



## Arizona Medical Board

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### **FINAL MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, April 5, 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

**Wednesday, April 5, 2023**

#### **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 were present: Dr. Farmer, Dr. Gillard, Dr. Beyer, Ms. Dorrell, Dr. Figge and Dr. Moschonas.

The following Board member participated virtually: Ms. Oswald

The following Board members are absent: Dr. Artz, Dr. Bethancourt, Ms. Bain and Ms. Jones.

##### **ALSO PRESENT**

The following Board staff participated in the meeting: Patricia McSorley, Executive Director; Kristina Jensen, Deputy Director; Claude Deschamps, 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 Request for Additional Appropriation to Fund Increase in FTEs for Staff Investigators and Increase Compensation to Outside Medical Consultants for Review of Cases

Ms. McSorley stated that staff is requesting appropriation for additional investigators and an increase in compensation for the Board's medical consultants.

- Legislative Update, Including but Not Limited to SB1285 (licensure; international medical school graduates), SB1457 (psychologists prescribing authority), HB2043 (physician assistants; supervision; collaboration)

Ms. McSorley informed the Board that SB1285 is dead for this session, SB1457 is not moving forward this session and that HB2043 will most likely move forward and be sent to the Governor's Office.

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

Dr. Farmer stated that the Board tries very hard to remain neutral regarding legislation but sometimes input is given when needed.

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

No report was provided.

## **G. APPROVAL OF MINUTES**

- January 5, 2023 Special Teleconference; including Executive Session
- January 20, 2023 Summary Action Teleconference
- February 1, 2023 Regular Session

Ms. Oswald abstained from January 5<sup>th</sup> and February 1<sup>st</sup> meeting minutes.

**MOTION: Dr. Krahn moved to approve the January 5, 2023 Special Teleconference; including executive session, January 20, 2023 Summary Action Teleconference and February 1, 2023 Regular Session.**

**SECOND: Dr. Gillard**

Dr. Gillard noted that the vote count for the executive session needs to be corrected on the January 5<sup>th</sup> minutes.

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

**VOTE: 7-yay, 0-nay, 1-abstain, 0-recuse, 4-absent.**

**MOTION PASSED.**

## **LEGAL MATTERS**

### **H. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION.**

Possible action includes, but is not limited to, adopting Findings of Fact, Conclusions of Law and Order.

Pursuant to A.R.S. § 41- 1092.08(i), the Board may meet and confer for purposes of modifying the recommended decision, including the Findings Of Fact, Conclusions Of Law and Recommended Order set forth in the ALJ's recommended decision issued in case no. 22A-54596-MDX- involving Dr. Richard M. Roberts and in case no. 22A-27651-MDX involving Dr. Sheila R. Mane.

1. MD-19-0014A, RICHARD M. ROBERTS, M.D., LIC. #54596

Dr. Roberts was not present. AAG Beth Campbell was present on behalf of the State and AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Ms. Campbell summarized that Dr. Roberts had unprofessional conduct issues in Texas and when he applied to AZ he failed to disclose those issues. Arizona granted the license and Dr. Roberts subsequently disclosed the Texas issues in a renewal application. Due

to these issues and failure to be honest in the initial application a Complaint and Notice of Hearing was issued and there was a hearing before OAH. Dr. Roberts failed to participate in the hearing. The ALJ recommended an order for draft Findings of Fact, Conclusions of Law and Order for Revocation. The State requested that the Board adopt the ALJ's recommended decision.

