



## 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

### **FINAL MINUTES FOR BOARD REVIEW COMMITTEE A TELECONFERENCE MEETING**

**Held on Friday, October 7, 2022**

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

#### ***Committee Members***

R. Screven Farmer, M.D., Chair

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

James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M.

Pamela E. Jones

Lois E. Krahn, M.D.

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

## **GENERAL BUSINESS**

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

Chairman Farmer called the Committee's meeting to order at 12:13 p.m.

### **B. ROLL CALL**

The following Committee members participated in the virtual meeting: Dr. Farmer, Dr. Gillard, Ms. Bain, Dr. Krahn, and Dr. Moschonas.

The following Committee member was absent: Ms. Jones.

### **ALSO PRESENT**

The following Board staff participated in the virtual meeting: Patricia E. McSorley, Executive Director; William Wolf, MD; Chief Medical Consultant; Michelle Robles, Board Operations Manager; and Amy Skaggs; Investigations. Carrie Smith, Assistant Attorney General ("AAG") was also present.

### **C. OPENING STATEMENTS**

Chairman Farmer read the civility policy for the record.

### **D. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA**

No individuals addressed the Committee during the Public Statements portion of the virtual meeting.

### **E. APPROVAL OF MINUTES**

- August 3, 2022 Board Review Committee A Teleconference

Ms. Bain abstained.

**MOTION:** Dr. Farmer moved for the Committee to approve the August 3, 2022 Board Review Committee A Teleconference.

**SECOND:** Dr. Moschonas

**VOTE:** The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Ms. Bain, Dr. Krahn and Dr. Moschonas. The following Committee

member abstained: Ms. Bain. The following Committee member was absent: Ms. Jones.

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

MOTION PASSED.

## LEGAL MATTERS

### F. FORMAL INTERVIEWS

1. MD-21-0409A, XIHUA YANG, M.D., LIC. #54135

Dr. Yang participated virtually with counsel David Klink.

Board staff summarized that the Board initiated this case based on Dr. Yang's timely self-report of a DUI charge. Dr. Yang admitted that he consumed alcohol while on call, but stated that he would not have actually been required to practice, because the hospital's operating room was closed at the time. Board staff later discovered through the hospital's CMO that on-call surgeons were expected to be available for any ER consultations and that Dr. Yang answered a call for a dog bite case just prior to his DUI arrest. The hospital also found that Dr. Yang failed to ask for a backup surgeon to fill in for him the night of his DUI and that he failed to timely report the DUI to the hospital. The Board referred Dr. Yang for a PHP Assessment. Dr. Yang admitted to taking marijuana edibles and Adderall not prescribed to him; however, the PHP Assessor found that Dr. Yang was safe to practice medicine. The PHP Assessor recommended PHP monitoring and Dr. Yang has been on such an agreement since October 28, 2021. SIRC reviewed the case and was troubled by Dr. Yang's lack of candor with Board staff and minimization of risk of patient harm posed. SIRC also noted that Dr. Yang denied taking calls to the hospital's MEC, which they determined was untruthful. SIRC stated that the Board has been consistent in issuing discipline in case of impairment while at work or on-call.

Mr. Klink provided an opening statement to the Committee, where he stated that Dr. Yang is not excusing the conduct that occurred and informed the Board of mitigating factors in this matter. Mr. Klink noted that Dr. Yang has already faced significant consequences and requested a less punitive resolution. Dr. Klink informed the Committee of the timeline regarding Dr. Yang's hospital suspension and his enrollment in the PHP. Mr. Klink stated that Dr. Yang will continue with the PHP terms and requirements but request that it be a non-disciplinary action.

In an opening statement, Dr. Yang informed the Committee of the circumstances in his personal life when this situation occurred.

Dr. Krahn noted that the Board allows a confidential agreement if there was no risk to the public. Dr. Krahn stated that in this case there was a risk to the public during the night of the DUI and there was concern regarding the physician's candor.

During questioning, Dr. Yang confirmed that on the night of the DUI he did not go into the hospital. Dr. Yang explained that he does not remember anything abnormal that occurred that day and that he was not attempting to be untruthful. Dr. Yang confirmed that he had not avoided previously while on call but stated given the status of the operating rooms, he had become lax. Dr. Yang agreed that as the surgeon on call there was a possibility for him to be called for a consultation. Dr. Yang explained that he went to a dinner party that night and drank. Dr. Yang stated that he was the surgeon on call but explained that if he was not able to be reached or needed assistance, there was a back up surgeon.

In closing, Mr. Klink reiterated that Dr. Yang has gone through self-reflection and requested that the Committee allow him to continue his PHP in a confidential manner.

During deliberations, Dr. Krahn opined that the interview and record support the violations stated by SIRC.

**MOTION: Dr. Krahn moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(f), (g), (r) and (kk) for reasons as stated by SIRC.**

**SECOND: Ms. Bain.**

Ms. Bain requested clarification about the pattern of use in this case.

Ms. Smith explained that the pattern of use was based on the DUI and during the PHP assessment the physician admitted to taking Adderall that was not prescribed and taking marijuana edibles. A pattern of use requires two instances, which is present in this case.

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

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

**MOTION PASSED.**

Dr. Krahn appreciated that the licensee stated this was a mistake and acknowledged that there have been consequences. Dr. Krahn opined that this rises to the level of discipline as the physician was on -call and providing clinical care, albeit not in person.

**MOTION: Dr. Krahn moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Two-Year Probation, retroactive to October 28, 2021, with terms and conditions consistent with his Interim Order. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Yang's request for termination shall be accompanied by a recommendation from his PHP Contractor stating that monitoring is no longer required.**

**SECOND: Dr. Farmer.**

Ms. Smith clarified that the form of the Order is for a Letter of Reprimand and Probation for continued participation in PHP.

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

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

**MOTION PASSED.**

## **GENERAL BUSINESS**

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

1. MD-17-1099A, SCOTT M. BRANNAN, M.D., LIC. #45866

**MOTION: Dr. Krahn moved to approve the Findings of Fact, Conclusions of Law and Order for a Decree of Censure and One Year Probation for continued participation in the Board's PHP. Within six months, complete PBI's Medical Ethics and Professionals Course (ME-22). 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. Dr. Brannan's request for termination shall be accompanied by proof of successful completion of the CME.**

**SECOND: Dr. Farmer**

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

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

**MOTION PASSED.**

### **H. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES**

There was no discussion regarding this topic.

### **I. ADJOURNMENT**

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

**SECOND: Dr. Moschonas.**

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

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

**MOTION PASSED.**

The Committee meeting adjourned at: 12:57 p.m.



  
Patricia E. McSorley, Executive Director