



Arizona Medical Board

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Wednesday, May 3, 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

Vice-Chairman Gillard called the Board's meeting to order at 5:06 p.m.

B. ROLL CALL

The following Board members participated virtually: 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.

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

- Discussion and Consideration of 2023 Board Meeting Calendar

Board staff clarified the board meeting formats and confirmed that the June meeting is in-person. The Biannual Joint Officers will need to meeting prior to the PA Board meeting in May.

Board members confirmed the July 5, 2023 Special Teleconference meeting date.

Board staff noted that the Board's October meeting date may have to be changed and will bring new proposed dates at the June meeting.

E. CHAIR'S REPORT

Dr. Farmer noted that Ms. McSorley and Dr. Krahn represented the Board and the FSMB Annual Meeting.

F. LEGAL ADVISOR'S REPORT

Carrie Smith, Assistant Attorney General

G. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

R. Screven Farmer, M.D., Chair

H. APPROVAL OF MINUTES

- March 1, 2023 Special Teleconference; including Executive Session

MOTION: Dr. Krahn moved to approve the March 1, 2023 Special Teleconference; including Executive Session.

SECOND: Dr. Gillard.

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

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

MOTION PASSED.

LEGAL MATTERS

I. MOTION FOR REHEARING/REVIEW (Formal Hearing)

1. MD-18-0983A, MD-21-0024A, DEAN R. SILVER, M.D., LIC. #38223

Dr. Silver was not present. Counsel Mike Goldberg participated virtually on behalf of the physician. AAG Elizabeth Campbell participated virtually on behalf of the State and AAG Diane DeDea participated virtually as the Board's Independent Legal Advisor. J.S.W. addressed the Board during the Public Statements portion of the meeting.

Mr. Goldberg noted that Dr. Silver was not represented by counsel during the hearing and requested that the Board reconsider the revocation or remand this matter back to the Office of Administrative Hearings (OAH) to consider the newly submitted material.

Ms. Campbell noted that this case involved two patients and that timing counts in this case. Ms. Campbell summarized for the Board the timeframe of the Board's investigation and the OAH timeline and subsequent medical record submissions. Ms. Campbell commented that Dr. Silver finds new medical records or makes changes to the medical records whenever the Board issues a complaint or finds a problem. Ms. Campbell opined that Revocation is appropriate and requested that the Board deny the Motion for Rehearing or Review.

MOTION: Dr. Figge moved to deny Respondent's Motion for Rehearing or Review.

SECOND: Dr. Bethancourt.

Dr. Krahn opined that there is not a basis for a rehearing or review.

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

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

MOTION PASSED.

2. MD-18-1070A, MD-18-1197A, DAVID G. LAWSON, M.D., LIC. #23145

Dr. Lawson was not present. Counsel Sara Stark participated virtually on behalf of the physician. AAG Carrie Smith participated virtually on behalf of the State and AAG Diane DeDea participated virtually as the Board's Independent Legal Advisor.

Ms. Stark argued that the Board's position is that revocation is the only possible outcome because of Dr. Lawson's inability to be regulated, which was disputed by Dr. Lawson at the hearing. Ms. Stark stated that Dr. Lawson complied with the chart review requirements, and while he was late with payments, he did bring his accounts with both monitors current. Ms. Stark opined that it is concerning and problematic to receive a decision which has such a glaring mistake in the recitation of the evidence that was presented. Ms. Stark stated that the rule on rehearing and review allows the Board to grant a rehearing a review of the matter and scenarios such as this one, and specifically, when the findings of fact are not justified, and in this case are directly contradictory to the evidence that was presented at the hearing. Ms. Stark requested that the Board consider a rehearing or review of its prior decision.

Ms. Smith argued that it's the State's position that the language is accurate and that the language from the findings of fact are all taken from various portions of the record that the parties stipulated to. The Respondent's Motion in this case fails to establish how this materially affected his rights. Ms. Smith stated that the penalty in this case is not excessive. The uncontested facts in this case showed that the Respondent deviated from the standard of care for controlled substance prescribing for 6 patients and that his care resulted in actual harm. The uncontested facts established that he failed to complete the chart reviews and that payment for the reviews was a required term of the Board's Order. The Board is also obligated to take into account the prior disciplinary history for this licensee, which includes a Decree of Censure and Probation, two previous Letters of Reprimanded, a Decree of Censure and an Advisory Letter. The State's position is that revocation is warranted, and that the motion for rehearing the review should be denied.

