



Arizona Medical Board

1740 W. Adams St, Suite 4000 • Phoenix, Arizona 85007

Home Page: <http://www.azmd.gov>

Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

DRAFT MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Wednesday, January 3, 2024

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 5:01 p.m.

B. ROLL CALL

The following Board members were present: 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.

ALSO PRESENT

The following Board staff participated in the meeting: Patricia McSorley, Executive Director; Claude Deschamps, M.D., Chief Medical Consultant; Raquel Rivera, Investigations Manager; and 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

- Updates on Board Processes for Licensure of International Medical School Graduates and the Emergence of New Pathways in Tennessee

Ms. McSorley noted that the Board did license someone who had an ACGMEI status, which was unique since she had some US residency training. Tennessee was one of the

first states to adopt a provision that would allow for international medical school graduates to be licensed without any us residency training. This will be looked at again this legislative session. Ms. McSorley requested permission from the Board to inform the legislature that the Board already has the authority and we don't need a new statute regarding this.

Dr. Farmer spoke in favor of calling this to the legislature's attention.

Dr. Bethancourt noted that someone coming from out of the country, even though licensed, would not be reimbursed. There are also cultural issues as well. Dr. Bethancourt volunteered to bring this to legislature's attention.

- Board Member Education in 2024

Ms. McSorley stated that staff will continue to provide board member training in the future.

- Appointment of Raquel Rivera to Special Assignment as Interim Deputy Director

Ms. McSorley requested to move Ms. Rivera to special assignment as the Interim Deputy Director.

Dr. Farmer spoke in supportive of the request and expressed delight that Ms. Rivera is willing to take the position.

Ms. McSorley noted that when she is unavailable Ms. Rivera would be delegated the Executive Director's duties in her absence.

- Update on Collaborative Practice by Physician Assistants

Ms. McSorley informed the Board that there are a large number of applicants seeking this distinction and confirmed that the Board does not need to take action on this.

E. CHAIR'S REPORT

No report was given.

F. LEGAL ADVISOR'S REPORT

No report was given.

G. BOARD MEMBER TRAINING ON INVESTIGATION OF SEXUAL MISCONDUCT COMPLAINTS

Ms. Rivera provided board member training on the Board's investigation process of sexual misconduct complaints.

Dr. Krahn commented that when data is detected that points toward a psychosexual problem it is very helpful because it can then lead to treatment or to necessary steps. Dr. Krahn found it concerning when they are negative cause it shows that the physician lacks insight and is good at denying things.

Ms. Rivera informed the Board that the most common way that these type of complaints are initiated are due to patient or family member complaints but can be received in various ways. Ms. Rivera confirmed that lie detectors are not admissible in court but are a tool available to investigators. Board staff does not typically order them on their own however if a physician is sent for a psychosexual evaluation it is standard to include the lie detector test.

Ms. Jones commented that given the nature of these allegations and today's climate it would be prudent for physicians to utilize a chaperone or have another person present for examinations.

H. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

R. Screven Farmer, M.D., Chair

Dr. Farmer inquired about the Board members' preference regarding the early start versus during the meeting training. Board members agreed with the early start prior to scheduled meetings. Dr. Moschonas spoke in favor of public training so that both the physicians and the public can learn.

I. APPROVAL OF MINUTES

- September 6, 2023 Special Meeting
- September 6, 2023 Special Teleconference Meeting; including Executive Session

Dr. Gillard noted a typo under item O for Dr. Nielson.

MOTION: Dr. Gillard moved to approve the September 6, 2023 Special Meeting and the September 6, 2023 Special Teleconference Meeting; including Executive Session.

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 member was absent: Ms. Bain.

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

MOTION PASSED.

LEGAL MATTERS

J. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-22-0326A, MD-22-0708A, MD-22-0896A, MD-23-0529A, CHARLES E. KELLY II, M.D., LIC. #42668

Dr. Kelly participated virtually with counsel Sara Stark.

