A, KIRK G. WILLIAMS, M.D., LIC. #13691

Dr. Williams was not present. AAG Seth Hargraves participated telephonically on behalf of the State. AAG Monique Coady participated telephonically as the Board's Independent Legal Advisor.

Mr. Hargraves summarized that this case was initiated in October, 2018 after receiving a report from a practitioner from St. Joseph's Medical Center (SJMC) that Dr. Williams was undergoing inpatient treatment and that he might have a health condition that may impair his ability to practice medicine. During his absence, his practice was being covered by a physician assistant. The Board subsequently issued an Interim Order for a neuropsychological evaluation and Dr. Williams did not follow up with the recommended treatment. In December 2018, Dr. Williams entered into an Interim Practice Limitation. When Dr. Williams underwent the evaluation, which indicated that the clinical practice of medicine was contraindicated and he failed to comply with the recommendations. Dr. Williams underwent a second evaluation by a provider that was not approved by the Board. Dr. Williams refused to sign a release that would allow the evaluator to report his findings to the Board but staff was able to obtain a copy of the report stating that he was

found not safe to practice due to his health condition. The Administrative Law Judge (ALJ) heard the evidence and found that the Dr. Williams violated the Board's interim order, failed to furnish information in a timely manner to the Board and that his conduct demonstrated that he cannot be regulated by the Board. The ALJ recommended that his license be revoked and that he be charged with the costs of the hearing. The State requests that the Board adopt the ALJ recommendation with minor modifications. Specifically, the amount of the cost for OAH be specified and to provide a 90 day timeframe for the cost to be paid.

Mr. Hargraves confirmed that Dr. Williams did not practice while under the limitation.

Dr. Beyer inquired about why the court charges were being assessed.

Mr. Hargraves explained that under the Board's statutes they are allowed to recoup the cost for the administrative hearing, which was requested in this case.

Board staff noted that it has been typical practice for the physician to pay the cost of the hearing when there was an adverse result against the physician.

During deliberations:

**MOTION: Ms. Jones moved to adopt the Findings of Fact as recommended by the ALJ.**

**SECOND: Dr. Gillard.**

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

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

**MOTION PASSED.**

Dr. Gillard opined that the physician being non-regulable and non-compliant can be due to his health condition. Dr. Gillard agreed that this physician should not be practicing but commented that a Revocation is a severe Board action.

**MOTION: Ms. Jones moved to adopt the Conclusions of Law as recommended by the ALJ.**

**SECOND: Dr. Krahn.**

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

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

**MOTION PASSED.**

Dr. Gillard reiterated that there were serious issues with the physician's cognitive ability and requested a modification to the revocation order to include that it is for medical reasons and is not disciplinary. Dr. Moschonas agreed that the physician's illness is preventing him from practicing and doing the right thing.

Board staff commented that as a practical matter it does not make much of a difference to make the requested modification to the final order.

Board staff noted that there were multiple times throughout the investigation that staff offered a surrender or final practice limitation due to the health condition which were not accepted; therefore staff had to proceed to formal hearing.

Mr. Hargraves mentioned that at several times throughout the process Dr. Williams was represented by legal counsel. He was offered an opportunity to enter into a final order

after the evaluation results were received by the Board, which he and his counsel refused. There was no other option but to proceed with formal hearing for revocation. The ALJ did adequately document for the record the health condition.

Dr. Gillard requested that when this is reported to the National Practitioner Data Bank (NPDB) that it is reported as being due to a health condition.

Ms. Coady clarified that in the Conclusions of Law the ALJ found three statutes for unprofessional conduct were violated and that is what the revocation is based on. Ms. Coady informed the Board that they can add additional language to the Order regarding the health condition but the Revocation is due to the unprofessional conduct.

Dr. Krahn commented that the wording change does not matter. Dr. Krahn expressed concern that the physician was uncooperative, and the order should use the standard language under these circumstances.

Board staff informed the Board of how this Order would be reported to the NPDB and how a summary and explanation is included.

Dr. Beyer opined that it is clear from the Findings of Fact what the facts are and speak to the physician's illness and limitations. Dr. Beyer stated that the Board may not want to start changing the standard language used in the final orders.

**MOTION: Dr. Beyer moved to adopt the Order for Revocation with no charges assessed.**

**SECOND: Ms. Oswald.**

Dr. Gillard spoke against the motion currently written since the physician has been out of practice and the funds assessed will go to the general fund and would not come back to the Board. Ms. Oswald spoke in favor of the motion and opined that there are firm Findings of Fact, the Board has approved of the Conclusions of Law and expressed concern for adding additional language that this is due to a medical condition may set a precedent.

Ms. Jones inquired about what happens if the physician does not pay within the 90 day timeframe.

Ms. McSorley informed the Board that staff reports quarterly any unclaimed monies to the Department of Administration and the AG's office.