**MOTION: Dr. Figge moved to adopt the Findings of Fact consistent with the ALJ's recommendation.**

**SECOND: Dr. Beyer**

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

**VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.**

**MOTION PASSED.**

**MOTION: Dr. Figge moved to adopt the Conclusions of Law consistent with the ALJ's recommendation.**

**SECOND: Ms. Dorrell**

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

**VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.**

**MOTION PASSED.**

**MOTION: Dr. Figge moved to adopt the ALJ's recommendation for Revocation.**

**SECOND: Dr. Gillard**

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

**VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.**

**MOTION PASSED.**

2. MD-18-0299A, SHEILA R. MANE, M.D., LIC. #27651

Dr. Mane was present. AAG Carrie Smith was present on behalf of the State. AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Ms. Smith informed the Board that the case was initiated based on a complaint alleging inappropriate prescribing of controlled substances. In addition to the index patient JD, the Board reviewed Dr. Mane's care of three additional patients and opinions from two separate medical consultants ("MCs") regarding those patients. In a hearing which was conducted over 4 days, the court heard the testimony of the Board's investigator and the two MCs who identified multiple deviations from the standard of care and documentation issues. The court heard from Dr. Zaetta, who testified regarding Dr. Mane's care and treatment of JD. Dr. Zaetta identified multiple deviations of the standard of care; including prescribing benzodiazepines for treatment of insomnia and prescribing multiple benzodiazepines in combination and in amounts that exceed the recommended dose and duration for those medications. Dr. Lazarus, who reviewed the three additional patients, identified deviations from the standard of care with regard to controlled substance prescribing and significant discrepancies with regard to respondent's documentation. Dr. Lazarus testified that it was basically impossible to determine the rationale for her treatment of these patients. After hearing from these witnesses, as well as hearing from Dr. Mane and reviewing the exhibits for both parties the court recommended a Letter of Reprimand and Probation to complete CME in medical recordkeeping and controlled substance prescribing and for completion of chart reviews after the CME is completed. Ms. Smith requested that the Board adopt the ALJ's recommended order with minor modifications to correct technical errors in the Conclusions of Law. With regard to the

Board order, Ms. Smith requested that the Board incorporate standard terms and conditions with regard to the type of probation that was recommended by the ALJ.

Dr. Mane stated that at the hearing the State's MCs gave false testimony and the issue is that this false information was used by the judge to make a decision. Dr. Mane stated that due to the State's statute of limitations being four years, she was only allowed to provide four years of evidence so some of the accusations could not be defended because they were prior to the four years. With regards to the recommended order, Dr. Mane stated that she no longer sees patients so the monitoring recommendation is not necessary.

Ms. Smith noted that these arguments were raised and considered during the hearing when the ALJ made the recommendation. Ms. Smith noted Dr. Lazarus supplemental report, which noted that there were several possibilities presented in Dr. Mane's response. Dr. Mane's records have minimal documentation explaining her thought process, findings, reasons supporting or declining certain opinions, and what she considered regarding the patients. Ms. Smith requested that the Board adopt the order as requested by the state noting that the physician's license is currently unrestricted and without monitoring there is no way to ensure the conduct has been remediated.

Ms. DeDea noted that the date in the introductory paragraph needs to be corrected.

**MOTION: Dr. Figge moved to adopt and the ALJ's Findings of Fact consistent with the ALJ's recommendation.**

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

**MOTION: Dr. Figge moved to adopt and modify the Conclusions of Law consistent with the Conclusions of Law and Order in accordance with the State's proposed changes. The State requests that the Court amend Conclusions of Law ("COL") as follows:**

- 1. COL 4 and 5, insert section signs (§) into the statutory citations in both paragraphs in order to correct technical errors in the citation formats.**
- 2. COL 10: strike "Dr. Mane's treatment of LW's symptoms were not improving" and replace it with "LW's symptoms did not improve under Dr. Mane's treatment." The State requests this change in order to clarify the sentence.**
- 3. Board Order: strike paragraphs 2(a) and (b) in their entirety and replace them with paragraphs 2(a) through (e), and paragraphs 3-4 as drafted in the State's Proposed Order. This requested change would conform the order to include the Board's standard terms and conditions for this type of probationary order and provide definition to the Court's ordered remediation. Specifically, the proposed language sets forth standard time frames for pre-approval and completion of the continuing medical education ordered to be completed by the ALJ, as well as for practice monitoring as ordered by the ALJ. Additional terms address tolling of the Board order during probation as well as stipulations and requirements for termination of the Board's order. Lastly, the State's proposed language includes standard notifications to the Respondent regarding compliance with the law and the Board's order as well as acting as a Supervising Physician during periods of probation.**

**SECOND: Dr. Beyer**

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

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

**MOTION PASSED.**

Ms. Smith noted that these are technical changes specifically for language clarity.

Dr. Mane had no rebuttal.

**MOTION:** Dr. Gillard moved to adopt the ALJ's recommendation with the State's recommended strikes for a Letter of Reprimand and Two Year Probation. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing; and, no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course for medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal. Within thirty days, enter into a contract with a Board-approved monitoring company to perform periodic chart reviews. The chart reviews shall involve patient care rendered after completion of the CME. After three consecutive favorable chart reviews, Dr. Mane may petition the Board to terminate the Probation. Dr. Mane shall not request early termination of Probation without having completed the chart review process. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

**SECOND:** Dr. Moschonas

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

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

**MOTION PASSED.**

Ms. Smith noted that these changes are what the Board would include in an Order.