Board staff summarized that Dr. Kelly's license is subject to an Interim Practice Restriction (ICA) in Cases MD-20-0379A and MD-20-0897A which became effective February 12, 2021. SIRC recommended a Letter of Reprimand and 5 year Probation with Practice Restriction requiring a chaperone and a practice monitor. Dr. Kelly elected to proceed with Formal Hearing for the two cases. Cases MD-22-0708A, MD-22-0896A, and MD-23-0529A were initiated to examine Dr. Kelly's compliance with the ICA. In each case Board staff identified deficiencies in chaperone attendance, documentation and inaccurate and inconsistent documentation of chaperones in comparison of the chaperone logs and medical records. Case MD-22-0326A was initiated after patient CB filed a complaint wherein she alleged that Dr. Kelly failed to diagnose gallstones and conducted inappropriate and unnecessary breast examinations on three appointments. The Board's Medical Consultant ("MC") reviewed the case and determined that Dr. Kelly deviated from the standard of care by failing to obtain an abdominal ultrasound to identify the cause of acute pancreatitis in an elderly patient with no known risk factors and for inappropriately allowing an uncertified registered nurse to administer propofol and failing to monitor the patient while sedated. Board staff determined that female chaperones were not present for the entirety of the examinations of CB. SIRC stated that Dr. Kelly has had numerous opportunities and ample time to comply with the Board's ICA, while assisted by legal counsel and SIRC remained concerned regarding the repetitive violations of the Board's ICA as well as receipt of an additional complaint alleging inappropriate examination after review of three similar complaints. SIRC noted that in addition to the chaperone and boundary issues, the Board is now aware of deviations from the 3 standard of care and failing to ensure appropriately trained anesthesia staff is present for patients. Therefore, SIRC stated that based on the constellation of deviations and lack of compliance, revocation is warranted. SIRC further recommended that Dr. Kelly be offered an Interim Consent Agreement for a full Practice Restriction while the matter is pending Formal Hearing for revocation. On December 22, 2023, Dr. Kelly was

offered the ICA for full Practice Restriction and Dr. Kelly's attorney informed Board staff that Dr. Kelly would not be signing the ICA and would move forward with summary action.

Ms. Stark argued on behalf of Dr. Kelly, stating that this is not an emergency and does not meet the Board's standard for summary action. Ms. Stark stated that Dr. Kelly entered into the ICA about three years ago for allegations of sexual misconduct that he denies and has since been waiting to prove to a judge that these allegations are false. Ms. Stark stated that the request for a formal hearing in these cases has been pending for approximately 2 years, and argued that there was no credible evidence corroborating CB's allegations of sexual assault. Ms. Stark argued that what distinguishes this from a typical, he said/she said type of case is that Dr. Kelly's version of events is corroborated by multiple other witnesses who were there. In addition, a majority of the independent evaluators and or medical consultants who review these cases have expressed doubt about the alleged sexual misconduct having occurred. In the case of patient RA, the Board's outside medical consultant expressed concerns with patient's testimony being taken at face value, and her ability to accurately recall events due to her sedation at the time. In addition, he found no deviation from the standard of care in Dr. Kelly's medical care and stated that it would be hard to imagine the sexual misconduct ever happened, noting the significant lack of corroborating evidence from other individuals that were present in the room at the time. Affidavits provided by Staff in the room at the time denied that these patients' allegations occurred. Ms. Stark stated that CW doesn't need to be discussed because she claimed that Dr. Kelly raped her during a colonoscopy which he never performed. Patient CP alleged that Dr. Kelly's private area brushed up against her inappropriately. However, her husband was sitting in the room, and did not witness the alleged incident occur. Regarding patient LC, there was a chaperone in the room before chaperones were being required by the Board in connection with the ICA. The chaperone signed an affidavit that she did not witness Dr. Kelly touching this patient inappropriately. Regarding patient CB, Ms. Stark argued that the Board approved chaperones stated that they were present during the examinations and denied that breast examinations occurred. Ms. Stark noted that Dr. Kelly has completed 3 different psychosexual evaluations, one of which was from a board ordered evaluator. None of the evaluators found any psychiatric disorder, psychological issues, sexual deviancy, or any indication that Dr. Kelly is a sexual predator. Ms. Stark noted that they have been submitting chaperon logs to the Board monthly for over a year and a half now, and have complied with multiple requests for chart reviews since the ICA has been in effect. With regard to the specific deficiencies cited by board Staff, supplemental responses were provided. Ms. Stark stated that the ICA has been in effect for about three years now and summary action is not warranted.

Dr. Kelly stated that he is innocent of any misconduct and that he has always been compliant with the ICA. Dr. Kelly stated that he hopes to continue to care for patients in the area of Mohave County.

During deliberation, Dr. Gillard noted that there is a formal hearing pending where witnesses will be involved. Dr. Gillard opined that given all the complications of this case a formal hearing is warranted.

MOTION: Dr. Gillard moved to offer Dr. Kelly an Interim Consent Agreement for Practice Restriction as recommended by SIRC. If not signed by 5:00 p.m. tomorrow, summarily suspend Dr. Kelly from practicing medicine in the State of Arizona pending the outcome of a Formal Hearing based on a finding that the public health, safety and welfare imperatively requires emergency action.

SECOND: Dr. Bethancourt.

