



## 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 SUMMARY ACTION TELECONFERENCE MEETING

Held on Friday, January 20, 2023

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 10:03 a.m.

#### B. ROLL CALL

The following Board members participated in the teleconference: Dr. Farmer, Dr. Gillard, Dr. Krahn, Dr. Artz, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge and Ms. Jones.

The following Board members were absent: Dr. Moschonas and Ms. Oswald.

#### ALSO PRESENT

The following Board staff participated in the teleconference: Patricia McSorley, Executive Director; Kristina Jensen, Deputy Director; Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") also participated in the teleconference.

#### C. CALL TO THE PUBLIC

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

### LEGAL MATTERS

#### D. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-22-0809A, SHEKAR C. THAKUR, M.D., LIC. #46670

Dr. Thakur was not present.

Board staff summarized that this case is before the Board for consideration of summary action based on Dr. Thakur's lack of cooperation to the investigation and response to Board staff's offer of an Interim Consent Agreement for Practice Restriction. The Board initiated this case after receiving a Disciplinary Alert Report (DAR) from the FSMB indicating that the Michigan Board of Medicine took disciplinary action against Dr. Thakur's license. On August 31, 2022, Board staff emailed a notice letter and requested a response from Dr. Thakur regarding the Michigan action. On September 8, 2022, the Board received an additional complaint against Dr. Thakur from Walmart Controlled Substance Compliance. Board staff emailed a re-notice letter and additional complaint to Dr. Thakur for response. On September 26, 2022,

Board staff issued a follow-up email to Dr. Thakur after receiving no response to either notice letter. On September 28, 2022, Board staff attempted to contact Dr. Thakur by phone. The phone number provided to the Board was disconnected. On October 4, 2022, Board staff attempted to contact Dr. Thakur at his practice number on file with the Board. The phone call went to voicemail and a message was left for contact. To date, Board staff has not received any response from Dr. Thakur. On October 13, 2022, Board staff mailed the notice letter and re-notice letter to Dr. Thakur's current mailing address and did not receive a response. On October 20, 2022, Board staff emailed a request for supplemental response to the investigation report. Board staff did not receive a response from Dr. Thakur. On December 15, 2022, SIRC reviewed the case and noted that Board Staff made multiple unsuccessful attempts to contact Dr. Thakur. SIRC remained concerned with the egregious nature of the prescribing violations in Michigan and his lack of response and despite the CSPMP indicating that Dr. Thakur has not been prescribing controlled substances in Arizona. Therefore, SIRC determined that revocation was warranted based on Dr. Thakur's failure to cooperate with the Board during this investigation, including updating his contact information and overall inability to be regulated. SIRC further recommended that Dr. Thakur be offered an Interim Practice Restriction prohibiting him from practicing medicine while the matter is pending formal hearing. On January 9, 2023, Board staff emailed and mailed the ICA to Dr. Thakur with a due date of January 12, 2023. Board staff has received no response from Dr. Thakur. Therefore, this case is before you to consider whether summary action is warranted to prohibit Dr. Thakur from practicing medicine, based concerns identified by SIRC while the matter is pending final adjudication.

Ms. Bain inquired if the licensee has responded at any time to any type of request.

Board staff confirmed that Dr. Thakur has not responded to staff throughout the investigation and that staff does not have the Michigan Board's case material, but noted that Dr. Thakur is still under suspension there.

Dr. Gillard stated that he has reviewed the egregious action in Michigan and noted that the licensee is required to maintain contact information with the Board. Dr. Gillard opined that summary action is appropriate.

**MOTION: Dr. Gillard moved to summarily suspend Dr. Thakur's license pending the outcome of a formal hearing in this matter based on a finding that the public health, safety and welfare imperatively requires emergency action.**

**SECOND: Dr. Bethancourt**

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

**VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.**

**MOTION PASSED.**

## OTHER BUSINESS

### E. APPEAL OF EXECUTIVE DIRECTOR ACTION

1. MD-22-0886A, BABAK RASHIDI, M.D., LIC. #33980

Counsel Flynn Carey participated virtually on behalf of the physician.