Dr. Mane had no rebuttal.

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

**1. MD-22-0078A. ROBERT J. LUEKEN, M.D., LIC. #56972**

Counsel Colin Bell was present on behalf of the physician. AAG Beth Campbell was present on behalf of the State. AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Mr. Bell stated that the parties reached a settlement which required Dr. Leuken to complete CME and vacating the CME order.

Ms. Campbell summarized that the Board reviewed this case in December of last year and issued an Advisory Letter and a CME Order regarding care of patient with respiratory symptoms and the patient was treated for COVID. The CME required an intensive in-person course in the amount of 5 hours which is not available. Dr. Lueken has completed 8 hours of CME in atypical pneumonia and medical recordkeeping. The State requested that the Board rescind the December CME order and rescind the referral of the appeal to formal hearing. The Advisory Letter would remain in place.

**MOTION:** Dr. Gillard moved to rescind the December 5, 2022, Order for Non-Disciplinary CME and rescind referral to formal hearing.

**SECOND:** Dr. Krahn

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

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

**MOTION PASSED.**

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

Counsel Sara Stark was present on behalf of the physician. AAG Carrie Smith was present on behalf of the State. AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Ms. Stark requested that the Board accept the signed consent agreement and vacate the currently scheduled hearing.

Ms. Smith informed the Board that the parties have negotiated a consent agreement for revised deviations of the case and it would accept the CME already completed. The State requested that the Board accept the consent agreement.

**MOTION: Dr. Gillard moved to adopt the signed consent agreement for the revised language in the Board's CME order eliminating the phrase "and misleading" to describe his documentation, accept the previously completed CME in satisfaction of this Order, and rescind referral to formal hearing.**

**SECOND: Dr. Moschonas.**

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

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

**MOTION PASSED.**

## **J. FORMAL LICENSING INTERVIEWS**

1. MD-22-0650A, LAWRENCE ROTHENBERG, M.D., LIC. #N/A

Dr. Rothenberg was present with counsel Sara Stark.

Board staff summarized that Dr. Rothenberg disclosed issues on his application that involved a single malpractice settlement, surrender of hospital privileges, and multiple board actions that began with the Florida Board in 2012 which resulted in restrictions imposed on his practice. In November 2022, the Board voted to return this case for further investigation related to the Florida Board's disciplinary action. Additional information was obtained such as the meeting minutes addressing the 2014 Florida Board's decision to include the permanent restriction of Dr. Rothenberg's owning, operating or practicing in a Pain Management Clinic. In 2021, Dr. Rothenberg requested that the Florida Board remove the practice restrictions; they approved to lift the prescribing of controlled substances but denied lifting the restriction on the Pain Management Clinic order. Dr. Rothenberg still holds an active Florida license and stated he practices teleradiology with this license. Dr. Rothenberg was issued in North Dakota an unrestricted license in 2019 and a DEA card in January 2022 through the hospital; however, he stopped practicing in North Dakota in February 2022. Currently, Dr. Rothenberg has been offered a position in Ajo, Arizona to practice family medicine.

Ms. Stark noted that the previous discussion centered on whether Dr. Rothenberg met the requirements for licensure. All other actions taken by medical boards stem from the 2014 Florida order. Dr. Rothenberg successfully completed probation and it was lifted in 2017. The Florida Board lifted the practice restriction for prescribing controlled substances but not the restriction from owning, operating or practicing a pain management clinic. Ms. Stark noted that they obtained a letter from Dr. Rothenberg's Florida counsel, a letter from the potential employer, CME certificates and a DEA certificate for the Board's review. Ms. Stark urged the Board to determine that the conduct that led to the Florida order has been resolved and that the physician has learned from this entire experience. Ms. Stark noted the remaining restriction and Florida counsel's letter as mitigating factors that the physician's restriction is unable to be resolved and requested that the Board issue the license without the recommended practice restriction.

During questioning, Dr. Rothenberg confirmed his various state licenses and Board actions. Dr. Rothenberg also confirmed his potential employment in Arizona. Dr. Rothenberg informed the Board of how he would evaluate and respond to a patient presenting for pain management and confirmed that he will not provide long-term chronic pain management.

Ms. Stark provided a closing statement to the Board reiterating the request for an unrestricted license.