Dr. Krahn opined that this is clearly a complicated case and noted that now there is a concern regarding the training and credentials of the anesthesia provider. Dr. Krahn spoke in favor of the motion. Dr. Farmer agreed that there has been plenty of opportunity for these situations to be avoided and that this matter should proceed with formal hearing.

Ms. Smith informed the Board that there is not a date set at this time for the formal hearing as it was pending the outcome of these cases. Ms. Smith also confirmed that if restricted or suspended, the physician would not be able to practice pending the formal hearing.

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.

2. MD-23-0377A, MARCO B. SAUCEDO, M.D., LIC. #27068

Dr. Saucedo participated virtually with counsel Michele Thompson. Dr. Artz stated that she knew the physician but that it would not affect her ability to adjudicate the case.

Board staff summarized that this case was initiated after receipt of a complaint from a Community Health Center in Nogales, Arizona reporting that patient MV had reported to their staff that she was assaulted by Dr. Saucedo in December of 2022. Specifically MV alleged that Dr. Saucedo caressed her body and used force to bend her over an exam table. It was noted that a police report had been filed; therefore Board Staff obtained records from the Nogales Police Department, which also included an April 2018 report from another female patient, KL, who alleged that doctor saw inappropriately touched her during an exam. In his responses Dr. Saucedo denied both patients' allegations. Board staff interviewed MB and KL. Both patients reported that Dr. Saucedo did conduct an examination with the chaperone present during their visits; however, the alleged inappropriate conduct occurred after the chaperone had left the room, and they were left alone with Dr. Saucedo. During Board staff's interview with Dr. Saucedo, he reported that he had no independent recollection of MV or KL and maintained that their allegations were false. Based on the information obtained thus far during the investigation, Board staff issued an interim order for Dr. Saucedo to complete a psychosexual evaluation, and also offered an ICA for Practice Restriction on January 2, 2024. Dr. Saucedo's attorney reported that he had enrolled in the psychosexual evaluation with the first portion starting on January 2, 2024 and the second portion scheduled for January 11, 2024. The attorney also reported that Dr. Saucedo would not be signing the ICA, citing that it would jeopardize the health and safety of pregnant patients in Nogales, and requested that he'd be allowed to practice while awaiting the results of the evaluation.

Ms. Thompson provided argument on behalf of Dr. Saucedo, and stated that Dr. Saucedo denies the allegations. Ms. Thompson stated that suspending his license would affect not only his livelihood and reputation, but also would interfere with the medical care of Nogales residents. Dr. Saucedo has fully cooperated with the Board's investigation, including paying over \$9,000 for an evaluation based on the Board's order and has already completed part of that evaluation. The last portion is scheduled on January 11th. Ms. Thompson argued that this does not meet the requirement for summary action and noted that the Board complaint was filed in April, 2023 and after providing an initial response the physician wasn't asked in for an interview until December. It was not until after that two hour interview that we first learned that Board Staff wanted Dr. Saucedo to enter into a consent agreement to stop practicing until an evaluation was completed. Ms. Thompson stated had they been aware of the requirement they would have completed it prior to today's meeting. Ms. Thompson summarized that Dr. Saucedo has not been charged and that the two complaints are five years apart. Ms. Thompson requested that the Board wait until next week, when the evaluation is complete before making a decision. Ms. Thompson reported that he has changed his policy to require that a third person be present anytime he is behind closed doors with a female patient. This will serve the same goal that the Board has here today, and that is to protect the public. Ms. Thompson stated that this is a he said/she said situation and that the physician has made

drastic efforts to get the Board's evaluation set up over the Christmas holidays so that he can prove to this board that he is safe to practice.

Regarding Ms. Thompson's comments of the delay in the investigation, Board staff explained that there were delays in reaching the patients and staff obtained assistance from Nogales Police Department. Board staff further explained that the complainants were interviewed first followed by the physician. Board staff noted that she could not send Dr. Saucedo for an evaluation without knowing the allegations and how Dr. Saucedo responded to them in his staff interview first.

During deliberations, Dr. Gillard noted that this came to the Board for summary suspension due to the physician not signing the ICA and completion of the evaluation. Dr. Gillard suggested tabling this matter pending the completion of the evaluation. Dr. Beyer agreed that there will be more information available in a short time and that he would feel more comfortable taking action at that time. Dr. Beyer commented that the Board needs to be certain before taking action.

Ms. Jones inquired about the disposition of the police investigation.

Board staff stated that she has not been informed that Dr. Saucedo has been charged and is unaware if there is an active investigation.

Dr. Krahn expressed concern that it seems based on the patients' descriptions that the chaperone leaves the room before the patient does. Dr. Krahn stated that the chaperones must be in the room continuously with the patient during all portions of the visit to protect the patient while the Board completes the investigation and inquired how we can put this in place.