Ms. Jones spoke against the recommendation for recouping the costs of the hearing. Dr. Moschonas commented regarding being found guilty of unprofessional conduct and to be physically and mentally unable to practice medicine, it is important to define the medical condition and whether the physician has complete knowledge of his actions versus if they're mentally unable to understand their actions and is found guilty. Dr. Farmer commented that there is sympathy for a person who is perhaps not responsible for their own actions by way of illness. Dr. Farmer questioned if it is worth charging the physician for the hearing and whether or not he received appropriate legal advice. Dr. Farmer opined that as a practical matter, in agreement with the revocation. Dr. Beyer agreed that it is reasonable to omit the penalty and simply move for a revocation of the license with no charges assessed given the discussion regarding the physician's medical condition. Dr. Farmer noted that it is appropriate to assess charges when the case is egregious or when there is a failure to comply with the investigation. In this case the lack of cooperation may be due to the medical condition. Dr. Gillard stated that he is in agreement with not charging the fee but spoke against the motion since it does not include the health condition sentence in the final Order. Dr. Figge reiterated that the NPDB report can include the health condition language in the explanation.

**VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Krahn, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and**

**Ms. Oswald. The following Board members voted against: Dr. Gillard and Dr. Moschonas. The following Board Member was absent: Ms. Bain.**

**VOTE: 9-yay, 2-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

**2. MD-20-0511A, JOSEPH C. LINDSTROM, M.D., LIC. #17253**

Dr. Lindstrom was not present. AAG Seth Hargraves participated telephonically on behalf of the State. AAG Monique Coady participated telephonically as the Board's Independent Legal Advisor.

Mr. Hargraves summarized that this case was initiated in June 2020 when the Board was notified of a malpractice settlement. Despite multiple requests, Dr. Lindstrom failed to provide a response regarding the complaint and failed to provide the patient's medical records. Board staff was able to contact Dr. Lindstrom one time by phone, and his response was that he was retired. Other than that, there was no response or cooperation by Dr. Lindstrom. Dr. Lindstrom was issued an Order for an interview with Board staff and he did not appear. The matter was subsequently referred to formal hearing. The ALJ found that Dr. Lindstrom failed to furnish information to the Board in a timely manner and that he was not amenable to regulation by this Board. The ALJ recommended the license be revoked and that he be required to reimburse the Board the costs of the hearing. Dr. Lindstrom's license status expired during this time however the Board retains jurisdiction. The State requested that the Board accept the ALJ recommendation and modify the Order to specify the amount of costs and the timeframe for when the costs should be paid.

Dr. Gillard commented that the Medical Consultant ("MC") did not find unprofessional conduct from the original complaint but this case was referred to OAH due to non-compliance with the investigation.

During deliberation, AAG Coady noted that FOF #14 needs to be modified to reflect the correct date of September 14, 2020.

**MOTION: Dr. Krahn moved to adopt the Findings of Fact with the proposed editorial revision.**

**SECOND: Ms. Jones.**

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

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

**MOTION PASSED.**

**MOTION: Dr. Gillard moved to adopt the Conclusions of Law as proposed.**

**SECOND: Dr. Krahn.**

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

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

**MOTION PASSED.**

**MOTION: Dr. Gillard moved to adopt the Order for Revocation with the changes requested by the State.**

**SECOND: Dr. Beyer.**

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

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

**MOTION PASSED.**

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

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

Dr. Piedrahita and counsel Chris Smith participated telephonically. AAG Smith participated telephonically on behalf of the State. AAG Monique Coady participated telephonically as the Board's Independent Legal Advisor.

Mr. Smith stated that the evaluator found Dr. Piedrahita safe to practice provided he comply with recommendations for treatment and monitoring. Mr. Smith requested that the Board require two years of Physician Health Program (PHP) monitoring instead of 5 otherwise, Dr. Piedrahita is willing to comply with all recommendations from the July 15, 2020 report.

Ms. Smith summarized that this case was initiated based on a complaint that Dr. Piedrahita may have a health condition that limited his ability to safely practice medicine and may have been practicing medicine while under the influence of controlled and other substances. Dr. Piedrahita entered into an Interim Practice Restriction and was referred to PHP for an initial assessment and he did initially comply with the PHP process. However after completion of an IOP, it was recommended that he undergo a comprehensive evaluation and on an inpatient basis. At that time, Dr. Piedrahita stopped responding to the Board's investigation. In addition, Ms. Smith noted that the investigation identified quality of care allegations in the case. During the course of the Board's investigation, Dr. Piedrahita's license expired and is now suspended. After the State filed a Complaint and Notice of Hearing in this matter, Dr. Piedrahita obtained counsel and expressed a desire to re-obtain his license and comply with the process. This case was initially heard in March of 2021 in a settlement conference at which time the Board voted to have Dr. Piedrahita undergo a number of evaluations including a fitness to practice evaluation, a neuropsychological evaluation and a renewed PHP assessment. Dr. Piedrahita has undergone all of those recommendations and the settlement conference memorandum lays out the recommendations from each of the evaluations for the Board to consider in the event that the Board would like to offer Dr. Piedrahita a path back to licensure. Ms. Smith noted that the State is not taking a position on the Board's direction. The Board's two options are to direct the State to proceed with formal hearing or to rescind the referral to formal hearing and direct the State to draft a consent agreement for a Probationary license that incorporates the recommendations arising out of the evaluations completed. In the event that the Board considers entering into a consent agreement, the State recommends that the Board adopt the recommendation for 5 years of PHP monitoring as recommended by the PHP assessor to ensure that once Dr. Piedrahita returns to practice he is safe to do so.

Mr. Smith stated that if the State recommends 5 years of PHP monitoring, Dr. Piedrahita will accept that.

