



Arizona Medical Board

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

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

DRAFT MINUTES FOR REGULAR SESSION MEETING Held on Friday, April 5, 2024 1740 W. Adams St., Board Room A • Phoenix, Arizona

Board Members

Gary R. Figge, M.D., Chair
Bruce A. Bethancourt, M.D., F.A.C.P., Vice-Chair
Lois E. Krahn, M.D., Secretary
Katie S. Artz, M.D., M.S.
Jodi A. Bain, M.A., J.D., LL.M.
David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.
Laura Dorrell, M.S.N., R.N.
R. Screven Farmer, M.D.
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M.
Pamela E. Jones
Constantine Moschonas, M.D., F.A.A.N.

GENERAL BUSINESS

A. CALL TO ORDER

Chair Figge called the meeting to order at: 8:03 a.m.

B. ROLL CALL

The following Board members were present: Dr. Figge, Dr. Bethancourt, Dr. Krahn, Ms. Bain, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard, Ms. Jones and Dr. Moschonas.

The following Board members were absent: Dr. Artz.

ALSO PRESENT

The following Board staff participated in the meeting: Patricia McSorley, Executive Director; Raquel Rivera, Interim Deputy Director; Claude Deschamps, M.D., Chief Medical Consultant; Nicole Samaradellis, Interim Investigations Manager; and Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") also participated in the meeting.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals who addressed the Board during the Public Statements portion of the meeting appear beneath the case.

D. EXECUTIVE DIRECTOR'S REPORT

- Discussion Regarding AMB Meeting Calendar for 2025

Ms. McSorley informed Board members that a proposed 2025 schedule has been provided for review.

- Required Board Member Training
- Update on Conflict-of-Interest Form

Ms. McSorley reported that staff modified the language and members need to disclose only leadership roles. This form must be completed annually.

Ms. Smith advised that the language is intended to require disclosure of leadership roles within a medical organization, foundation, or facility. This would apply for both public and physician members of the Board.

Ms. McSorley informed the Board that there is an Arizona Department of Administration (ADOA) board member training requirement, Law2000. The training is a 15-minute course and staff is working with ADOA to register members for this course.

- Update of Board Appointments

Ms. McSorley reported that she has sent an email to the Governor's office for an update on Board members' reappointment applications. Ms. McSorley confirmed that until another appointee has been named to the Board the current member can still serve on the Board after their term has expired.

- Legislative Update

Ms. McSorley reported that the anesthesiologist associate bill and the bill to allow for transitional training permit are not going to be passed this session. The international medical student and the Board reform bill will likely go to the Governor's office. Ms. McSorley noted that the Governor did sign the bill to allow medical assistants to provide test results to the patient on behalf of the physician.

- Update on Board Newsletter

Ms. McSorley reported that a newsletter has been sent out and will be sent out multiple times throughout the year.

Dr. Beyer opined that the newsletter was done very well; it was very readable and useful.

E. CHAIR'S REPORT

- Acknowledgement and Appreciation for Ms. Oswald's Service to the Board

Dr. Figge acknowledged Ms. Oswald for her service to the Board and acknowledged Dr. Farmer's service to the Board as chairman.

Dr. Farmer thanked everyone for their continued support while he was chair.

F. LEGAL ADVISOR'S REPORT

- Update on *Silver v. Arizona Medical Board*, LC2023-000202

Ms. Campbell reported that there has been a decision from the Superior Court and it will be provided for the Board's review. The Superior Court affirmed the Board's decision to revoke the license. Ms. Campbell noted that Dr. Silver has the right to appeal to the Court of Appeals.

G. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

There was no discussion.

H. APPROVAL OF MINUTES

- January 3, 2024 Special Teleconference
- February 20, 2024 Summary Action Teleconference

MOTION: Dr. Bethancourt moved to approve the January 3, 2024 Special Teleconference and the February 20, 2024 Summary Action Teleconference.

SECOND: Dr. Gillard.

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

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

MOTION PASSED.

LEGAL MATTERS

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

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

Pursuant to A.R.S. § 41- 1092.08(i), the Board may meet and confer for purposes of modifying the recommended decision, including the Findings of Fact, Conclusions Of Law and Recommended Order set forth in the ALJ's recommended decision issued in case no. 24A-66713-MDX involving Dr. Jean H. Vincent and 24A-44341-MDX involving Dr. Winston R. Hewitt. **(Scheduled to begin at 9:00 a.m.)**

1. MD-23-0845A, JEAN H. VINCENT, M.D., LIC. #66713

Dr. Vincent and counsel Kamille Dean participated virtually. AAG Elizabeth Campbell was present on behalf of the State. AAG Diane DeDea was present as the Board's Independent Legal Advisor.

