



Arizona Medical Board

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FINAL MINUTES FOR REGULAR SESSION MEETING

Held on Friday, June 9, 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 8:01 a.m.

B. ROLL CALL

The following Board members were present: 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 participated virtually: Dr. Farmer and Ms. Bain.

ALSO PRESENT

The following Board staff participated in the meeting: Patricia McSorley, Executive Director; Kristina Jensen, Deputy Director; Joseph McClain, Assistant 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

Ms. McSorley informed the Board that she has provided the required statistics report for review.

E. CHAIR'S REPORT

No report was given.

F. LEGAL ADVISOR'S REPORT

No report was given.

G. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

Dr. Beyer requested additional time for lunch be considered when scheduling.

H. APPROVAL OF MINUTES

- April 5, 2023 Regular Session; including Executive Session

MOTION: Dr. Figge moved to approve the April 5, 2023 Special Teleconference; including executive session.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

LEGAL MATTERS

I. MOTION FOR REHEARING/REVIEW (FORMAL INTERVIEW)

1. MD-22-0393A, SUDHAKAR A. REDDY, M.D., LIC. #36640
Dr. Reddy and Counsel Flynn Carey were present.

Mr. Carey argued that fundamental errors in the Findings of Facts (FOF) significantly affected the conclusion resulting in a disciplinary action. The patient was non-compliant and the patient's threats resulted in the discharge. Mr. Carey noted that in the discharge letter the office gave him 30 days for emergency care. Two expert reviewers stated that Dr. Reddy met the standard of care, which was not accurately accepted by the Committee. Mr. Carey requested that the Board grant the review and issue an Advisory Letter with Non-Disciplinary CME as the discipline is too harsh and punitive.

Dr. Beyer noted that this was a difficult case and patient however, this was all heard at the interview and there is no new evidence. Based on the facts of the original interview the Reprimand was appropriate

MOTION: Dr. Beyer moved to deny the request for Rehearing or Review.

SECOND: Dr. Krahn.

Dr. Krahn stated that the medical record should reflect what has transpired and there is an appropriate way to document a difficult patient. Dr. Artz spoke against the motion and commented that it is difficult when the patient has access to the charts for a physician to document word for word what the patient says. Dr. Artz opined that an abusive patient is difficult to chart and the MC noted that the physician should not need to accept abuse. Dr. Figge spoke against the motion and suggested that the Board should rescind the Letter of Reprimand and issue an Advisory Letter. Dr. Figge stated that just because something wasn't specifically discussed doesn't mean that it wasn't considered by the Board. Dr. Figge stated that he concedes to the argument regarding FOF 15. Dr. Figge opined that an advisory letter would be appropriate for tracking purposes as there were still medical records and quality of care issues. Dr. Bethancourt disagreed with the finding that the patient was abandoned. Dr. Beyer stated that it was clear to the committee that this was a difficult patient and was taken into consideration. Dr. Beyer stated that there is no new information provided for consideration.

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

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

MOTION Failed.

Dr. Figge agreed that there is not enough new evidence for the entire case to be reviewed again and FOF 15 should be removed.

MOTION: Dr. Figge moved to grant the request for Review based on A.A.C. R4-16-103(D)(5).

SECOND: Dr. Bethancourt.

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

VOTE: 8-yay, 2-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Figge moved to rescind the order for a Letter of Reprimand and issue an Advisory Letter for inadequate evaluation of a patient presenting with diarrhea and rectal bleeding inadequate documentation. 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.

SECOND: Dr. Bethancourt.

Board staff confirmed that the recommended CME was completed.

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

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

MOTION PASSED.

2. MD-19-0356A, MD-19-0095A, KEITH G. ZACHER, M.D., LIC. #30227

Dr. Zacher and Counsel Flynn Carey were present.