**MOTION: Dr. Gillard moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(2) and (3).**

**SECOND: Dr. Artz.**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 10:24 a.m.

The Board returned to Open Session at 11:10 a.m.

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

Dr. Farmer noted that it is the right of the physician to request a settlement conference or to make a settlement offer. However, it is difficult to consider an offer if specifics are not given and commented that no settlement offer has been given verbally or in writing for the Board to consider at this time.

Dr. Figge inquired if the State is under the impression that there is reasonable settlement offer to consider or is it pending based on today's discussion.

Ms. Smith explained that at the last settlement conference, Mr. Smith did provide the Board with a settlement conference memorandum requesting that the Board provide a path for the physician to obtain licensure. The Board moved to continue the matter to allow the physician to complete the specified evaluations within 90 days. Ms. Smith explained that at this point since there was no direction from the Board on whether they would agree to the physician re-obtaining licensure, the State did not come to the meeting today with a signed consent agreement. If the facts and circumstances that the additional information has provided the Board with enough comfort for a way that Dr. Piedrahita can safely return to practice, the State is prepared to draft a consent agreement that incorporates the core recommendations of the various evaluations that the physician has undergone consistent with the Board standard terms and conditions for those processes. Ms. Smith noted that Dr. Piedrahita, per Mr. Smith, would be willing to enter into a consent agreement including the core recommendations.

Dr. Figge inquired from Ms. Smith, in representing the State, would she be in favor of allowing more time to show the physician's progress before agreeing to a settlement offer.

Ms. Smith noted that Dr. Piedrahita does not currently have a license and explained that if he had a license there would be an interim consent agreement of some kind that could be incorporated. If the Board is looking for more assurances the physician could enter have a private monitoring agreement GRI or PBI but reiterated that the Board cannot enter into an agreement with someone who does not have a license. This case has been pending for quite a bit of time with no activity, if more time is required the Board may consider rescinding the referral to formal hearing and allow the physician to enter into a private monitoring and allow him to file his application for licensure. The State did discuss with Dr. Piedrahita's counsel regarding submitting an application for licensure and noted that the parties agreed that Dr. Piedrahita could hold off on actually reapplying for licensure until the Board provided direction.

Mr. Smith agreed with the State's comments and noted that Dr. Piedrahita is willing to comply with all recommendations to return to practice and confirm that he is safe to practice. The issue is procedurally how the Board wants to proceed for him to return to practice.

During deliberations, Dr. Krahn commented that there are two issues that have made this case so complicated. One the case resulted in a recommendation for revocation and two the license has lapsed so some of the Board's tools are no longer available.

**MOTION: Dr. Krahn moved to direct the State to move forward with a formal hearing for Revocation.**

**SECOND: Dr. Figge.**

Dr. Figge inquired that the lapsed license the Board's tools are limited what can the Board do other than moving forward with formal hearing.

Ms. Coady commented that that physician is open to complying with recommendations to return to practice but given the suspended status the Board's options are limited today. If the Board does not think he will be safe to practice the physician does not want to reapply if the Board is going to deny the license due to concerns of safely practicing medicine. If he proceeds to formal hearing and his license is revoked he cannot reapply for 5 years.



Dr. Figge asked given the physician and his counsels comments, can the Board allow a continuance for further evaluation and continue the formal hearing.

Ms. Coady explained that up to and until the Board votes on the ALJ decision, the Board can always consider a written consent at a settlement conference. If the Board votes to send this to hearing today it does not mean the negotiations halt between the parties.

Dr. Gillard commented that new license applications can come with a stipulated agreement, can the Board request the physician apply and come to the Board with an agreement.

Ms. Smith reiterated that the Board's options are to move forward with formal hearing for revocation or to have the parties return to the Board with a consent agreement for the Board to consider along with his application for licensure.

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

**VOTE: 8-yay, 3-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

2. MD-20-0941A, MD-21-0256A, MICHAEL H. WRIGHT M.D., LIC. #50466

Dr. Wright was not present. AAG Smith participated telephonically on behalf of the State. AAG Monique Coady participated telephonically as the Board's Independent Legal Advisor.

Ms. Smith informed the Board of the State's the motion to continue as the physician is experiencing health issues and requested a continuance. The State requested continuance to the Board's October meeting.

**MOTION: Ms. Jones moved to continuing the settlement conference to the Board's October meeting.**

**SECOND: Ms. Oswald.**

Dr. Gillard commented that this was a non-disciplinary case with continuing medical education (CME) ordered for records. Dr. Gillard opined that this does not need to be continued and that it is not unreasonable to issue the advisory letter and remove the CME.

Ms. Coady clarified that if there is an offer for consideration the Board may take action on that offer. If the current motion passes the Board will discuss the settlement offer at the next meeting.

Dr. Farmer noted that there was discussion at the previous meeting regarding the CME. Ms. Jones inquired that if the physician requested a continuance and planned to be heard today does the Board not owe him that option if that was his intent.

Ms. Smith explained that the physician has not submitted a request in writing, but the verbal request was to rescind the CME order.

Dr. Wolf commented that the MC who sat SIRC regarded these issues as very serious.

Dr. Krahn opined that the physician has the right to appeal and be heard. Dr. Krahn expressed concern that dropping CME due to an appeal it may be harder to issue in CME in the future. Dr. Krahn opined that CME is important and the Board can send the physician for additional training when the MC finds serious issues.