Dr. Gillard opined that the concerns that resulted in the interview have been mitigated and opined the recommended practice restriction is not needed.

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

**SECOND: Dr. Moschonas.**

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

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

**MOTION PASSED.**

## **K. FORMAL LICENSING INTERVIEWS**

1. MD-22-0470A, DAVID J. HETZEL, M.D., LIC. #N/A  
Dr. Hetzel was present with counsel Mike Goldberg.

Board staff summarized that this case is before the Board to review Dr. Hetzel's 2020 temporary suspension of clinical privileges in North Carolina. The hospital reported to the NPDB that Dr. Hetzel was placed on a precautionary suspension. A letter to Dr. Hetzel from the hospital raised concerns regarding recent complications involving organ injuries. Subsequently, the hospital submitted another report indicating that the suspension was modified to allow him to continue seeing patients; however, limitations and requirements were placed on his privileges for operative cases. After completion of the hospital investigation by the Medical Executive Committee, they determined to fully restore his privileges but placed three conditions: surgical cases were subject to a focused professional practice evaluation until notice the MEC, he was subject to proctoring, and a letter of guidance/counsel issued to him. Additional information was requested from the hospital to clarify their actions against Dr. Hetzel and they submitted a letter dated February 17, 2023. This has been placed in the case file under the supplemental report. SIRC's recommendation was to issue a one-year probationary license.

In opening, Mr. Goldberg noted that Dr. Hetzel has unrestricted licenses in four states and have all gone through this same information that the Board has. The restriction in North Carolina took place in March and was lifted in June. Mr. Goldberg noted that the FPPE that was instituted in June was unable to be completed due to COVID and at no fault of Dr. Hetzel.

In opening, Dr. Hetzel informed the Board of his practice in North Carolina and stated that he should have an unrestricted license at this time.

During questioning, Dr. Hetzel summarized the cases that led to the hospital's suspension, review and monitoring. Dr. Hetzel stated that he does not have a full understanding of the suspension and informed the Board of what the proposed monitoring was supposed to consist of. Due to COVID the group decided to let him go early and he was unable to complete the monitoring. Dr. Hetzel informed the Board of his practice in Honduras and the CME he has completed to maintain his Board certification. Dr. Hetzel explained that he should have contemplated his response on his license application better regarding the settlements.

Mr. Goldberg informed the Board of the unusual circumstances of the settlement.

Dr. Beyer inquired about the index case regarding the two organ injuries.

Dr. Hetzel reiterated what occurred during the surgery and that he did what he could and then another surgeon removed the small and large bowel, which he did not agree with.

In closing, Mr. Goldberg requested an unrestricted license.

During deliberations, Dr. Farmer stated that his initial concerns were regarding the nature of the cases that led to these problems, the inaccurate response on the application and the gap in practice. Dr. Farmer opined that lot of these questions have been answered and the only remaining concern was the gap in practice and recommendation for a practice monitor.

Board staff stated that this is a concerning gap and the physician can have a monitor for one year or the Hospital can have FPPE to monitor to address these concerns.

Board staff also informed the Board of the options available regarding possible simulations that can demonstrate proficiency.

Dr. Gillard noted that the hospitals here would automatically have him be reviewed for a year with this subspecialty and opined that this restriction is necessary by the Board. Dr. Farmer noted that rural hospitals or teaching facilities may have different practices. Dr. Krahn agreed that the Board should not defer this responsibility to the privileging body of a hospital.

Board Staff informed the Board of what a proctoring situation looks like and opined that time as opposed to a number of cases would be a better indicator.

Dr. Farmer agreed with SIRC's recommendation for a proctor.

**MOTION: Dr. Farmer moved to Offer the applicant a consent agreement for probationary license, requiring the physician to utilize a practice monitor to conduct a Focused Professional Practice Evaluation (FPPE) for fifteen Ob/Gyn surgical procedures including laparoscopic procedures to ensure Dr. Hetzel can safely practice medicine. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. The request must be accompanied by letters of support from his practice monitor.**

**SECOND: Dr. Krahn.**

Dr. Beyer stated that he was leaning towards an unrestricted license, although cannot verify the practice in Honduras, the physician has maintained his Board certification and that this practice would not be low volume and it wouldn't take a year to assess if the physician is competent. Dr. Beyer recommended 20 cases to assess the physician's skill set.