Ms. Campbell summarized that this case was initiated in August, 2023 when the Board received a complaint from the hospital with concerns about Dr. Vincent's safety to practice based on mental health. The Board issued an interim order for a psychological evaluation. The assessor requested that Dr. Vincent undergo a comprehensive psychiatric evaluation which he did not complete. In the meantime, he continued to send emails to Board staff that continues to raise concerns regarding his mental health. Board staff also requested additional information regarding his credentialing, which he has not provided. The Board met on November 1, 2023 and voted to summarily suspend his license. The Board issued a Complaint and Notice of Hearing (CNH) informing Dr. Vincent of the allegations and the date and time of the formal hearing. The CNH was sent to his address of record and email. Ms. Campbell noted that Dr. Vincent confirmed receipt of the complaint by responding to it with a letter dated December 10, 2024, which was made an exhibit at the hearing. Dr. Vincent did not appear for the hearing and the ALJ has recommended revocation. Ms. Campbell requested that the Board accept the ALJ's decision with the amendment to include costs of the hearing in the amount of \$729.60. Ms. Campbell stated that given Dr. Vincent's failure to comply, revocation is appropriate. Ms. Campbell further noted that although Dr. Vincent has obtained counsel at the last minute, he had time to comply throughout the process.

Ms. Dean stated that Dr. Vincent regrettably did not appear at the ALJ hearing and that he wants an opportunity to be heard by the Board and the ALJ. Dr. Vincent is now willing to complete the recommended evaluation and does not want to lose his license. Dr. Vincent is requested that he be heard by the ALJ so that he can obtain a different result.

During deliberations, Dr. Gillard inquired if it is an option to table the matter in order for the physician to obtain the evaluation.

Ms. DeDea informed the Board that there is a timeframe set by statute for the Board to consider the ALJ's recommended decision. If the Board does not take action today the

ALJ's decision becomes the final order and the Board has no say. Ms. DeDea informed the Board that they can adopt, reject or modify the ALJ's decision today, then the physician can file a motion for review or rehearing and it will come back for the Board to consider. The physician is still suspended and the Board may change the order to a full psychiatric evaluation instead of a revocation.

Ms. Bain asked whether the physician could come in for an interview if the ALJ's decision is rejected.

Ms. DeDea noted that the physician was properly noticed and had an opportunity to have a hearing on the merits of the case. Ms. DeDea informed the Board that if the Board rejects the ALJ's recommended decision the Board will need to notify the legislature that they are rejecting all the Conclusions of Law (COL) and provide a justification for why. By statute if the Board modifies the COL they must send justification to the senate and the house explaining why.

Ms. Bain noted a typo in paragraph 14 of the Findings of Fact (FOF) regarding the 2024 date.

Ms. DeDea stated procedurally the Board can adopt the Findings of Fact (FOF) and Conclusions of Law (COL) that the ALJ found but modify the Order.

Board staff stated that if the Board adopts the recommended FOF and COL then the order can be changed using appropriate language for a psychiatric evaluation. The physician will need to follow the directions of the evaluator to be able to practice safely in Arizona. Board staff suggested that the Board accept the entire order and Dr. Vincent can file the Motion for Rehearing or Review with the evaluation as evidence.

Ms. DeDea stated that if the Board can adopt the ALJ recommendation Dr. Vincent would have 35 days to request a Motion for Rehearing or Review.

Dr. Farmer opined that the Board has ample evidence to support the ALJ's decision. The behavior was egregious and the physician has further options. Dr. Farmer opined that the Board should proceed with adopting the ALJ's decision. Dr. Beyer agreed that the FOF and COL are correct, other than the noted date typo. Dr. Beyer noted that there have been endless opportunities over the past six months for the physician to do what needed to be done and there could have been attendance at the ALJ hearing. Dr. Beyer opined that there is little evidence that this physician respects the process or the Board's regulation. Dr. Krahn commented that this case could have proceeded down a different path and the physician's offer to see a psychiatrist comes too late. Dr. Krahn respected the ALJ's decision and noted that there is a high-quality PHP evaluation that found a comprehensive psychiatric evaluation was necessary. Dr. Krahn opined that based on what we know this physician is not safe to practice and the Board should respect the ALJ's decision.