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

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

Dr. Farmer inquired if a non-disciplinary CME Order can be appealed.

Ms. Smith explained that a non-disciplinary CME order is an appealable action. An appeal was timely filed, and the case was referred to OAH for formal hearing. The physician then requested a settlement conference

## **M. FORMAL LICENSING INTERVIEWS**

1. MD-21-0878A, ELLIOT L. WADE, M.D., LIC. #N/A  
Dr. Wade participated telephonically without counsel.

Board staff summarized that on September 23, 2021, the Board opened a Licensing Investigation on Dr. Wade due to a 'Yes' response on his application regarding two malpractice settlements. Dr. Wade was noted to have unrestricted licensed in multiple states. The first case involved care provided to patient, MJ, in April of 2010. MJ was a 35 year old male with a past medical history significant for hypertension, tobacco use, and obesity who presented to a hospital in Las Vegas, NV on April 23, 2020, with complaint of nausea, vomiting and diarrhea and for 3 days. MJ was treated with IV fluids in the ER. Dr. Wade reported that he received a call from a nurse about a 'female patient' and provided an order for IV fluid and then contacted a provider covering for that patient's insurance. The ER provider wrote an order for ICU transfer. Dr. Wade was paged to the ER and spoke with a nurse regarding MJ and then spoke with the ER provider. Dr. Wade reported examining MJ in the ER. MJ was transferred to the ICU and blood gases showed hypoxia, acidosis and CO2 retention. A pulmonary consultant noted that MJ also had a history of Obstructed Sleep Apnea and was noncompliant with CPAP and recommended antibiotic dosing adjustments, an ultrasound of the gallbladder, additional labs and low dose hydrocortisone for sepsis. At 21:35 p.m., documentation noted that the covering ER physician was called to intubate MJ. MJ suffered a code arrest and resuscitation efforts were unsuccessful. On April 23rd. Dr. Wade dictated the history and physical in the morning the next day and subsequently dictated the death summary, in which he recommended an autopsy. The autopsy indicated sepsis as the probable cause of death. The MC stated that Dr. Wade failed to insert a central venous catheter and initiate pressors at the initial evaluation, and he also failed to intubate or order intubation on the patient in a timely manner. The second case involved care provided to patient DW, in March through April of 2011. DW was a 52 year old male with a past medical history of gallstones, chronic back pain and dyslipidemia who had undergone an endoscopic retrograde cholangiopancreatography ("ERCP") on March 24, 2011 and subsequently developed severe upper abdominal pain, nausea and vomiting. He was seen in the ER on March 25, 2011. Vital signs showed a pulse of 122, but were otherwise unremarkable. Periumbilical tenderness was noted on exam. Labs were significant for a white blood cell count of 11.3 and an elevated lipase. A CT showed a fatty liver and acute pancreatitis with a small amount of ascites. DW was treated with IV fluids, pain meds and nausea medication. DW was admitted under the care of Dr. Wade, and IV fluids were continued along with IV antibiotics. DW was also seen by a gastrointestinal specialist. DW developed hypotension and worsened tachycardia and was intubated and transferred to the ICU where he required blood pressure support. DW's renal function worsened, and a renal consultant diagnosed acute kidney injury with a plan to follow expectantly. DW was eventually able to be weaned off pressors. He developed a deep vein thrombosis ("DVT") to the right axillary and brachial veins and was placed on hemodialysis due to volume overload/low urine output. DW also developed C. Difficile diarrhea and required wound treatment to the left upper extremity following an infiltrated IV. DW was extubated on April 9, 2011. On April 15, 2011, the GI provider documented that DW had marked ascites that was making him uncomfortable and noted a plan to get a therapeutic paracentesis and send the fluid for several studies, also noting a discussion with the Radiologist

performing the procedure. The same day, Dr. Wade performed a bedside paracentesis. Dr. Wade documented that DW 'did not want to go to radiology for ultrasound after.' In his progress note for the day, Dr. Wade documented "status post 1 attempt at bedside paracentesis- unsuccessful." The following day, an abdominal paracentesis was performed by radiology with removal of two liters of fluid. DW had developed an increased white blood cell and an elevated temperature, and peritoneal fluid showed gram negative rods, which were subsequently identified as E. Coli. DW was transferred back to the ICU on April 18, 2011 and another provider assumed DW's internal medicine hospital care. Dr. Wade dictated a hospital summary that day. The licensee's discussion of the case provided to the Board with the malpractice documents indicated that 100-150cc of fluid had been obtained which was sent to pathology, but there was not enough to make the diagnosis. DW subsequently underwent several ultrasound guided paracenteses, exploratory laparotomy, and further surgery for an anastomotic leak. In a subsequent response, Dr. Wade reported that the patient had undergone an ultrasound at the bedside prior to his paracentesis. The OMC responded that this statement contradicted Dr. Wade's prior responses, chart statement, and procedure report and noted that the contradictory statements were disturbing. SIRC was concerned with the lack of candor and inconsistent statements in Dr. Wade's responses and recommended a licensing interview.

In an opening statement, Dr. Wade stated that these cases are 10-12 years old and he did not attempt to be not forthright. He thought the investigator would contact the hospital to obtain the medical records and they were ultimately submitted to staff. Dr. Wade stated that he never attempted to falsify anything and may have misunderstood some statements.