Board staff noted that a credentialing committee will look at a gap and it won't be a free pass, there would be a FPPE. There should be a number of cases that can show the thought process, skill and safety of the physician. There is not set volume but if you can get a high volume you could shorten the time frame.

Board members agreed that a number of cases would be adequate to solve this.

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

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

**MOTION PASSED.**



## CONSENT AGENDA

### L. CASES RECOMMENDED FOR DISMISSAL

**MOTION:** Dr. Gillard moved to dismiss items 1 and 2.

**SECOND:** Dr. Moschonas.

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

**VOTE:** 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.

**MOTION PASSED.**

1. MD-21-0792A, SANDEEP K. MAYUR, M.D., LIC. #51712

**RESOLUTION:** Dismissed.

2. MD-22-0049A, HECTOR I. RODRIGUEZ-LUNA, M.D., LIC. #26827

Counsel Megan Gailey addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

**RESOLUTION:** Dismissed.

### M. CASES RECOMMENDED FOR ADVISORY LETTERS

**MOTION:** Dr. Gillard moved to issue an Advisory Letter in item numbers 2, 3, and 6.

**SECOND:** Ms. Oswald.

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

**VOTE:** 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.

**MOTION PASSED.**

1. MD-22-0248A, FRANCISCO R. VALDIVIA, M.D., LIC. #8483

Dr. Gillard stated that he knows the physician but that it would not affect his ability to adjudicate the case.

Dr. Gillard noted that the MC found the care was excellent but blamed the physician for blaming the patient for being difficult. Dr. Gillard noted that the patient was seen and admitted to the emergency department and after a couple of days signed out against medical advice. When the patient came to the physician's office a special test was ordered but the insurance company would not pay for it. Dr. Gillard noted that the main complaint was having the blood drawn and not getting results in a timely manner. During this time the nurse practitioner asked the patient to come in and he refused. Dr. Gillard opined that this should be dismissed. Dr. Moschonas noted that regarding the test the insurance denied, the physician's attempt to even do it was commendable.

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

**SECOND:** Dr. Moschonas.

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

**VOTE:** 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.

**MOTION PASSED.**

2. MD-22-0717A, JACK DIEP, M.D., LIC. #55528

**RESOLUTION:** Advisory Letter for inappropriately discharging a chronic pain patient without reasonable notice and without affording the patient the opportunity to procure a replacement physician. 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-22-0053A, GEORGE L. SIBLEY, M.D., LIC. #9085

**RESOLUTION: Advisory Letter for inappropriately prescribing a medication for off-label use without researching the contraindications and side effects. 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-22-0222A, SACHIN NARAIN, M.D., LIC. #51557

A.R. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard there was a wrong side radiofrequency ablation and there were significant complications. Dr. Gillard opined that another MC review is needed.

**MOTION: Dr. Gillard moved to send the case back for further investigation to obtain a second MC review.**

**SECOND: Ms. Oswald.**

Dr. Farmer commented that it has unfortunately become common in hospitals throughout the state that there aren't enough radiology techs to operate the equipment and physicians try to step in and do it themselves. Dr. Farmer requested that the second review address this.

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

**VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.**

**MOTION PASSED.**

5. MD-22-0367A, DEAN U. SHIPPEY, M.D., LIC. #47313

Dr. Beyer noted that the diagnostic radiologist missed the findings in the images. This finding was obvious to the neurologist who subsequently saw the patient. It was also obvious to the general diagnostic radiologist who reviewed it but it was not correctly interpreted in the report. Dr. Beyer opined CME is needed since this was a case where a general radiologist should be capable of identifying a glioma.

**MOTION: Dr. Beyer moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to diagnose a brain mass on an MRI. 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 5 hours of Board staff pre-approved Category I CME in the interpretation of brain tumors on MRIs. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Dr. Gillard**

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

**VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 5-absent.**

**MOTION PASSED.**

6. MD-22-0398A, PINAKIN G. BHAKTA, M.D., LIC. #27723

**RESOLUTION: Advisory Letter for inappropriately prescribing a non-ophthalmic antibiotic ointment. 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.**

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

1. MD-22-0239A, RICHARD A. CARDONE, M.D., LIC. #26223  
Dr. Cardone addressed the Board during the Public Statements portion of the meeting.

Dr. Figge opined that given the call to public comments this should be dismissed.