MOTION: Dr. Bethancourt moved to deny Respondent's Motion for Rehearing or Review.

SECOND: Dr. Figge.

Dr. Bethancourt commented that the physician has had multiple opportunities. He signed the consent agreement for practice restriction for controlled substances and did not comply with the board order for chart reviews on multiple occasions. Dr. Bethancourt opined that he cannot 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, 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.

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

1. MD-18-0884B, OMAR ABDUL-HADI, M.D., LIC. #49298

Dr. Abdul-Hadi and counsel Cody Hall participated virtually on behalf of the physician. AAG Elizabeth Campbell participated virtually on behalf of the State and AAG Diane DeDea participated virtually as the Board's Independent Legal Advisor. T.K. addressed the Board during the Public Statements portion of the meeting.

Mr. Hall stated that they submitted strong support that Dr. Abdul-Hadi met the standard of care in the care of the patient and the transfer of care and opined that this is a reasonable and appropriate outcome based on the evidence presented to the Board. Mr. Hall requested that the Board rescind the referral to formal hearing and adopt the proposed Advisory Letter with CME.

Ms. Campbell stated that this is a case where there are competing expert opinions and in view of this and the standard of proof the State is supporting a resolution with the

proposed consent agreement for CME with an Advisory Letter. The rationale would be for insufficient evidence. Ms. Campbell stated, on behalf of the State, that this is an appropriate outcome.

During deliberation, Dr. Figge commented that the patient's son made a compelling statement and in review of the records and the competing expert opinions opined that this is a reasonable resolution.

MOTION: Dr. Figge moved to accept the consent agreement for Non-Disciplinary Order for CME requiring 3 hours of Board staff pre-approved CME in the diagnosis and treatment of septic joint infections and a minimum of 3 hours of Board staff pre-approved CME in working collaboratively with physician assistants, issue an Advisory Letter for not appropriately treating a septic joint infection and not appropriately supervising physician assistants, and to rescind the referral to Formal Hearing.

SECOND: Dr. Moschonas.

Dr. Bethancourt spoke against the motion given that the patient clearly had signs of sepsis and that the surgeon should have been more attentive and not relied on the PA. Dr. Beyer spoke against the motion and noted that although there are situations with dueling expert opinions, an expert that states a physician does not need to personally look at the wound of a complicated patient is not speaking to the standard of care. This patient had problems which were partly due to the post-operative care and were completely avoidable. Dr. Beyer opined that this rises to the level of discipline. Dr. Krahn inquired if a complaint has been made against the Physician Assistant (PA) to the PA Board.

Board staff confirmed that cases were referred to the PA Board.

Dr. Krahn opined that the PAs need to be investigated and that the physicians needed to provide more effective supervision of the PAs. Dr. Krahn commented that to have such a prolonged hospitalization without more attention to this patient's wound is not reasonable.

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

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

MOTION FAILED.

MOTION: Dr. Bethancourt moved to deny the settlement agreement and offer the physician a consent agreement for a Letter of Reprimand and CME.

SECOND: Ms. Oswald.

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 were absent: Ms. Bain.

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

MOTION PASSED.

2. MD-18-0884C, JOHN A. BROWN, M.D., LIC. #33209

Dr. Brown was not present and Cody Hall participated virtually on behalf of the physician. AAG Elizabeth Campbell participated virtually on behalf of the State and AAG Diane DeDea participated virtually as the Board's Independent Legal Advisor. T.K. addressed the Board during the Public Statements portion of the meeting.

Mr. Hall stated that the timing of Dr. Abdul-Hadi and Dr. Brown's participation were different. Dr. Brown returned the patient to surgery and was not the physician who initiated the first surgery. Mr. Hall stated that this is a reasonable and appropriate outcome based on the evidence presented to the board. Mr. Hall requested that the Board rescind the referral to formal hearing and adopt the Advisory Letter with CME.