Mr. Carey argued that Dr. Zacher is requesting a review based on excessive penalty, prejudice and that the Findings of Fact are not supported by the evidence. Mr. Carey stated that if the Board issues discipline and turned itself into a market participant, regulable by the Federal Trade Commission. All of this occurred in a situation in which no patient was required to pay out of pocket beyond the amount that the insurance company gave the patient specifically for the purpose of reimbursement for medical services provided by Dr. Zacher. There are no allegations of fraud, deceit or patient harm.

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: Ms. Oswald.

VOTE: The following Committee members voted in favor of the motion: ALL

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

MOTION PASSED.

The Board entered into Executive Session at 9:55 a.m.

The Board returned to Open Session at 10:29 a.m.

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

Dr. Figge stated that this was a complicated case and had been sent back for further investigation. There are a lot of problems with this case and now there is a potential unintended issue if the Board proceeds with the discipline that was issued. Dr. Figge opined that these were egregious fees and a lack of responsibility but given the unintended consequences the Board should grant a review.

MOTION: Dr. Figge moved to grant the request for Review based on A.A.C. R4-16-103(D)(5).

SECOND: Ms. Oswald.

Dr. Beyer spoke against the motion as this is a case of egregious fees. Dr. Beyer acknowledged that the statute for excessive fees is vague but opined that these fees blow the top off of any rational basis of a fee schedule. Dr. Beyer stated that this clearly meets the excessive fee standard. Dr. Figge stated that no one disagrees that these fees are clearly excessive, but stood by the motion given the complications, unintended consequences and that this complaint was filed by an insurance company. Dr. Beyer commented that even though this was brought by the insurance company this case stood out.

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

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

MOTION PASSED.

MOTION: Dr. Figge moved to to rescind the Board's Order for Decree of Censure, Probation and Civil Penalty and issue an Advisory Letter for excessive billing, inadequate medical records, failure to timely furnish information to the Board, and providing false and misleading statements to the Board. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Moschonas.

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

VOTE: 6-yay, 4-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

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

1. MD-21-0381A, DOUGLAS B. BOBER, M.D., LIC. #53245

AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Dr. Gillard noted that the physician signed a consent agreement for Surrender of License.

MOTION: Dr. Beyer moved to accept the proposed consent agreement for Surrender and rescind referral to formal hearing.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

2. MD-21-0691A, MD-22-0055A, MD-22-0082A, JOHN W. MCGETTIGAN, M.D., LIC. #12606

Dr. McGettigan was present virtually, and counsel Susan Trujillo was present in person. AAG Carrie Smith was present on behalf of the State and AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Ms. Smith, on behalf of the State, informed the Board that the parties have provided a consent agreement for a permanent Practice Restriction for the Board's consideration. Ms. Smith summarized that The cases at issue all arose out of adverse chart reviews conducted pursuant to a Board Order indicating concerns for controlled substance prescribing and medical recordkeeping. Dr. McGettigan currently serves as lab director

for the clinic and since none of the cases revolve around that side of the practice Dr. McGettigan requested that the Board allows him to continue in this role and forgo patient care.

Dr. Gillard noted that the consent agreement has been signed by the Respondent and opined that public safety is preserved.

MOTION: Dr. Figge moved to rescind the referral of this matter to formal hearing, and accept the proposed consent agreement for Final Practice Restriction.

SECOND: Dr. Bethancourt.

Ms. Jones inquired about how the Board would regulate that the physician is not seeing patients or providing care.

Board staff explained that they use tools such as CSPMP, subpoenas, periodic attestations and public complaints to ensure compliance.

Ms. Jones noted that at the January, 2023 meeting there was a concern that this physician could not be regulated.

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

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

MOTION PASSED.

K. 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. 23A-46670-MDX- involving Dr. Shekhar C. Thakur.

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

Dr. Thakur was not present. AAG Carrie Smith was present on behalf of the State and AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Dr. Gillard noted that this physician was summarily suspended and was referred to formal hearing.

Ms. Smith, on behalf of the State, requested that the Board adopt the ALJ's recommended decision with the clerical change in Finding of Fact 17 and to incorporate the hearing cost in the Order.