During questioning, Dr. Wade explained that he was practicing as a hospitalist and further explained the set ups were different at each hospital. Regarding MJ, at that time there was no intensivist but there was a pulmonary service, which he consulted. Regarding DW, there was an intensivist service at that time. Regarding MJ, Dr. Wade explained that the hospital gave him the wrong patient information which resulted in the gap in time. This specific patient was a physician and when he told him he needed intubation the patient said no. Dr. Wade stated he still contacted the pulmonologist who said the patient didn't need intubation at that time. Dr. Wade stated that in hindsight, it could have been handled differently and agreed that the patient should have been intubated and that it should have been done earlier.

Regarding DW ultrasound prior to the paracentesis, Dr. Wade stated that he had radiology techs do the ultrasound, but he did not document well. Dr. Wade explained that he believes the tech took the ultrasound elsewhere and brought the patient back. Dr. Wade explained that he does not believe fluid was sent for collection or that there was enough to be sent for further analysis. Dr. Wade noted that he has not had a malpractice case since the DW case. With regards to how the paracentesis was performed, Dr. Elliot stated that it was blind and unsuccessful. His written notes stated that there was no return. Dr. Wade stated that he is not disputing that there was a bad outcome and that the circumstances that he did the paracenteses were not ideal. Dr. Wade explained that concern regarding his contradictory statements can be attributed to the written narrative of the case and that he remembered things over time but it never an attempt on his part to say that the narrative was different.

In closing, Dr. Wade stated that he has learned about processes, charting and how to deal with adversity from these cases. Dr. Wade apologized for his mistakes with regards to his response and stated that he was not attempting to mislead the Board.

During deliberations, Dr. Bethancourt stated that he understands the discrepancy due to the age of the cases. Dr. Bethancourt noted with regards to the MC's concern about performing a paracentesis without ultrasound not being the standard of care is different because the standard of care 12 years ago was not the same regarding ultrasounds. Dr. Wade's daily notes were meticulous and he followed the sepsis protocol. Dr. Bethancourt further noted that Dr. Wade has an unrestricted license in 18 other states.

**MOTION: Dr. Bethancourt moved to grant the license.**

**SECOND: Dr. Gillard.**

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

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

**N. MOTION FOR REHEARING/REVIEW (Formal Interview)**

**1. MD-21-0361A, ABDULLAH M. YONAN, M.D., LIC. #27691**

Dr. Yonan participated telephonically with counsel Flynn Carey.

Mr. Carey stated that the motion was filed due to errors in the findings of fact that were not proven with clear and convincing evidence, two pieces of evidence were rejected during the investigation and formal interview and that this was an excessive penalty. Mr. Carey noted that the allegation against the physician was that he made physical contact with a nurse. The physician has consistently taken the position that he motioned to the patient's room and the nurse misinterpreted that motion and moved in for a hug. The MC opined that Dr. Yonan met the standard of care and noted that the care was stifled by the nurse. Mr. Carey noted that the Committee did not request the personnel file of the nurse, even though the physician and counsel requested it multiple times. Mr. Carey also stated that once the Committee made the recording between the CMO and the physician relevant they failed to allow Dr. Yonan play the audio or to continue the matter to consider the audio. Mr. Carey noted that there were discrepancies in all involved parties' statements. Mr. Carey requested that given the irregularities in the proceedings, errors in the rejections of evidence, the findings of fact not being supported by evidence and the excessive penalty the Board should reverse the decision and issue a non-disciplinary action.

Dr. Figge refuted that there was inappropriateness in the processes. The Committee discussed why vetting the nurse was not relevant, and it was discussed why the recording was not obtained from the chief medical officer. There was a robust discussion and reasoning regarding the professional misconduct and the ultimate finding for discipline.

**MOTION: Dr. Figge moved to deny the request for rehearing.**

**SECOND: Dr. Bethancourt.**

Dr. Bethancourt commented that regardless of the nurse's insubordination there is a chain of command the physician should have followed. The physician should not have raised his voice or had physical contact with the RN.

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

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

**2. MD-21-0824A, DAN J. CAPAMPANGAN, M.D., LIC. #37418**

Dr. Capampangan participated telephonically with counsel with Flynn Carey.

Mr. Carey requested a review due to excessive penalty. This was a case where the licensee allowed a student to perform a nerve block on a patient under his supervision. Mr. Carey noted that there was no patient harm. The licensee was not provided the proper paperwork from the hospital and if he was given the correct paperwork, he would have been made aware that the student would not be allowed to have contact or do procedures. The student was also given the wrong badge, usually given to medical students and not the observer's badge. This ultimately led to a policy change. Mr. Carey noted the mitigating factors in this case and that given the physician's termination from

the hospital there is already a mechanism in place for the physician to disclose what occurred. Mr. Carey requested that the Board issue an Advisory Letter. Mr. Carey stated that this has been a learning experience for the physician and would not happen again.

Dr. Figge commented that this was a case where a neurologist had a high school student, with no medical background and a few minutes of training, deliver medication into the neck of a developmentally disabled patient. Thankfully there was no patient harm. Dr. Figge commented that despite counsel's reasons and excuses that this was not egregious due to a paper work and not realized that a high school student cannot stick a needle into the patient, the Committee found this egregious and that the penalty was appropriate.