Board staff summarized that this case is for consideration of Dr. Rashidi's appeals of the Interim Order for PHP Assessment and the Interim Order for Bodily Fluid and Hair testing that staff issued him. The case was initiated based on a complaint by CW and with whom Dr. Rashidi has a custody dispute. CW alleged that Dr. Rashidi abuses illicit substances, prescribes controlled substances to friends in California and travels to California to obtain sleeping pills. CW provided an audio in which she is questioning Dr. Rashidi about his drug and alcohol use. CW later alleged that Dr. Rashidi inappropriately accessed her medical records. Dr. Rashidi admits to inappropriately accessing CW's records but denies CW's other allegations and reported that he voluntarily presented for testing in August and September 2022. Board staff noted that Dr. Rashidi chose the time and panels of these tests and that they did not include testing for alcohol or Ketamine. CW specifically alleged Dr. Rashidi used Ketamine. Board staff stated that these evaluations are the mechanism for investigating allegations of substance use. Board staff requested that the Board deny Dr. Rashidi's appeals and compel him to present for the appropriate evaluation and testing.

Mr. Carey stated that the allegations of substance abuse are outlandish and retaliatory and that the Orders are subjecting the licensee to excessive testing. Mr. Carey stated that CW has concocted a story and that there is no evidence that the licensee has a mental health or substance abuse disorder. Mr. Carey noted that there is a reference to an arrest about ten years ago where the police noted the Dr. Rashidi did not appear to be under the influence. Mr. Carey opined that this does not rise to probable cause and that the appeal is for irregularity, as there is no evidence other than the complainant's allegations. Mr. Carey requested that the appeal be granted and for the Board to deny the request for testing in this case.

During deliberation, Dr. Krahn commented that the licensee has willingly undergone testing at times which makes it harder to understand why undergoing the Board's testing is such an imposition. Dr. Krahn opined that although the attorney stated that it is invasive, it's not unsimilar to what the licensee has already done. Dr. Krahn further noted that staff cannot trust those tests and inquired if staff was able to access California's CSPMP.

Board staff confirmed that they do not have access to California's CSPMP and that they cannot review that information. The ability to access other state's databases or information depends on that state's law and statute. Board staff confirmed that they have no knowledge of California investigating this physician.

Dr. Beyer noted that there is a complicated complainant with an overlying issue and that there is no realistic expectation to resolve this with California's data. Dr. Gillard opined that the drug testing is not invasive and is standard procedure that would need to be completed before an investigation is completed. Dr. Gillard expressed concern about the credibility of the complainant but opined that a drug test still needs to be done by an approved contractor. Dr. Bethancourt agreed and noted that a hair analysis would be simple and take minimal time and if there is no issue this can be resolved. Ms. Jones noted that any additional testing required by the Board could only bolster the physician's custody hearing. Dr. Beyer opined that the Board should uphold the ED decision and pursue testing. Dr. Farmer commented that timeliness is an important issue in this kind of testing and further delay would impede the accuracy. Dr. Farmer further commented that there is a lot of background issues here that is not in the Board's purview. The board's responsibility is to ensure public safety.

Mr. Carey noted that there were two orders one for testing and one for evaluation and inquired about the evaluation component.

Dr. Gillard opined that at this point testing needs to be done and a time limit and a sanction should be set if not met. Dr. Krahn opined that a PHP evaluation is a reasonable way to obtain more information regarding this complicated matter and that the Board still needs to ensure the safety of the public therefore, both components for biological fluid testing and PHP evaluation are reasonable. Ms. Bain agreed that both components are necessary at this time.

**MOTION: Dr. Krahn moved to deny the request for appeals and to require the licensee to complete the BFT as previously ordered by 5:00 p.m. on January 22, 2023, and to complete a PHP assessment as previously ordered, to be scheduled within 3 days from today and completed within 10 days.**

**SECOND: Dr. Bethancourt.**

Dr. Farmer noted that this is time sensitive and in the interest of both parties this should get done quickly to protect the public and ensure reliability.

Ms. Smith informed the Board of the time limit of scheduling and completing the BFT and PHP assessment. Board staff confirmed that this can be done even during the weekend.

Ms. Bain commented that the licensee has gone through testing in the past and the underlying issue is not associated with the Board however there may be an issue here. Ms. Bain reiterated that the Board's responsibility is the health and safety of the public.

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

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

## **F. ADJOURNMENT**

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

**SECOND: Ms. Dorrell.**

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

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

**MOTION PASSED.**

The meeting adjourned at 10:38 a.m.



  
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Patricia E. McSorley, Executive Director