MOTION: Dr. Beyer moved to adopt the proposed Findings of Fact with the following amendment: Add a Section symbol ("§") to the statutory citation in Finding of Fact 17.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

MOTION: Dr. Figge moved to adopt the proposed Conclusions of Law.

SECOND: Ms. Oswald.

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

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

MOTION PASSED.

MOTION: Dr. Figge moved to adopt the ALJ's recommended discipline Order for Revocation. It is further ordered that, pursuant to A.R.S. § 32-1451(M), Shekhar C. Thakur, M.D. be charged for the cost of the formal hearing as determined by the Board. Dr. Thakur shall pay the Board \$937.30 by certified funds, within 90 days of the effective date of this Order.

SECOND: Ms. Dorrell.

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

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

MOTION PASSED.

Respondent was not present for meet and confer.

Ms. Smith noted that the physician is a serial non-responder and was properly notified.

MOTION: Dr. Figge moved to adopt the Order as previously read into the record.

SECOND: Dr. Beyer.

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

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

MOTION PASSED.

CONSENT AGENDA

L. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Figge moved to dismiss the case in items 1-3.

SECOND: Dr. Artz.

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

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

MOTION PASSED.

1. MD-22-0020C, JEFFREY P. SALOMONE, M.D., LIC. #

RESOLUTION: Dismissed.

2. MD-21-0696A, DAVID G. RAY, M.D., LIC. #59135

RESOLUTION: Dismissed.

3. MD-21-0979A, LINDA L. LAU, M.D., LIC. #30826

RESOLUTION: Dismissed.

M. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Krahn moved to Issue an Advisory Letter in item numbers 2-3, 5 and 7-10.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

1. MD-22-0020D, LINDSAY H.T. BARTHOLOME, M.D., LIC. #54653

Dr. Figge opined that this physician was wrongly held responsible for the discharge of the patient.

MOTION: Dr. Figge moved to dismiss.

SECOND: Dr. Beyer.

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

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

MOTION PASSED.

2. MD-22-0824A, FAHIM A. HABIB, M.D., LIC. #58639

RESOLUTION: Advisory Letter for failing to recognize and address a gallbladder disruption with spillage of gallstones into the abdomen. 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-22-0932A, EWA M. SZAFRANIEC, M.D., LIC. #18803

RESOLUTION: Advisory Letter for non-compliance with CSPMP mandatory use requirements. 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-22-0369A, THEOBALD J.C. MINANI, M.D., LIC. #43939

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

Dr. Gillard summarized that the patient was admitted to the emergency room with a diabetic leg infection by another physician. Dr. Minani saw the patient much later. Dr. Gillard further noted that although this was a team effort, there were two other physicians who did the admission and first progress note prior to him seeing the patient. Dr. Beyer stated that there were systemic problems in the handoffs. Dr. Beyer noted that this physician still cared for patient for three days and opined that he still bears some responsibility. Dr. Beyer opined that an advisory letter was appropriate.

MOTION: Dr. Beyer moved to issue an Advisory Letter for failing to perform a medication reconciliation of the patient's medications. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

5. MD-18-0246A, ROZBEH TORABI, M.D., LIC. #49766
Counsel Leah Schachar addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Advisory Letter for failing to provide adequate post-operative care and treatment resulting in a delayed diagnosis of tenosynovitis. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

6. MD-18-0049A, ROZBEH TORABI, M.D., LIC. #49766
Counsel Leah Schachar addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Beyer stated that this is an issue that arose out of a malpractice settlement while the physician was in training eight years ago and opined that it is not appropriate to consider more on this matter.

MOTION: Dr. Beyer moved to dismiss.

SECOND: Dr. Artz.

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

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

MOTION PASSED.

7. MD-22-1067A, RICHARD A. ASHELY, M.D., LIC. #42904

RESOLUTION: Advisory Letter for failing to verify that correct surgical equipment was present prior to the procedure and for continuing to perform a procedure with a contaminated needle. 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.