Ms. Campbell stated that Dr. Brown returned the patient to surgery on January 14th. On January 15th and 17th Dr. Brown evaluated the patient and on January 19th debride the patient's knee at bedside. The patient was subsequently discharged to long term care. Ms. Campbell informed the Board that the State is in support of the proposed consent for an Advisory Letter and CME.

During deliberations, Ms. Jones expressed concern that there were no orthopedic notes for eight days for this seriously ill patient.

MOTION: Ms. Jones moved to deny the settlement agreement and offer the physician a consent agreement for a Letter of Reprimand and CME.

SECOND: Bethancourt.

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

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

MOTION PASSED.

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

Dr. Bober and counsel Sara Stark participated virtually on behalf of the physician. AAG Elizabeth Campbell participated virtually on behalf of the State and AAG Diane DeDea participated virtually as the Board's Independent Legal Advisor.

Ms. Stark stated that this case originated from a DUI from five years ago and Dr. Bober surrendered his New York License resulting in Ohio, Massachusetts and Florida taking action. Dr. Bober decided to come out of retirement and sent a letter to the Board. When processing the application, Board staff asked if he would be willing to complete an assessment based on the prior DUI. Dr. Bober believed that this was voluntary and indicated that he did not want to complete the assessment. It was his understanding that after he withdrew his request for reactivation that the assessment was no longer necessary. Dr. Bober acknowledges that his lack of communication with Board staff escalated this matter into a situation that is more complicated than the original 2018 issue. Ms. Stark stated that Dr. Bober is willing to take whatever steps the Board requires to ensure that he is safe to practice. Ms. Stark informed the Board of two settlement options. The first option is that Respondent's license reactivated and be issued a letter of reprimand or another disciplinary action for the misrepresentations to Board staff about his return to work, and for practicing in another State on an inactive license. If the Board is not inclined to accept the Florida assessment, to determine whether or not Dr. Bober is safe to practice from a substance abuse perspective he is willing to go undergo an assessment with one of the Arizona Board approved assessors, and comply with any and all treatment recommendations.

Ms. Campbell stated that Dr. Bober applied for reactivation of his Arizona license in April of 2021. At that point he disclosed his 2018 DUI in Florida. At that time his license was active in Arizona so he was required to timely report that 2018 DUI, which he didn't do. The other issue is the discipline that he has in other states. The Board did order an evaluation and assessment on June 17, 2021 which Dr. Bober did not complete. He did eventually complete an evaluation in Florida but that was not done until April of 2022. The assessment did state that Dr. Bober was safe to practice and recommended six hours of substance abuse CME. Despite multiple communications from Board staff over months, Dr. Bober didn't give that evaluation to Board staff. It was only once the Complaint and Notice of Hearing was filed that the Board received that evaluation. Ms. Campbell stated that from a regulatory perspective, Dr. Bober's communication has been so poor that there are concerns about regulability in this case.

Ms. Stark informed the Board what led to the delay in getting the evaluation that was done for the Florida Board's case to Board staff.

Ms. Jones inquired about the letter that informed the Board of Dr. Bober's return to practice.

Ms. Campbell confirmed that the letter was submitted and that per the letter Dr. Bober intended to return to practice on December 29, 2020 and requested that his license be converted back to active status.

Ms. Jones inquired about the interim order that was issued to Dr. Bober.

Ms. Campbell confirmed that the Board did issue an interim order for a PHP assessment. His counsel stated that Dr. Bober did not understand that it was mandatory.

Ms. Stark explained that Dr. Bober was initially asked by the licensing staff if he would be willing to complete the assessment and he then requested to withdraw his license reactivation application. There is a letter in the file stating that the application for reactivation has been withdrawn. It was Dr. Bober's understanding that after he withdrew the request to reactivate that the assessment was no longer required.

Dr. Figge noted that the physician and his counsel have offered two options and that the State has not stipulated to either one and suggested that the physician is not regulable.

Ms. DeDea explained that it is not unusual for the physician to make a settlement offer for the board to consider. The Board can accept, reject it or make another offer.

Dr. Beyer expressed support for reactivation of the license with a Reprimand but not until the physician completes a PHP assessment. Dr. Beyer noted that given two DUIs if there is an unfavorable PHP assessment he would not be in favor of reactivation. Dr. Farmer expressed concern regarding the physician's health and very erratic behaviors. Dr. Farmer opined that there is a strong case to be made that the physician is not regulable. Dr. Farmer suggested the Board should deny the request and can consider a new agreement when reached by the State.