Ms. DeDea reiterated that Dr. Vincent can file a Motion for Rehearing or Review and if that is denied, he can appeal to Superior Court.

MOTION: Dr. Farmer moved to adopt the ALJ's proposed Findings of Fact and modify item 14 with the correct date of January 4, 2024.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

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

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

MOTION: Dr. Farmer moved to adopt the ALJ recommendation to affirm the Board summary suspension and Order for Revocation, which incorporates the amendment to the Order to include \$729.60 (\$466.35 + \$263.25) for costs incurred by the Board and initiate the meet and confer process.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

Meet and confer:

Ms. Campbell stated that the cost is supported by invoices from the court reporter and the OAH.

Ms. Dean had no further comments.

MOTION: Ms. Jones moved for a final form of Order for Revocation.

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

2. MD-21-1151A, WINSTON R. HEWITT, M.D., LIC. #44341

Dr. Hewitt was present without counsel. AAG Elizabeth Campbell was present on behalf of the State. AAG Diane DeDea was present as the Board's Independent Legal Advisor. Dr. Krahn stated that she is aware of Dr. Hewitt but that it would not affect her ability to adjudicate the case.

Ms. Campbell stated that there are two facts in the underlying case, Dr. Hewitt, who is a transplant surgeon, failed to be present during critical or key portions during the procedure and the surgery was left to a fellow to complete. The second surgery happened that same day and Dr. Hewitt was 45 minutes late for transplant surgery. There were no bad outcomes in either case. Ms. Campbell stated that the case did go to a formal hearing and Dr. Hewitt did not attend the hearing. Ms. Campbell requested that the Board adopt the ALJ recommendation with the addition of the costs of the hearing.

Dr. Hewitt stated that he does not dispute the facts of the case; however, he disagrees with the context of the case. Dr. Hewitt stated that it is not unusual for a case to be started by another physician if the original physician is not available at the time of surgery and opined that the first case was a stretch. Dr. Hewitt stated that second case was due to a lack of knowledge and his mistake.

Ms. Campbell objected to Dr. Hewitt providing new evidence, which should have been done at the hearing, noting that this is the time for argument.

Dr. Hewitt stated that if the ALJ's decision is deemed appropriate, he will accept it.

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

SECOND: Dr. Krahn.

OTION: Dr. Beyer moved to adopt the proposed Findings of Fact.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

The Board entered into Executive Session at 9:09 a.m.

The Board returned to Open Session at 9:29 a.m.

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

MOTION: Dr. Beyer moved to adopt the proposed Findings of Fact.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

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

SECOND: Ms. Jones.

Ms. Bain inquired about why the physician did not attend the OAH hearing.

Dr. Hewitt stated that there was nothing he was going to dispute, and he did not recognize that attendance was required.

Ms. Bain inquired about the Board's process by which the licensee has the opportunity to respond.

Ms. Campbell informed the Board that at least 35 days prior to the hearing, the Board issued a CNH notifying the physician of the allegations and the date and time of the hearing. This was mailed to the address of record and emailed to the email on file. The CNH notifies the physician that he can request an informal settlement conference, and none was requested in this case.

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

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

MOTION PASSED.

MOTION: Dr. Beyer moved to adopt the ALJ recommendation of a Letter of Reprimand, which incorporates the amendment to the Order to include \$578.69 (\$257.19 + \$321.50) for costs incurred by the Board and to initiate the meet and confer process.

SECOND: Ms. Jones.

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

Artz.

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

Meet and confer:

Ms. Campbell and Respondent had no further comments.

MOTION: Dr. Krahn moved for a final form of Order and to accept the Findings of Fact and, Conclusions of Law in their entirety as recommended by the ALJ and to adopt the ALJ's recommended Order for a Letter of Reprimand, and to modify it to incorporate the costs of the hearing for \$578.69 (\$257.19 + \$321.50).

SECOND: Dr. Beyer.