Ms. Smith informed the Board of the various options available and noted that one of those options is to offer an ICA requiring a chaperone in the treatment of female patients in all settings.

MOTION: Dr. Krahn moved to offer Dr. Saucedo an Interim Consent Agreement for Practice Restriction requiring the use of a chaperone at all times when treating female patients. If not signed by 5:00 p.m. tomorrow, summarily suspend Dr. Saucedo from practicing medicine in the State of Arizona pending the outcome of a Formal Hearing based on a finding that the public health, safety and welfare imperatively requires emergency action.

SECOND: Ms. Jones.

Dr. Gillard spoke against the motion and opined that the Board needs to obtain information regarding the police investigation and to obtain the evaluation results. Dr. Gillard spoke in favor of tabling this matter until all information is obtained and opined the physician has received the message regarding the chaperone. Dr. Artz spoke against the motion as the Board must be sure before taking action.

Ms. Smith confirmed that an interim practice restriction is required to be reported to the NPDB.

Dr. Moschonas noted that the physician has two chaperones and that this is at a higher level of concern for the Board. Dr. Moschonas spoke in favor of tabling until all information is received. Ms. Oswald inquired about when the Board would have a completion of the investigation.

Board staff explained that completion of the investigation depends on the outcome of the evaluation. It is multidisciplinary and can take up to 30-60 days for Board staff to receive the report. Depending on the recommendations and if the evaluator feels he is unsafe to

practice an ICA for practice restriction or other actions are contingent upon the recommendations of the evaluating facility.

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

VOTE: 3-yay, 8-nay, 0-abstain, 0-recuse, 1-absent.

MOTION FAILED.

MOTION: Dr. Gillard moved to table this matter to allow staff to complete the investigation.

SECOND: Dr. Artz.

Dr. Farmer commented that there is protection for the public given the discussion and that chaperones are in place.

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

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

MOTION PASSED.

CONSENT AGENDA

K. CASES RECOMMENDED FOR DISMISSAL

MOTION: Ms. Jones moved to dismiss items number 2 and 3.

SECOND: Dr. Artz.

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-23-0456A, NIDHI A. GUPTA, M.D., LIC. #65651

Dr. Beyer opined that this warrants an Advisory Letter. This was a case of cauda equina syndrome not being identified on the CT and there were no obvious signs of the syndrome on the CT scan but there were some disc abnormalities that were not noted in the report. While it is true that the physician did not have enough to make the diagnosis in the beginning there was enough to note an abnormality for further investigation. Dr. Bethancourt disagreed and noted that the physician obtained the CT scan which didn't show spinal stenosis due to the body habitus. The patient went on to see chiropractic care instead of medical care. Dr. Bethancourt agreed with dismissal. Dr. Figge agreed that there was indication that this wasn't a great study and it was recommended to obtain an MRI and further work up. The patient had options and it was not the fault of the physician.

MOTION: Dr. Bethancourt moved to dismiss.

SECOND: Dr. Figge.

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

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

MOTION PASSED.

2. MD-21-1153A, HASSAN M. KHAN, M.D., LIC. #40873

Dr. Khan and counsel Diana Heilgeson addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: DISMISS.

3. MD-23-0339A, DAVID E. BANK, M.D., LIC. #29385

RESOLUTION: DISMISS.

L. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Ms. Oswald moved to issue an Advisory Letter in item numbers 2-8, 10 and 11.

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 member was absent: Ms. Bain.

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

MOTION PASSED.

1. MD-21-0867A, DAVID M. MEDINA, M.D., LIC. #21441

Counsel David Williams addressed the Board during the Public Statements portion of the meeting on behalf of the physician. V.C. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard noted this was a tragic outcome and that the MC felt that the feeds were too large and that there was failure to pass the catheter beyond the branches of the spinal cord. Dr. Gillard commented that although this was a very sad outcome this was completely evaluated by the MC. Dr. Gillard inquired if this was an experimental procedure or was this considered proper therapy. Dr. Farmer expressed concern regarding the technical issues of doing the procedure and whether this merited more than an Advisory Letter. The MC mentioned that the technique of the procedure was unconventional. Dr. Farmer questioned whether there was sufficient informed consent by the patient that this was an unconventional procedure. Dr. Farmer opined a second look might be needed. Dr. Bethancourt commented that after hearing the complainant's comments that the patient was sold a benefit of goods and that the patient was not aware of the downside.

MOTION: Dr. Gillard moved to return for further investigation for SIRC's consideration.

SECOND: Dr. Bethancourt.