MOTION: Dr. Farmer moved to deny both Settlement Offers and proceed to Formal Hearing.

SECOND: Dr. Krahn.

Dr. Farmer opined that given the complicated series of events the formal hearing is the appropriate place for this matter to be adjudicated. Dr. Krahn commented that this is not a straightforward case and should be discussed in a full hearing setting.

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 were absent: Ms. Bain

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

MOTION PASSED.

CONSENT AGENDA

K. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Bethancourt moved to dismiss the case in item numbers 1-5.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

1. MD-21-0995A, HIMANSHU H. SHUKLA, M.D., LIC. #33766

RESOLUTION: Dismiss.

2. MD-22-0019A, FADE A. MAHMOUD, M.D., LIC. #54812
Counsel Heather Macre addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismiss.

3. MD-22-0426A, EUGENE KIM, M.D., LIC. #33968

RESOLUTION: Dismiss.

4. MD-2-0549A, DUANE D. H. PITT, M.D., LIC. #28521

RESOLUTION: Dismiss.

5. MD-22-0385A, SUDHAKAR A. REDDY, M.D., LIC. #36640

RESOLUTION: Dismiss.

L. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Krahn moved to issue an Advisory Letter in item numbers 1-6, and 8-11.

SECOND: Dr. Gillard.

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

VOTE: 11-yay, 0-nay, 0-abstain, 0(Dr. Beyer recused from #4 and Dr. Figge recused from #5)-recuse, 1-absent.

MOTION PASSED.

1. MD-22-0962A, WOJCIEH ZOLCIK, M.D., LIC. #55141

RESOLUTION: Advisory Letter for failing to timely report a misdemeanor charge. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

2. MD-22-0224A, ROBERT M. ROWLETT, M.D., LIC. #52559

RESOLUTION: Advisory Letter for OIG Exclusion from federal health care programs. 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.

3. MD-22-0311A, CYENTHIA L. KOEHLER, M.D., LIC. #25313

RESOLUTION: Advisory Letter for failing to perform confirmatory testing on histological specimens to support the diagnosis of metastatic malignant melanoma. 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-22-0527A, MADHURI KADIYALA, M.D., LIC. #29451

Dr. Beyer recused from this case.

RESOLUTION: Advisory Letter for failing to administer the correct dose of chemotherapy. 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.

The following Board members were recused: Dr. Beyer

5. MD-22-0073A, RIZWAN SAFDAR, M.D., LIC. #27577

Counsel Robert Stultz addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Dr. Figge recused from this case and Dr. Artz stated that she knows this physician, but it would not affect her ability to adjudicate this case.

RESOLUTION: Advisory Letter for failing to perform an adequate work-up on a patient presenting with chronic diarrhea. 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-22-1097A, THOMAS W. SHIELDS, M.D., LIC. #55138

RESOLUTION: Advisory Letter for failing to timely report a misdemeanor charge within ten days as required by law. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

7. MD-22-0528A, JASON C. TANI, M.D., LIC. #24700

Dr. Artz noted that four patients were reviewed, and an advisory letter is being recommended for one of the cases having a complication. The MC stated that this was not a deviation from the standard of care. Dr. Artz further spoke in favor of dismissal since there was no deviation of the standard of care in these four patients that were evaluated.

MOTION: Dr. Artz moved to dismiss.

SECOND: Dr. Bethancourt.

Dr. Figge commented for the record that just because a physician state's they are retiring does not mean that they cannot come back and maintain their license.

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 were absent: Ms. Bain.

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

MOTION PASSED.

8. MD-22-1045A, NICHOLAS K. BUJAK, M.D., LIC. #40492

RESOLUTION: Advisory Letter for inappropriately attempting to perform a vacuum extraction, for performing an unnecessary amniotomy, and for inadequate 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.

9. MD-22-0256A, JAY P. KLARNET, M.D., LIC. #47595

Counsel Rachael Fornof addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Advisory Letter for prescribing a medication associated with significant risks of complications prior to obtaining proof of the suspected diagnosis. 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.