**MOTION: Dr. Figge moved to deny the request for review.**

**SECOND: Ms. Oswald.**

Dr. Farmer found this was particularly egregious, where a handicapped person who had bodily conduct and an invasive procedure by someone with no medical qualification. Dr. Farmer noted that no one consented to this and this could arise to a legal action. Dr. Farmer found it astonishing that anyone would consider this an excessive penalty and rises to the level that any reasonable person would find this egregious. Dr. Beyer noted that the physician and his counsel stated this issue arose from confusion due to the paperwork at the hospital and the incorrect badge. Dr. Beyer opined that these things miss the point. The physician knew that this was a high school student, and it should not require a hospital policy to state a high school student cannot perform medical procedures. Dr. Beyer opposed this request for review. Ms. Jones commented that patients have a trust in their physicians and that trust was violated in this case. Dr. Figge noted that the physician took a PRoBE ethics course prior to the interview was recognized. The other issue was that this patient's mother was a nurse who found out after the fact that this was a high school student and had nothing to do with whether or not the patient experienced relief. Dr. Moschonas commented that there has to be absolute and a completely though forthright explanation from physicians who the students are, where the training level is and if they've done the procedure. Only with that understanding and the patients consent move forward with the procedure. Dr. Moschonas stated that the Board must stand firm on this precedent.

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

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **CONSENT AGENDA**

### **O. CASES RECOMMENDED FOR DISMISSAL**

**MOTION: Dr. Krahn moved to dismiss item numbers 1-6.**

**SECOND: Dr. Gillard.**

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

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

**MOTION PASSED.**

1. MD-21-0678A, ALEXANDRE M. BENJO, M.D., LIC. #50594

Counsel Flynn Carey addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION: Dismiss.**

2. MD-21-0876A, STEVEN M. L. PRUST, M.D., LIC. #54777

**RESOLUTION: Dismiss.**

3. MD-20-0877A, PAUL J. GILBERT, M.D., LIC. #38237

**RESOLUTION: Dismiss.**

4. MD-21-0732A, CRAIG A. HURST, M.D., LIC. #38238  
J.S. addressed the Board during the Public Statement.

**RESOLUTION: Dismiss.**

5. MD-22-0254A, DOUGLAS J. CAMPBELL, M.D., LIC. #28543

**RESOLUTION: Dismiss.**

6. MD-21-0641A, JERRY B. SOBEL, M.D., LIC. #23174  
Counsel Dominique Barrett addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION: Dismiss.**

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

**MOTION:** Dr. Gillard moved to issue an Advisory Letter in item numbers 1 and 3-11.

**SECOND:** Dr. Bethancourt.

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

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

**MOTION PASSED.**

1. MD-20-0991A, THOMAS W. WEISMAN, M.D., LIC. #31980

**RESOLUTION:** Advisory Letter for failing to follow-up on a significant finding on a CT scan of the chest. 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-21-0233A, SANJEEV KHURANA, M.D., LIC. #35045

Dr. Khurana and counsel Scott King addressed the Board during the Public Statements portion of the meeting

Ms. Jones noted that the physician wanted the patient to return within six weeks to assess the patient's condition as well as the patient's medication. As stated in the file this did not occur. Ms. Jones agreed with the medical consultant report provided by the physician. The physician could not have ethically signed the school form until he had reevaluated and assessed the patient's current condition.

**MOTION:** Ms. Jones moved to dismiss.

**SECOND:** Dr. Bethancourt.

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

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

**MOTION PASSED.**

3. MD-19-0895A, STUART R. LACEY, M.D., LIC. #31590

**RESOLUTION:** Advisory Letter for discharging a high-risk pediatric patient prematurely from the hospital. 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-22-0160A, SRINIVASA R. PALNATI, M.D., LIC. #26442

**RESOLUTION:** Advisory Letter for failing to comply with CSPMP mandatory use requirements. 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.

5. MD-22-0336A, NABILA ASLAM, M.D., LIC. #30866

Dr. Aslam and counsel Scott King addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION:** Advisory Letter for failing to comply with CSPMP mandatory use requirements. 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-22-0286A, SELAIMAN A. NOORI, M.D., LIC. #57811

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

**RESOLUTION:** Advisory Letter for failing to timely report a misdemeanor charge to the Board within ten days as required by law. 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-21-1152A, JONATHAN M. REY, M.D., LIC. #51743

**RESOLUTION:** Advisory Letter for action taken by the Maryland Board. There is insufficient evidence to support disciplinary action.

8. MD-21-0462A, BLAIR A. WINEGAR, M.D., LIC. #51714

**RESOLUTION:** Advisory Letter for failure to identify a disc herniation and the associated mass effect on adjacent tissue. 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.

9. MD-21-0463A, EDMUNDO L. CHANTLER, M.D., LIC. #34247

N.Z. addressed the Board during the Public Statement.