Dr. Gillard requested that SIRC consider having another MC look at the mode of therapy. Dr. Farmer further requested that SIRC look at how this was documented and consented to. Dr. Beyer commented that the choice of the treatment doesn't sound unusual but is curious as to how this physician is presenting this to patients. Dr. Krahn opined that having a second MC review this is appropriate.

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.

2. MD-23-0075A, NITIN C. PATEL, M.D., LIC. #24382

RESOLUTION: Advisory Letter for failing to timely notify the patient of test results. 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-22-0389A, PAULA J. MARCHIONDA, M.D., LIC. #63381

RESOLUTION: Advisory Letter for action taken by the Nebraska Board of Medicine and Surgery and for failing to timely update her practice address. 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.

4. MD-23-0662A, ADAM R. KOELSCH, M.D., LIC. #31945

RESOLUTION: Advisory Letter for inappropriate management of anxiety with long-term prescribing of alprazolam. 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.

5. MD-22-0627A, ETHAN M. PHILPOTT, M.D., LIC. #51541

Counsel Tammy Thibodeau addressed the Board during the Public Statements portion of the meeting on behalf of the physician. M.S. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Advisory Letter for failing to remove a foreign body in the context of a possible infection. 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-22-1120A, MATTHEW L. I. M. HABIB, M.D., LIC. #62919

RESOLUTION: Advisory Letter for falsely advertising as a Board-certified psychiatrist. 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.

7. MD-22-0729A, MARIA M. GONZALEZ-LANDESTOY, M.D., LIC. #29719

RESOLUTION: Advisory Letter for non-compliance with the CSPMP mandatory use requirements. 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-22-0834A, TERESA L. BUOT-SMITH, M.D., LIC. #22053

Dr. Buot-Smith addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Advisory Letter for failing to comply with the CSPMP mandatory use requirements. 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-23-0457A, TORRE H. RHOADES, M.D., LIC. #43402

Dr. Bethancourt commented that this was a case where a staff member made a mistake, and the physician caught it and corrected it immediately. Dr. Bethancourt opined that this physician met his obligation.

MOTION: Dr. Bethancourt moved to dismiss.

SECOND: Dr. Moschonas.

Dr. Gillard commented that the physician caught the error and there was a good outcome. Ms. Jones noted that there was an eight day delay and the physician apologized. This was an administrative error and the physician had a discussion with the medical assistant on how to resolve this.

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.

10. MD-23-0370A, ELIZABETH A. TOURVILLE, M.D., LIC. #61037

RESOLUTION: Advisory Letter for wrong site surgery. 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-23-0450A, NEAL H. S. CABALUNA, M.D., LIC. #50274

RESOLUTION: Advisory Letter for practicing with 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.

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

MOTION: Dr. Gillard moved to issue an Advisory Letter and CME Order in item numbers 1, 2, 4, 5, 6 and 8.

SECOND: Dr. Moschonas.

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(Dr. Artz recused from #6)-recuse, 1-absent.

MOTION PASSED.

1. MD-22-0106A, ROBERT L. APTER, M.D., LIC. #44057

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

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for prescribing medications without an established physician-patient relationship and for failing to produce and maintain 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. Within six months, complete CPEP's ProBE course in ethics. The licensee shall obtain an unconditional or conditionally passing grade. The CME hours shall be in addition to the hours required for license renewal.

2. MD-23-0371A, LYDIA G. EHLENBERGER, M.D., LIC. #29643

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for providing treatment without an established physician-patient relationship, providing treatment without written consent, 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 CPEP's ProBE course in ethics. The CME hours shall be in addition to the hours required for license renewal. The licensee shall obtain an unconditional or conditionally passing grade.

3. MD-22-1007A, HARISH NANDIPATI, M.D., LIC. #46249

Dr. Krahn suggested dismissal as this case was referred to the Board from the pharmacy board for failing to comply with the CSPMP. This physician primarily works in a rehab facility. The issue was for inadequate medical records but was not the original reason for the complaint. Dr. Krahn opined that the physician understands the CSPMP requirements now and opined that this may not rise to the level of an advisory letter. Dr. Gillard spoke in favor of an advisory letter for tracking purposes but opined CME is not going to help. Dr. Beyer commented that it is nice to think the physician has learned from the complaint but the Board does not know that for sure and opined that the CME is appropriate given the quality of the records.

MOTION: Dr. Gillard moved to issue an Advisory Letter for inappropriate controlled substance prescribing. 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. Figge.

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

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

MOTION PASSED.

4. MD-22-0304A, KAMEL M. A. SADEK, M.D., LIC. #28344

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

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for failing to obtain routine laboratory testing and 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.