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

**SECOND: Dr. Gillard.**

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

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

**MOTION PASSED.**

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

1. MD-21-0433A, MICHAEL T. LAWTON, M.D., LIC. #23468  
E.K.L. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard requested that this be looked at again based on the complainant's public comments at Call to Public.

**MOTION: Dr. Figge moved to return the case for further investigation.**

**SECOND: Dr. Gillard.**

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

**VOTE: 7-yay, 0-nay, 1-abstain, 0-recuse, 3-absent.**

**MOTION PASSED.**

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

1. MD-20-0679A, DAVID C. CHANG, M.D., LIC. #59452  
Counsel Gary Fadell addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Ms. Smith explained that Dr. Chang's license was expired as of January 9, 2023. There is a statute that stated a license cannot expire pending an open investigation. The Board used to differentiate a disciplinary suspension with Suspended-E for expiration suspension. However, a new statute states that the Board is not permitted to disclose an open investigation and therefore the license shows suspended. Ms. Smith requested that the Board return the case for further investigation based on the expired license. The physician's counsel will need to discuss with his client about applying for a new license. The suspension is based on the expired license; the only way the status will change is if this case is concluded or if the physician applies for licensure.

**MOTION: Dr. Krahn moved to return the case for further investigation.**

**SECOND: Dr. Moschonas.**

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

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

**MOTION PASSED.**

2. MD-22-0138A, GEORGE D. KARALIS, M.D., LIC. #6654

**MOTION: Dr. Gillard moved to accept the proposed Consent Agreement for Surrender of License.**

**SECOND: Dr. Krahn.**

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

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

3. MD-19-1185A, JOHN A. LIEBERT, M.D., LIC. #24378

**MOTION:** Dr. Figge moved to accept the proposed Consent Agreement for Letter of Reprimand and Practice Restriction with Three Year Probation with terms consistent with PACE's recommendations. Dr. Liebert shall be prohibited from solo practice, limited to treating patients 18 years or older, and limited to only see five patients daily. Within six months, complete no less than the 15 hour of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing; complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding boundaries; and complete the intensive, in-person course regarding medical recordkeeping offered by CPEP. Within thirty days of completing the Board ordered CME, the physician shall enroll into CPEP's personalized implementation program (PIP). The CME hours shall be in addition to the hours required for license renewal. Dr. Liebert shall be required to utilize a Board-approved practice monitor to oversee his patient and procedure selection, at his expense and for the duration of probation. Dr. Liebert shall cause the practice monitor to submit monthly reports to the Board, at his expense. Dr. Liebert shall be required to obtain a psychiatric consultation. If the psychiatrist identifies additional treatment and/or therapy, Dr. Liebert shall comply with any recommendations from the evaluation or assessment, subject to approval by the Board or its staff. Dr. Liebert shall be responsible for all costs of the evaluations, assessment and any treatment recommended by the evaluators. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

**SECOND:** Dr. Moschonas.

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

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

## **Q. LICENSE APPLICATIONS**

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

**MOTION:** Dr. Gillard moved to grant the license in items 1 and 2.

**SECOND:** Ms. Oswald.

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

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

1. MD-23-0054A, RUSSELL H. HARRIS, M.D., LIC. #N/A

**RESOLUTION:** License granted.

2. MD-22-0972A, JASON R. BURKE, 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-22-0057A, BABAR A. KHERA, M.D., LIC. #N/A

At the request of the Board Chair, Ms. Smith reviewed the minimum requirements for a Universal Recognition license.

Ms. Smith confirmed that the universal recognition statute bootstraps other State licensure requirements. Dr. Gillard noted that this physician has not practiced since 2013 and that SIRC recommended a competency evaluation and a PHP evaluation. Dr. Farmer noted that the Board would not grant a license with this gap in practice but given the statute, the license needs to be granted. However, once the license is granted the Board can act expeditiously on concerns identified in the license application process by Board staff. Dr. Gillard inquired if the Board can grant the license with a practice restriction pending successful evaluations.

Ms. Smith explained that the Board cannot issue a practice restriction, they must offer the agreement and the physician must enter into it voluntarily, or if rejected will lead to summary action.

Board staff confirmed the timeline for the competency and PHP evaluation. Once informed a physician is not safe to practice, an interim order for practice restriction would be immediately offered.

Ms. Smith noted that under the universal recognition statute, the Board lacks the ability to require that these evaluations be completed during the application investigation stage.