10. MD-22-0215A, ADWOA S. OPOKU-BOATENG, M.D., LIC. #63136

RESOLUTION: Advisory Letter for failing to remove a foreign body intraoperatively requiring subsequent removal and for 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.

11. MD-22-0170A, JAY P. KLARNET, M.D., LIC. #47595

Counsel Rachael Fornof addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Advisory Letter for prescribing medications without an established physician-patient relationship and for not maintaining any 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.

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

1. MD-21-0844A, MICHAEL D. NUNEZ, M.D., LIC. #26916

Ms. Jones stated that she knows the physician but it would not affect her ability to adjudicate the case.

Dr. Gillard agreed with the advisory letter but opined that the CME for coding is not needed since it may be done by an employee or company.

Dr. Moschonas commented that he would have penalized the physician for not coding appropriately given how he coded the physical examination was confusing.

MOTION: Dr. Gillard moved to Issue an Advisory Letter for failure to follow-up on a patient's complaints and discuss tests results and for inadequate documentation to support the billing charges. 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.

Dr Beyer spoke against the motion given the thin records and opined that you cannot assume that the physician is blameless regarding coding. Dr. Beyer opined that CME is appropriate. Dr. Figge opined that the problem is the documenting for appropriate levels and that the physician may or may not be responsible for billing. Dr. Figge noted that SIRC recommended three hours of CME for billing.

Board staff clarified that SIRC did recommend CME for billing but given that the advisory letter language does include inadequate documentation the Board can include CME for records. The basis for the documentation concerns being the fact that the documentation did not support the level that he coded for.

Ms. Smith confirmed that the Board could suggest different CME and provided proposed CME language for the Board to consider.

Dr. Gillard opined that CME is not needed as the physician has gotten the message on documentation and that not all physicians are aware of the coding. Dr. Krahn spoke against the motion and opined that it is very important for a physician to be aware of their billing and that it is not acceptable for billing to be done without the practice or physician having some influence. Dr. Krahn commented that billing and documentation are closely tied and opined that CME would be beneficial.

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

VOTE: 5-yay, 6-nay, 0-abstain, 0-recuse, 1-absent.

MOTION FAILED.

MOTION: Dr. Krahn moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failure to follow-up on a patient's complaints and discuss tests results and for inadequate documentation to support the billing charges. 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 6 hours of Board staff pre-approved Category I CME in medical recordkeeping and proper billing practices. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Oswald.

Dr. Beyer supports the motion for CME for both records and coding and opined that the records will translate to better patient care.

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

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

MOTION PASSED.

2. MD-22-0182A, SCOTT P. M. CONLEY, M.D., LIC. #43706

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

Dr. Beyer noted that the circumstances that led to this incident were unique. Dr. Beyer opined that an advisory letter is appropriate but opined that the ethics CME may not be appropriate since this was a one-time circumstance.

MOTION: Dr. Beyer moved to Issue an Advisory Letter for providing false information to the Board and for inappropriately making dosing adjustments to an individual with no established physician-patient relationship. 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. Artz.

Ms. Jones opined that this was a difficult situation. Dr. Beyer stated that the physician clearly crossed the line but the advisory letter is sufficient. Dr. Krahn agreed that this was an inappropriate action however, it was such a unique case that this does not rise to the level of an advisory letter. Dr. Krahn found the physician's presentation today to be mitigating and that this will not happen again. Dr. Krahn opined that this should be dismissed. Dr. Bethancourt spoke against the motion as well and noted that caring for a family member in this situation and having medical knowledge would be very difficult and this physician was trying to do the right thing for his family member. Ms. Jones withdrew her second and noted that although this was inappropriate and there was no actual visitation by the cardiologist. Dr. Farmer agreed with Board members and spoke in favor of dismissal given the circumstances. Dr. Beyer opined that it is important for physicians to know what they should and should not do and that this was more intervention than a family member should be doing. Dr. Artz agreed that it's one thing to be involved and ask questions but to start changing orders was crossing the line. Dr. Krahn commented that this was a case where cardiology was not following closely and given the unusual circumstances this is not setting a precedent. Ms. Jones noted that she could not find where the cardiologist saw the patient and given the physician felt he was in a bind he did the best he could for a seriously ill family member. Dr. Farmer noted that Arizona law allows a physician to treat a family member, but you need to conduct a physical and create a record which the physician didn't do. Dr. Figge noted that if he had created a record the Board would not be having this discussion. Dr. Figge opined that given the uniqueness of this case tracking is not needed and an advisory letter would not protect the public.