5. MD-22-0855A, JOSEPH D. PEGGS, M.D., LIC. #40814

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for failure to perform a complete work-up of radicular chest pain and consider other reasonable diagnoses, 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 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-22-0938A, PABLO A. PRICHARD, M.D., LIC. #34430

Counsel Callie Maxwell addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Counsel Ronda Leso and C.M. addressed the Board during the Public Statements portion of the meeting. Dr. Artz recused from this case.

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for inadequate informed consent for liposuction and 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. 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.

7. MD-22-0483A, ERIN A. O'SULLIVAN, M.D., LIC. #24088

Dr. O'Sullivan and counsel Andrew Plattner addressed the Board during the Public Statements portion of the meeting.

Dr. Bethancourt stated that he did not disagree with issuing the Advisory Letter and CME but noted that the A.R.S. § 32-1401(27)(aa) and A.R.S. § 32-1401(27)(tt) violations cannot count if they have not established a patient doctor relationship.

Ms. Smith explained that there are two pieces to the statute, in this case it's for prescribing without an examination.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter failing to maintain adequate 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.

Ms. Smith clarified that the physician admitted to engaging in the relationship.

Dr. Beyer commented that without the documentation the Board has to assume the examination was not done and opined that the SIRC recommendation is appropriate.

MOTION DIED DUE TO LACK OF SECOND.

Dr. Gillard noted that the complainant was a patient and was prescribed medications without the records. Dr. Gillard spoke in favor an advisory letter for failing to maintain the records and the A.R.S. § 32-1401(27)(u) violation but agreed with dropping the A.R.S. § 32-1401(27)(aa) violation.

Ms. Smith clarified that the physician self-reported that she engaged in a romantic relationship with a patient prior to the expiration of the six-month period and that she prescribed medication without an examination. This established the A.R.S. § 32-1401(27)(aa),(tt) and (e) violations. The A.R.S. § 32-1401(27)(u) violation was not noticed in this case and if the Board would like to issue an Advisory Letter for this violation the case would need to go back to investigations to notice the physician so that she can provide a response.

MOTION: Dr. Gillard moved to issue an Advisory Letter failing to maintain adequate 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. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Bethancourt

Dr. Figge noted that the recommended CME was for PRoBE in ethics, and the motion replaced this recommendation with a medical recordkeeping course. Dr. Figge commented that CME for records is to learn how to have complete records not that she wrote a prescription for a friend and didn't document an examination.

Board staff clarified that the PRoBE course is an ethical remediation course that addresses physicians treating friends or family and don't document the treatment. Board staff explained that although the physician is an OBGYN, he became a patient when she prescribed the prescription. That is why the three violations were cited. Board staff stated that the PRoBE course will address the ethical issue in this case.

Dr. Farmer stated that performing a history and physical and creating a record is required. Dr. Beyer opined that SIRC got the violations and proposed remedy right. Dr. Beyer opined that the physician will do well in the self-reflection and essay and spoke against the motion. Dr. Gillard commented that this has been mitigated by the physician's self-report and the issue is that the records are inadequate. Ms. Oswald spoke against the motion and noted that the physician's comments today were to clear the air regarding the relationship and she is willing to comply with the recommendation. Ms. Jones spoke against the motion and agreed that the reason for PRoBE is since she was prescribing without keeping a medical record.

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

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

MOTION FAILED.

Board staff explained that CME recommendation depend on the circumstances of the case for example staff would take into account the duration of prescribing, the relationship with the individual and whether there were records or not.

Dr. Figge spoke in favor of issuing the advisory letter without the CME and opined that the physician has learned from this and that CME is not going to aid anything in this case.

MOTION: Dr. Figge moved to issue an Advisory Letter for failing to wait six months to engage in a relationship with a patient and for failing to maintain adequate 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: 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 member was absent: Ms. Bain.

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

MOTION PASSED.

8. MD-23-0305A, MICHEAL P. ROSS, M.D., LIC. #26307

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for non-compliance with the 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. Within six months, complete the Arizona Board of Pharmacy Webinar: Driving Safer Prescribing: Optimizing PMP Utilization in Practice. The CME hours shall be in addition to the hours required for license renewal.

N. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Figge moved to uphold the Executive Director Dismissal in item numbers 1-3, 5 and 6.

SECOND: Dr. Moschonas.

Dr. Krahn noted for the record that the Board has reviewed the information in these case and there are reasons why these do not rise to the level of an advisory letter or discipline.

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-23-0647A, HAL B. WILSON, M.D., LIC. #22876

RESOLUTION: Dismissal upheld.

2. MD-22-1182A, DANIEL D. GALAT, M.D., LIC. #40619

RESOLUTION: Dismissal upheld.