8. MD-22-0711A, RONALD I. JACOBY, M.D., LIC. #9951

RESOLUTION: Advisory Letter for failing to query the CSPMP database when issuing medical marijuana certifications. 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.

9. MD-22-0523A, TODD K. RUNYAN, M.D., LIC. #27578

RESOLUTION: Advisory Letter for failing to perform a physical exam and obtain elbow x-rays to evaluate the patient for an acute radial head dislocation, failing to maintain medical records, 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.

10. MD-23-0063A, ROBERT B. OGESEN, M.D., LIC. #20679

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

MOTION: Dr. Beyer moved to issue an Advisory Letter with Non-Disciplinary CME Order in item numbers 2 and 5.

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 members are absent: Ms. Bain.

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

MOTION PASSED.

1. MD-22-0125A, AUBREY MAZE, M.D., LIC. #11030

Counsel Joshua Fisher addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Dr. Krahn and Dr. Bethancourt recused from this case.

Board staff confirmed that a complaint was not filed by the hospital and the hospital provided documents when subpoenaed.

Dr. Gillard noted that there is complicated litigation with the ex-wife and the physician is now retired and holds honorary status by the hospital. Dr. Gillard opined that dismissal is appropriate since the hospital did not complain and there are mitigating factors in this case. Ms. Jones commented that although the physician is retired, he still holds an active license July 2024.

MOTION: Dr. Gillard moved to dismiss.

SECOND: Ms. Jones.

Dr. Beyer agreed that this came to the Board in a complicated way but opined that there was enough uncovered and that an Advisory Letter with CME is appropriate. Dr. Artz noted that the physician accepted responsibility and staff's recommendation. Dr. Gillard acknowledged that an Advisory Letter is for tracking but opined that CME is not helpful in under these circumstances.

Board staff confirmed that the hospital records were received and that there is a history of behavioral complaints.

Dr. Gillard noted that many of these complaints are handled at the hospital committee level.

MOTION WITHDRAWN

MOTION: Dr. Gillard moved to issue an Advisory Letter for inappropriate professional behavior. 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.

Dr. Figge commented that even with the issues investigated, the physician has honorary status he still has access to the hospital and people within the hospital. Dr. Figge spoke against the motion since the physician through his counsel accepted the recommendation for an Advisory Letter with CME.

MOTION WITHDRAWN.

MOTION: Dr. Figge moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inappropriate professional behavior. 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 PBI's Elevating Civility and Communication in Health Care (CC-30) course. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Beyer.

VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Artz, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas and Ms. Oswald. The following Board members were recused: Dr. Krahn and Dr. Bethancourt. The following Board member was absent: Ms. Bain.
VOTE: 9-yay, 0-nay, 0-abstain, 2-recuse, 1-absent.
MOTION PASSED.

2. MD-22-0320A, ANDREA O. SKELTON, M.D., LIC. #52391

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for the inappropriate prescribing of controlled substances, failing to provide the Board with current practice and mailing addresses, failing to furnish information to the Board 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 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding prescribing controlled substances. The CME hours shall be in addition to the hours required for license renewal.

3. MD-22-0794A, SAMUEL EJADI, M.D., LIC. #36682

Counsel Cody Hall addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Dr. Krahn recused from this case.

Dr. Beyer noted that the attorney stated during the public statements that the physician has completed the CME and the certification was provided. Dr. Gillard confirmed that the CME Certificate is in the file.

MOTION: Dr. Beyer moved to issue an Advisory Letter for failing to timely complete medical records. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Ms. Oswald.

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

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

MOTION PASSED.

4. MD-21-0695A, ROZBEH TORABI, M.D., LIC. #49766

Counsel Leah Schachar addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Artz opined that it can be difficult when there is a complaint regarding outcomes for plastic surgery and in this case the physician met the standard of care.

MOTION: Dr. Artz moved to dismiss.

SECOND: Dr. Figge.

Dr. Gillard commented that with a large amount of surgical procedures there is bound to be a complaint.

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.