**RESOLUTION:** Advisory Letter for failure to exclude a thromboembolic event in a high-risk patient. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

10. MD-21-0783A, CHARISSA L. MANUAT, M.D., LIC. #50700

**RESOLUTION:** Advisory Letter for a delay in ordering antibiotics for a critically ill newborn. There is insufficient evidence to support disciplinary action

11. MD-21-0479A, KALYAN C. JAGARLAMUDI, M.D., LIC. #49329

Counsel Teresa Sanzio addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION: Advisory Letter for failing to timely report a misdemeanor charge. 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.**

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

**1. MD-21-0475A, STEVEN M. HEILBRUNN, M.D., LIC. #40553**

B.B. addressed the Board during the Public Statements portion of the meeting. Dr. Beyer recused from this case.

Dr. Gillard noted that this case was sent back for further investigation. Dr. Gillard found it disturbing that a cardiologist would not refer a patient having increasing chest pains and a known aortic stenosis to the emergency room. SIRC has added CME to the recommendation. Dr. Gillard requested that Board staff reach out to the complainant to explain what occurred.

Ms. Smith clarified that the investigation is confidential by statute even to the complainant; however Board staff can explain the process.

Dr. Farmer noted that the discussion from the previous meeting and this meeting is public for the complainant's review.

**MOTION: Dr. Gillard moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failure to refer a patient with critical aortic stenosis in a timely manner 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. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping, and complete no less than 3 hours of Board staff pre-approved Category I CME in the evaluation and management of worsening cardiac symptoms and/or valvular disease. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Dr. Bethancourt.**

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

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

**MOTION PASSED.**

**2. MD-21-0970A, TERESA L. BUOT-SMITH, M.D., LIC. #22053**

Dr. Buot-Smith and counsel Cristina Chait addressed the Board during the Public Statements portion of the meeting.

Dr. Krahn opined that the issues at hand are ill defined. The MC wrote a supplemental report and recognized that the suicide occurred after the patient was seeing a new psychiatrist.

**MOTION: Dr. Krahn moved to dismiss.**

**SECOND: Dr. Moschonas.**

Dr. Gillard agreed with the motion and opined that the physician has learned from this.

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

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

**MOTION PASSED.**



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

**MOTION:** Dr. Bethancourt moved to uphold the Executive Director dismissal in item numbers 1, 3 and 4.

**SECOND:** Ms. Jones.

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

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

**MOTION PASSED.**

1. MD-21-0310A, KASHIF ALVI, M.D., LIC. #43978

T.L. addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION:** Dismissal upheld.

2. MD-21-1068A, PETER H. KAUFER, M.D., LIC. #37423

Dr. Gillard noted that the complaint was regarding attempts to contact the physician not being addressed. Dr. Gillard opined that there was a communication problem.

**MOTION:** Dr. Gillard moved to uphold the dismissal.

**SECOND:** Dr. Figge.

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

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

**MOTION PASSED.**

3. MD-21-0693A, MICHEL A. SUCHER, M.D., LIC. #8171

Ms. Jones noted that Dr. Sucher has a contract with the Board, but it would not affect the Board's ability to adjudicate the case.

**RESOLUTION:** Dismissal upheld.

4. MD-21-0914A, CATHERINE P. BRAINARD, M.D., LIC. #22023

J.M. addressed the Board during the Public Statements portion of the meeting.

**RESOLUTION:** Dismissal upheld.

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

**MOTION:** Dr. Gillard moved to accept the consent agreement in item numbers 2 and 3.

**SECOND:** Dr. Bethancourt.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

1. MD-21-0508A, FERNANDO CRUZADO, M.D., LIC. #30961

Dr. Gillard summarized that this was a result of a malpractice settlement and that the physician has signed a consent agreement.

**MOTION:** Dr. Gillard moved to accept the Consent Agreement for Letter of Reprimand and Probation. Within six months, complete no less than 3 hours of Board staff pre-approved Category I CME in the evaluation and treatment of pediatric respiratory conditions. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon proof of successful completion of the CME coursework.

**SECOND:** Dr. Bethancourt.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

2. MD-21-0136A, MICHAEL S. MARCH, M.D., LIC. #R78352

**RESOLUTION:** Accept the Consent Agreement for Letter of Reprimand.

3. MD-20-0786A, ALI GHAZANFARI, M.D., LIC. #37256

**RESOLUTION:** Accept the Consent Agreement for Letter of Reprimand.

## **T. LICENSE APPLICATIONS**

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

**MOTION:** Dr. Gillard moved to approve the license application in item numbers 1, 2, 4 and 5.

**SECOND:** Ms. Oswald.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

1. MD-22-0355A, GEZEL SAHELI, M.D., LIC. #N/A

**RESOLUTION:** License granted.

2. MD-22-0424A, WILLIAM C. HADEN, M.D., LIC. #N/A

**RESOLUTION:** License granted.

3. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

4. MD-22-0172A, LARRY C. ATWOOD, M.D., LIC. #N/A

**RESOLUTION:** License granted.

5. MD-22-0668A, KATHLEEN A. GREEN, M.D., LIC. #N/A

**RESOLUTION:** License granted.

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

1. MD-21-1043A, CAROLYN E. SIMMONS, M.D., LIC. #N/A

Dr. Simmons addressed the Board during the Public Statements portion of the meeting. Ron Vanhooser addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Gillard suggested allowing the physician to appear for a licensing interview.

Ms. McSorley reported that the physician does not qualify for licensure by endorsement since she does not hold another state license and that she does not

qualify for initial licensure since she does not meet the testing requirements. Ms. McSorley noted that the physician ultimately does not meet the statutory requirements for licensure.