VOTE: The following Board members voted in favor of the motion: Dr. Artz and Dr. Beyer. The following Board members voted against the motion: Dr. Farmer, Dr.

Gillard, Dr. Krahn, Dr. Bethancourt, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas and Ms. Oswald. The following Board members were absent: Ms. Bain.
VOTE: 2-yay, 9-nay, 0-abstain, 0-recuse, 1-absent.
MOTION FAILED.

MOTION: Dr. Krahn moved to dismiss.

SECOND: Dr. Bethancourt.

VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Krahn, Dr. Gillard, 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 were absent: Ms. Bain.

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

MOTION PASSED.

N. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

1. MD-20-0029A, MICHAEL L. HAM, M.D., LIC. #26357

Counsel Cynthia Patane addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

MOTION: Dr. Beyer moved to uphold the Executive Director dismissal.

SECOND: Dr. Krahn.

Dr. Gillard inquired about the physician's prior Practice Restriction.

Board staff confirmed that the practice restriction remains in effect.

Dr. Gillard noted that the MC's findings and noted that the MC also stated that it is impossible to tell if there was negligence during the surgery. The patient ended up being blind in one eye. Dr. Gillard opined that this needs to be looked at again.

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

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

MOTION PASSED.

O. 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.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

1. MD-23-0069A, DANIELLE D. P. ROSENKRANS, M.D., LIC. #N/A

RESOLUTION: License granted.

2. MD-23-0356A, SOLOMON NOGUERA, M.D., LIC. #N/A

RESOLUTION: License granted.

3. MD-22-1042A, GEORGE G. WAGNER, M.D., LIC. #N/A

RESOLUTION: License granted.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION

1. MD-22-0721A, FLORA KATSNELSON, M.D., LIC. #64622

Dr. Gillard noted that there was a problem with the SPEX test but it is not required by the Board.

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

SECOND: Dr. Beyer.

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

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

MOTION PASSED.

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

1. MD-22-1136A, JENNIFER M. RAFFEL, M.D., LIC. #N/A

Dr. Gillard noted that a waiver is needed for employment verification of a closed practice and the recommendation for an advisory letter is for practicing on an expired license.

MOTION: Dr. Gillard moved to grant waiver of employment verification and to issue an 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. Krahn.

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

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

MOTION PASSED.

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

OTHER BUSINESS

P. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-21-0823A, CONRAD D. BALLECEER, M.D., LIC. #37738

Dr. Gillard opined that the physician has completed the requirements of the Order.

MOTION: Dr. Gillard moved to grant termination of the August 5, 2022 Board Order.

SECOND: Ms. Oswald.

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

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

MOTION PASSED.

2. THIS CASE BEEN PULLED FROM THE AGENDA.

3. MD-16-1121A, KIUP A. KIM, M.D., LIC. #42708

Dr. Gillard noted that there was a Decree of Censure and Probation for issues regarding bad chart reviews. Dr. Gillard commented that there is a second probation so this first probation can be terminated.

Ms. Smith informed the Board that there was a slight administrative error. This was a 2016 order that was superseded by a 2019 order and although there was a timely request for termination it was not agendized,

MOTION: Dr. Gillard moved to grant termination of the December 7, 2017 Board Order.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

Q. GENERAL CALL TO THE PUBLIC

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

R. ADJOURNMENT

MOTION: Ms. Jones moved to adjourn the meeting.

SECOND: Dr. Krahn.

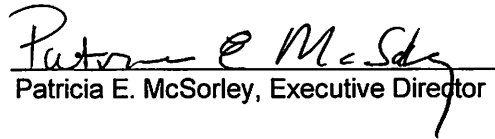
VOTE: The following Board members voted in favor of the motion: Dr. Farmer, Dr. Gillard, Dr. Krahn, Dr. Artz, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones, Dr. Moschonas, and Ms. Oswald. The following Board members were absent: Ms. Bain.

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

MOTION PASSED.

The meeting adjourned at 8:12 p.m.




Patricia E. McSorley, Executive Director