5. MD-21-0612A, MD-22-0298A, MARK I. FELDMAN, M.D., LIC. #5756

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

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for inadequate documentation. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. 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. The CME hours shall be in addition to the hours required for license renewal.

6. MD-22-0802A, PHILIP M. LESUEUR, M.D., LIC. #53605

Dr. Gillard noted that the Medical Consultant ("MC") did a very detailed review and found no deviation, however there was a statement that the medical records were substandard. Dr. Gillard opined that the physician has learned from this and spoke in favor of an Advisory Letter without CME.

MOTION: Dr. Gillard moved to issue an Advisory Letter for inadequate documentation and communication. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Beyer.

Dr. Beyer opined that the physician was using the medical records in the way they were designed and cannot fault the physician for that.

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, Dr. Moschonas and Ms. Oswald. The following Board member voted against the motion: Ms. Jones. The following Board member was absent: Ms. Bain.

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

MOTION PASSED.

O. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Beyer moved to uphold the Executive Director dismissal in item numbers 1-8.

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.

1. MD-22-0682A, ERIC A. EIFLER, M.D., LIC. #30630

RESOLUTION: Dismissal upheld.

2. MD-22-0682B, P. DEAN CUMMINGS, M.D., LIC. #26142

RESOLUTION: Dismissal upheld.

3. MD-22-0615A, CYNTHIA F. SANCHEZ, M.D., LIC. #R78669

E.G. addressed the Board during the Public Statements portion of the meeting.

Dr. Beyer acknowledged the public statements and noted that sometimes cases have tragic outcomes and the Board's responsibility is to determine whether or not an error occurred. Dr. Gillard noted that the MC found that this was a case of what initially appeared to be a normal baby but had a severe genetic defect upon birth. Dr. Bethancourt clarified that this was not sepsis and that this was a situation where no one could do anything due to the genetic defect. Dr. Gillard stated that this was a very unfortunate outcome that was reviewed by experts and nothing could have been done. Ms. Jones

opined that we would not have been here if the physician had met with the family and explained what happened.

RESOLUTION: Dismissal upheld.

4. MD-22-0615B, HELENE D. FELMAN, M.D., LIC. #61741
E.G. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

5. MD-22-0430A, BRADLEY J. SERACK, M.D., LIC. #55875

RESOLUTION: Dismissal upheld.

6. MD-22-0543A, NAVNEET B. JALAL, M.D., LIC. #44708
Counsel Mandi Karvis addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissal upheld.

7. MD-22-0543B, NAZEER M. JALAL, M.D., LIC. #44707
Counsel Mandi Karvis addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissal upheld.

8. MD-22-0031A, NATAKOM N. CHULAMORKODT, M.D., LIC. #37017

RESOLUTION: Dismissal upheld.

P. LICENSE APPLICATIONS

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

MOTION: Dr. Figge moved to grant the license in item numbers 1-7.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

1. MD-23-0078A, SAMUEL LEIBOVICI, M.D., LIC. #N/A

RESOLUTION: License granted.

2. MD-22-0231A, PATRICK D. KAVANAGH, M.D., LIC. #N/A

RESOLUTION: License granted.

3. MD-23-0480A, LUKE J. GRAUKE, M.D., LIC. #N/A

RESOLUTION: License granted.

4. MD-23-0316A, DONALD R. MASSEE, M.D., LIC. #N/A

RESOLUTION: License granted.

5. MD-23-0445A, RAYMOND S. YEN, M.D., LIC. #N/A

RESOLUTION: License granted.

6. MD-23-0363A, RICHARD S. FRENCH, M.D., LIC. #N/A

RESOLUTION: License granted.

7. MD-22-1027A, JULIA R. DAVIS, M.D., LIC. #N/A

RESOLUTION: License granted.

8. MD-23-0415A, LEWIS G. DICKINSON, M.D., LIC. #N/A

Ms. Jones inquired about the five malpractice cases and noted that the MC did not think a specialty review was necessary. Ms. Jones further inquired about the physician's plans to practice in Arizona.