3. MD-23-0144A, KAREEM N. RAAD, M.D., LIC. #58437

Counsel Mandi Karvis addressed the Board during the Public Statements portion of the meeting on behalf of the physician. T.S. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

4. MD-23-0199A, KRANTHI ANDHAVARAPU, M.D., LIC. #46559

T.S. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard agreed that something was missed however it seems like there was multiple examinations and time to come to the problem. Dr. Gillard recommended dismissal. Dr. Bethancourt noted that there was a splenic injury and a ground floor fall with a complaint of right shoulder pain. Dr. Bethancourt commented that it is rare to rupture a spleen from that fall and is understandable how it's missed. Dr. Bethancourt further noted that they didn't let it go and kept checking. Dr. Bethancourt agreed with the dismissal. Dr. Krahn commented that it is not clear how closely they were looking at the lab values and expressed concern that they didn't do a more aggressive evaluation. Dr. Gillard agreed that there was a bad outcome and that it was confusing.

MOTION: Dr. Gillard moved to uphold the dismissal.

SECOND: Dr. Bethancourt.

Dr. Artz noted that there wasn't too much of a delay when looking at the hemoglobin and opined that this was a good find on the persistence of the physician, although unfortunate outcome.

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-23-0044A, MINDY T. TABER, M.D., LIC. #32919

K.W. and S.M. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

6. MD-22-0764A, ALI A. BAAJ, M.D., LIC. #40478

Counsel Robin Burges addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

O. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Krahn moved to accept the consent agreement in item numbers 1-3.

SECOND: Dr. Artz.

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-21-0110A, MD-20-0955A, MD-20-0249A, RAGHAV MOHINDRA, M.D., LIC. #41238
J.S. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Consent Agreement for Letter of Reprimand and Two Year Probation. Within six months, complete PBI's Medical Recordkeeping Course (MR-17). PBI shall provide an AIR letter to the Board upon completion of the CME coursework. The CME hours shall be in addition to the hours required for license renewal. Within thirty days of completing the Board ordered CME, the physician shall enroll into PBI's post-course maintenance and accountability seminars (MAS-12). Dr. Mohindra shall complete 50 hours of CME in areas recommended by the Facility for each year of probation, and other educational recommendations made by the facility. Dr. Mohindra shall be required to utilize a Board-approved practice monitor as recommended by the Facility to conduct mentoring and retrospective chart reviews at his expense and for the duration of probation. Dr. Mohindra shall cause the practice monitor to submit quarterly reports to the Board, at his expense. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. The request to terminate Probation shall be accompanied by documentation from the practice monitor supporting the termination of Probation.

2. MD-23-1013A, STEVEN W. POWELL, M.D., LIC. #60089

RESOLUTION: Consent Agreement for Surrender of License.

3. MD-23-0676A, KASSANDRA J. KOSINSKI ROMERO, M.D., LIC. #54068
Dr. Kosinski Romero addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Consent Agreement for License Reactivation and Letter of Reprimand with Minimum Five Year Probation to participate in PHP with terms consistent with the PHP Contractor's recommendations. The physician shall not petition the Board to request termination of the Probation until after five years from the effective date of the Order. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Kosinski's request for termination shall be accompanied by a recommendation from her PHP Contractor stating that monitoring is no longer required.

P. 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 item numbers 1 and 2.

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 member was absent: Ms. Bain.

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

MOTION PASSED.

1. MD-23-1009A, DAVID A. JONES, M.D., LIC. #N/A

RESOLUTION: License granted.

2. MD-21-0952A, ELIZABETH TRINIDAD, 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-23-0441A, DAVID L. GREENE, M.D., LIC. #N/A

This application has been withdrawn.

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. RAMON L. CARAMPATAN, M.D., LIC. #N/A

Dr. Gillard summarized that Dr. Carampatan has been out of practice for three years and his Board certifications expired in 2014. The physician did have an Arizona license in good standing that expired last year.

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

SECOND: Dr. Bethancourt.

Dr. Krahn expressed concern that the physician has been out of practice, does not have a license in another state, is no longer Board certified and took his FLEX exam in 1991. Dr. Krahn opined that a SPEX exam may be required. Dr. Beyer agreed that is reasonable to require some additional testing. Dr. Gillard opined that three years is not that long out of practice.

Ms. McSorley noted that he allowed his license in 2022 so he would have been doing his CME up until then. Ms. McSorley noted that the Board can offer a probationary license for six months for observation or required that he take the SPEX.

Dr. Gillard noted that the SPEX would require a sponsorship by the Board and is expensive. Dr. Gillard stated that he is comfortable with issuing the license. Dr. Krahn commented that this is the reason the SPEX exam exists, to determine that a physician has the basic knowledge to practice medicine.