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

**SECOND: Dr. Beyer.**

**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, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas and Ms. Oswald.**

**VOTE: 12-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.**

**MOTION PASSED.**

The Board entered into Executive Session at: 11:10 a.m.

The Board returned to Open Session at: 11:35 a.m.

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

Dr. Gillard acknowledged that there is a statute that requires the Board to grant the license, but the Board has a duty to protect the public. Given the gap in practice the applicant has to prove they are competent. If granted a license the physician would immediately get a competency evaluation.

**MOTION: Dr. Gillard moved to table the case to notify the applicant that the Board intends to initiate an investigation to require completion of a competency evaluation, SPEX Examination, and PHP assessment.**

**SECOND: Dr. Figge.**

Dr. Beyer spoke against the motion since the statute requires the Board to grant the license and there is enough information to give the Board concern. The evaluations would inform the Board if he's competent and if not then the Board should know and take action and report it to the NPDB. Dr. Beyer opined that the Board should grant the license and investigate competency. Dr. Krahn also spoke against the motion, the Board needs to evaluate this licensee and his true qualifications and if he is lacking public notification is appropriate. Dr. Figge commented that this is a new type of

application and there is a learning curve for the Board and applicants. Dr. Figge opined that in fairness, the Board should make the physician aware of the process. Dr. Gillard noted that the Board does allow the physician to withdraw if the Board wishes to deny but in this case if the Board grants the license and finds the physician unsafe to practice it would be reportable.

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

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

**MOTION FAILED.**

**MOTION: Dr. Krahn moved to grant Dr. Khera's application for licensure, and upon issuance, initiate an investigation pursuant to A.R.S. § 32-1403(A)(2) including issuance of interim orders for a PHP Assessment, SPEX, and competency evaluation pursuant to A.R.S. § 321403(A)(1).**

**SECOND: Dr. Figge.**

Dr. Gillard inquired what would happen if the licensee disagrees with the recommendations.

Ms. Smith clarified that the physician can still withdraw up until the time he pays the license fee.

Dr. Farmer commented that those who seek to use this route should do it appropriately and meet the statute's intent. Dr. Gillard commented that the real issue is the gap in practice. Dr. Farmer and Ms. Oswald spoke in favor of the motion as the Board's discussion will be relayed in the resolution letter.

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

**VOTE: 7-yay, 1-nay, 0-abstain, 0-recuse, 4-absent. (Gillard)**

**MOTION PASSED.**

**iii. 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. ABDULRAHMAN K. A. RAGEH, M.D., LIC. #N/A**

Dr. Gillard noted that the physician completed 7 years of ophthalmology in Cairo, Egypt and completed three years of ophthalmology at Harvard. This was not approved by the ECFMG. The physician completed one year at Duke and is currently in a North Carolina program. The physician needs an Arizona license to complete a fellowship in Phoenix. Dr. Gillard opined that the physician has done the equivalent training.

**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. Beyer, Ms. Dorrell, Dr. Figge, Ms. Oswald, Dr. Moschonas and Dr. Krahn. The following Board members were absent: Dr. Artz, Ms. Bain, Dr. Bethancourt and Ms. Jones.**

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

**MOTION PASSED.**

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

## OTHER BUSINESS

### R. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-18-1110A, SHARRON A. JONES-DAGGETT, M.D., LIC. #47737  
Dr. Gillard noted that Dr. Keene and Dr. Lott agree with termination.

**MOTION:** Dr. Gillard moved to grant the termination request for the September 13, 2019 Board Order.

**SECOND:** Dr. Krahn

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

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

**MOTION PASSED.**

2. MD-19-0444A, LAKSHMINARAYANA GUTTIKONDA, M.D., LIC. #58243

Dr. Gillard noted that the physician was given a Probationary License in 2020 for PHP participation. Dr. Keene agreed with termination and the charts have been reviewed.

**MOTION:** Dr. Gillard moved to grant the termination request for the April 14, 2020 Board Order.

**SECOND:** Ms. Dorrell

Dr. Farmer noted that anesthesiologists used to have horrible rates of success but due to the PHP those rates have improved.

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

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

**MOTION PASSED.**

### S. GENERAL CALL TO THE PUBLIC

### T. ADJOURNMENT

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

**SECOND:** Ms. Dorrell.

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

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

**MOTION PASSED.**

The meeting adjourned at 12:05 p.m.



A handwritten signature in cursive script that reads "Patricia E. McSorley".

Patricia E. McSorley, Executive Director