Board staff noted that a narrative plan was not requested.

Dr. Gillard noted that the physician currently has a Pennsylvania license and does not have a history of actions taken.

Board Staff noted that he practices general practice.

MOTION: Ms. Jones moved to grant the license.

SECOND: Ms. Oswald.

Dr. Beyer expressed concern that this is a surgeon with 5 malpractice cases, two in the past 5 years. Dr. Beyer opined that even though no other board took action it does not negate the concern.

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

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

MOTION PASSED.

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

1. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

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

1. SYDNEY L. STEVENS, M.D., LIC. #N/A

Dr. Gillard summarized that this physician's license lapsed in 2022 and had to reapply for license. The physician was unable to get copy of his original license examination.

MOTION: Dr. Beyer moved to grant the waiver and grant the license.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

iv. 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. MD-23-0267A, STEVEN H. MISHKIND, M.D., LIC. #N/A

Dr. Gillard summarized that the physician has multiple state licenses and had a malpractice case. Dr. Gillard opined there is no reason not to grant the license.

MOTION: Dr. Beyer moved to grant licensure by endorsement.

SECOND: Ms. Oswald.

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

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

MOTION PASSED.

v. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE APPLICATION AND RECOMMENDED ADVISORY LETTER

1. MD-23-0538A, LARRY L. GRIFFITH, M.D., LIC. #N/A

Dr. Gillard summarized that the physician forgot to renew his license and practiced for six days on an expired license. The physician cannot obtain primary source documentation but they are in the Board's files.

MOTION: Dr. Beyer moved to grant the waiver request, grant the license and issue and Advisory Letter for practicing on an expired license. 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.

SECOND: Dr. Moschonas.

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

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

MOTION PASSED.

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

OTHER BUSINESS

Q. CONSIDERATION OF DUAL JURISDICTION OF THE AMB AND THE ARIZONA HOMEOPATHIC BOARD

1. MD-21-0541A, DAN O. HARPER, M.D., LIC. #34214

Dr. Gillard summarized that the physician was reprimanded by California and due to the reciprocity statute the Board must review this.

Ms. Smith explained that this case was submitted to the Board for consideration and staff has not yet heard from the Homeopathic Board. The question today is to determine if the Board wants to assert jurisdiction and to initiate arbitration in the event the homeopathic board also asserts jurisdiction.

MOTION: Dr. Krahn moved to maintain jurisdiction of this matter. Should the Homeopathic Board also assert jurisdiction, the Board should direct that arbitration be commenced pursuant to statute.

SECOND: Ms. Oswald.

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

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

MOTION PASSED.

R. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-19-0158A, MICHAEL D. MORAN, M.D., LIC. #54854

Dr. Gillard summarized that the physician is currently under the California PHP monitoring.

Board staff informed the Board that the anticipated California completion date is December 11, 2023.

Dr. Gillard noted that the physician is in compliance with California Board Order and has completed this Board's three year probation.

MOTION: Dr. Krahn moved to grant the request for termination of the April 8, 2021 Board Order.

SECOND: Dr. Figge.

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

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

MOTION PASSED.

2. MD-20-0241A, TIMOTHY M. MARSHALL, M.D., LIC. #22934

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

Dr. Gillard noted that this physician is on a five year Probation but two monitors are in favor of early termination.

Board staff clarified that the legal conviction was established as a misdemeanor.

MOTION: Dr. Figge moved to grant the request for termination of the September 14, 2021 Board Order.

SECOND: Dr. Krahn.

Dr. Krahn commented that this was unusual and complicated case and it is important that this physician is compliant going forward with what his health team's recommendations. Dr. Figge noted that he is retired.

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

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

MOTION PASSED.

S. GENERAL CALL TO THE PUBLIC

No individuals addressed the Board during the general call to the public.

T. ADJOURNMENT

MOTION: Dr. Figge moved to adjourn the meeting.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

The meeting adjourned at 11:20 a.m.




Patricia E. McSorley, Executive Director