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

VOTE: 6-yay, 4-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

iv. **REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE REACTIVATION, OR TAKE OTHER ACTION**

1. MD-23-0804A, DHIREN M. JOSHIPURA, M.D., LIC. #32093

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

Dr. Gillard noted that the physician inactivated his license in 2022 and is requesting reactivation to be a medical director.

MOTION: Dr. Gillard moved to grant reactivation of the license.

SECOND: Dr. Moschonas.

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.

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

OTHER BUSINESS

Q. CONSIDERATION OF REACTIVATION WITH RECOMMENDED DISCIPLINE OR REFERRAL TO FORMAL HEARING

1. MD-23-0573A, KRISTOPHER B. JOHNSON, M.D., LIC. #54195

Dr. Johnson, counsel Flynn Carey and Dr. Lott addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard stated that this was a complicated case and spoke in favor of tabling this matter pending outcome of the criminal investigation. Dr. Gillard further commented that even if you take out the shooting this is someone who relapsed. Dr. Gillard recommended offering a consent agreement for license reactivation with a minimum of 5 years' probation and to protect the public should include a practice restriction until the board hears the final criminal investigation.

Ms. Smith clarified that the motion would be to allow him to reactivate his license, subject to terms and conditions of probation for PHP monitoring and to not make a decision on the incident that gave rise to the criminal charges until the resolution of the criminal case.

Dr. Gillard commented that given there is a felony conviction and the physician's alcohol problem the probation can be re-evaluated after the criminal investigation.

Ms. Smith informed the Board that one of the terms of the consent agreement could be that the board reserves the right to review and re-examine the criminal matter at the time of the criminal case resolves.

MOTION: Dr. Gillard moved to offer a consent agreement for license reactivation with minimum five years' probation to participate in PHP. The consent agreement should contain a term that the Board maintains the right to review the matter once the criminal case is adjudicated.

SECOND: Dr. Figge.

Dr. Farmer opined that Dr. Lott's appearance did the Board a service and has a point that those in the PHP program often have a good prognosis. In regards to the attorney's arguments, Dr. Farmer disagreed with the statement that the Board would set a bad precedent if the license was sent for revocation instead of reinstatement. Dr. Farmer noted that each case is taken on its own merit. The police records described bizarre behavior and questionable judgment and the Board is not required to have a criminal conviction to take action on criminal conduct. Dr. Farmer spoke in favor of rehabilitation but stated that the Board has an obligation to make sure that a physician is safe to the public. Dr. Krahn opined that the physician didn't defend himself by standing at his doorway but walked out of his house into the street and demonstrated aggressive behavior. Dr. Gillard agreed that there have been two strikes and the behavior was while under the influence of alcohol, and these are alcohol related incidents. Dr. Lott spoke in favor of reactivation with the third strike term and probation. Ms. Jones took exception to the attorney's comments regarding who the person turned out to be and that the physician left the house. Dr. Farmer noted that there were two shooting incidents and that the physician went down the block. Dr. Bethancourt commented that there have been multiple issues since 2015 and shooting in a neighborhood was not normal behavior. Dr. Bethancourt expressed concern that this may not be a rehabilitated physician. Dr. Beyer spoke in favor of the motion and noted that the underlying issue is the alcohol use and as long as this physician maintains his sobriety he is not worried about him behaving strangely. Dr. Farmer reiterated that his case is considered on its own merits and is not setting a precedent.

VOTE: The following Board members voted in favor of the motion: Dr. Gillard, Dr. Artz, Dr. Beyer, Ms. Dorrell, Dr. Figge and Dr. Moschonas. The following Board members voted against the motion: Dr. Farmer, Dr. Krahn, Dr. Bethancourt, Ms. Jones and Ms. Oswald. The following Board member was absent: Ms. Bain.
VOTE: 6-yay, 5-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

R. GENERAL CALL TO THE PUBLIC

Ms. Younce addressed the Board during the General Call to the Public regarding sexual misconduct. Dr. Sadek also addressed the Board.

In response to a Board member inquiry regarding procedure, Ms. Smith informed the Board that they can respond to questions raised during the general call to the public by directing Board staff to answer those questions or agendaize them for a future meeting.

Ms. McSorley welcomed the opportunity to speak to Ms. Younce after the meeting.

S. ADJOURNMENT

MOTION: Dr. Bethancourt moved for adjournment.

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 member was absent: Ms. Bain.

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

MOTION PASSED.

The meeting adjourned at 9:14 p.m.



Patricia E. McSorley, Executive Director