Ms. Smith explained that Dr. Simmons has taken a combination of SPEX and MBME and that under endorsement would qualify with those exams, but she has the non-disciplinary surrender of her Oregon license. Dr. Simmons would have to take the USMLE or go back to Oregon and reactive her license before applying under endorsement.

Board staff noted that the Board did not become aware of the surrender until the investigation began.

Ms. McSorley noted that Dr. Simmons surrendered her Oregon license and moved here quickly without being fully aware of the Arizona requirements. Dr. Simmons was provided with the SIRC report, went through the full investigation and the Board's process.

**MOTION: Dr. Gillard moved to allow this physician the opportunity to withdraw her license application in lieu of a formal license denial. If not withdrawn within 30 days, deny the license based on A.R.S. §§ 32-1422 (A)(3)-4), (B) and (C) and 32-1425.**

**SECOND: Dr. Figge.**

**VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahm, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas and Ms. Oswald. The following Board members were absent: Dr. Artz and Ms. Bain.**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

**iii. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION WITH PROPOSED CONSENT AGREEMENT (DISCIPLINARY)**

**1. MD-22-0232A, JAMES E. HUNT, M.D., LIC. #N/A**

Dr. Gillard summarized that the agreement is compliant with California's terms.

**MOTION: Dr. Gillard moved to accept the consent agreement for a Probationary License with terms consistent with the California Board Order. The Probation shall include PHP monitoring and psychiatric monitoring. The physician may petition the Board to request that the probation be terminated, and full licensure be granted after the physician has complied with the probationary terms. Dr. Hunt's request for termination shall be accompanied by proof that the California Board Order has been terminated and recommendations from his PHP Contractor and psychiatrist stating that monitoring is no longer required.**

**SECOND: Dr. Figge.**

**VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahm, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas and Ms. Oswald. The following Board members were absent: Dr. Artz and Ms. Bain.**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

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

**1. SVETLANA RAICHEL-STIVI, M.D., LIC. #N/A**

Ms. McSorley reported that this case has been resolved.

2. BABAK A. REZAEI, M.D., LIC. #N/A

**MOTION:** Dr. Gillard moved to grant the waiver and grant the license.

**SECOND:** Dr. Krahn.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

v. **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. JACOB GELBERG, M.D., LIC. #N/A

**MOTION:** Dr. Gillard moved to grant licensure by endorsement.

**SECOND:** Dr. Moschonas.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

1. HALIL K. EROL, M.D., LIC. #N/A

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

Dr. Gillard noted that the physician has equivalent training, has passed the USMLE, has a Louisiana license and a three year fellowship.

**MOTION:** Dr. Gillard moved to grant licensure by endorsement.

**SECOND:** Dr. Beyer.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

vi. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION WITH RECOMMENDATION FROM THE EXECUTIVE DIRECTOR**

2. MICHAEL J. LAVERY, M.D., LIC. #N/A

Dr. Gillard noted the physician's training in Ireland and the US. Dr. Gillard opined that the license should be granted based on equivalent training.

**MOTION:** Dr. Gillard moved to grant the license based on equivalent training.

**SECOND:** Dr. Bethancourt.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

## **U. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**MOTION:** Dr. Gillard moved to approve the Findings of Fact, Conclusions of Law and Order in item numbers 1 and 2.

**SECOND:** Dr. Figge.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0(Dr. Bethancourt recused from Item1)-recuse, 2-absent.

**MOTION PASSED.**

1. MD-21-0823A, CONRAD D. BALLEGER, M.D., LIC. #37738  
Dr. Bethancourt recused from this case.

**RESOLUTION:** Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within three months, complete PBI's Medical Ethics and Professionalism Course (ME-22EX) Extended Edition. PBI shall provide an AIR letter to the Board upon completion of the CME coursework. The CME hours shall be in addition to the hours required for license renewal. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Balleger's request for termination shall be accompanied by proof of successful completion of the CME.

2. MD-20-0720A, MD-21-0111A, MARK R. GLASBERG, M.D., LIC. #13763

**RESOLUTION:** Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

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

## **OTHER BUSINESS**

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

1. MD-19-0846A, PATRICK J. O'NEILL, M.D., LIC. #32959  
Dr. Figge noted that although the termination is a little early, both evaluators are in favor of termination.

**MOTION:** Dr. Figge moved to grant the December 13, 2019 Board Order.

**SECOND:** Dr. Krahn.

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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

2. MD-20-1090A, HABIB RATHLE, M.D., LIC. #18663  
J.L. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard noted that the physician has completed the requirements with positive results.

**MOTION:** Dr. Gillard moved to grant the January 7, 2022 Board Order.

**SECOND:** Ms. Jones.

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

**VOTE:** 9-yay, 1-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

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

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

Dr. Figge acknowledged a public statement that was submitted for the Board's review regarding pharmacy not being qualified to prescribe Paxlovid for COVID as it should be a health care provider prescribing the medication.

## **X. ADJOURNMENT**

**MOTION:** Dr. Bethancourt moved to adjourn the meeting.

**SECOND:** Dr. Gillard.


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

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

The meeting adjourned at 2:08 p.m.



  
Patricia E. McSorley, Executive Director