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

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

J. FORMAL LICENSING INTERVIEWS

1. MD-22-0990A, BABAK ABEDI, M.D., LIC. #N/A
Dr. Abedi was not present.

Board staff summarized that at the December 8 meeting, this Board requested that Dr. Abedi provide more specific information regarding his practice plan at his brother's dental office before the Board considers granting him a license to practice medicine in Arizona. On February 16, 2024, Dr. Abedi provided Board staff with the updated plan. Dr. Abedi stated that he plans to provide perioperative care at Payam Abedi, DDS once or twice a month. Payam Abedi, DDS has fulfilled all requirements set by the Arizona State Board of Dental Examiners to be allowed to administer conscious sedation and has received an authorization permit which is valid through December 31, 2026. Dr. Abedi explained that he currently has a practice monitor Dr. Annie Tsai, a board-certified Anesthesiologist practicing at Valley Presbyterian Hospital in Van Nuys, California. Dr. Tsai has been approved and appointed by the California Medical Board to monitor Dr. Abedi's practice in conjunction with the monitoring agreement imposed on Dr. Abedi by the California Medical Board. If the Board approves Dr. Abedi's application for licensure to practice medicine in Arizona, Dr. Abedi would like to request that Dr. Tsai continue as his practice monitor for Arizona as well.

Dr. Krahn expressed concern that the physician did not appear and noted that this physician has not always complied with the California Board.

Board staff confirmed that the physician was notified via secure email on March 4, 2024 via secure email to his email address on file but it is not showing as read.

Ms. Smith informed the Board of their options.

MOTION: Dr. Krahn moved to deny the license based on A.R.S. §§ 32-1422(A)(3), (4), and (6). The applicant shall be offered the opportunity to withdraw his license application in lieu of a formal license denial.

SECOND: Dr. Farmer

Dr. Gillard inquired if the applicant withdraws his application can he reapply with new information.

Ms. Smith confirmed that he can reapply with new information if he withdraws his application and would have the entire record from the prior interview and this one.

Dr. Krahn expressed concern given the Board's discussion at the previous meeting and if Dr. Abedi was previously noticed and is not in attendance to help sort through the information led to her decision. Dr. Beyer agreed that if he is not present to complete this process then the motion is appropriate.

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

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

MOTION PASSED.

K. FORMAL INTERVIEWS

1. MD-23-0426A, JOSHUA D. SIFUENTES, M.D., LIC. #56427

Dr. Sifuentes was present with counsel Lori Metcalf. Dr. Figge was recused from this case.

Board staff summarized that the Board opened case MD-23-0426A after receiving notice that Dr. Sifuentes' privileges were terminated at a Hospital. This was precipitated by a peer review of his treatment of a patient that had a cardio-pulmonary arrest. JW, a 67-year-old male, went to the Hospital Emergency Department (ED) on December 19, 2022 with complaints of productive cough and worsening shortness of breath for 3-4 days, edema and redness of both legs for two weeks, subjective chills and fevers, and altered mental status for a few days. His past medical history included Type 2 Diabetes, hypertension, and stage III chronic kidney disease with baseline creatinine of 2.1. JW was seen in the ED first by the ED physician at 1232. Imaging and blood tests were ordered at that time. There were bilateral infiltrates with concerns for multifocal pneumonia and pulmonary congestion on chest x-ray. Blood test results revealed hyperkalemia of 8.1, a creatinine of 11.9 and metabolic acidosis. Ceftriaxone and azithromycin were administered for possible pneumonia and calcium gluconate and sodium bicarbonate were given for hyperkalemia by the ED physician. Repeat labs at 1413 showed the potassium had increased to 8.3 and the creatinine to 12.1. Sodium zirconium cyclosilicate and 10 units of regular insulin were also given for hyperkalemia. The ED physician called the covering nephrologist for consultation. The calcium gluconate was repeated at 1500. The ED physician ordered a vascular catheter to be placed by interventional radiology to be used for hemodialysis. No further repeat chemistries were ordered. At 1523, the patient was admitted to the hospitalist, Dr. Sifuentes. Apparently, the patient information was sent by text to Dr. Sifuentes and by all accounts no verbal handover or conversation took place between the ED physician and Dr. Sifuentes regarding JW's admission or his condition. The covering nephrologist noted in his consultation that the patient was in need of urgent dialysis. At 1537, hemodialysis was ordered for JW for critical hyperkalemia, uremia and metabolic acidosis. Hemodialysis consent was obtained from JW and his family. At 1600, Dr. Sifuentes dictated his history and physical examination on JW and noted he had acute respiratory failure, multifocal pneumonia, acute kidney failure, and hyperkalemia needing emergent hemodialysis. The dialysis catheter was placed by interventional radiology at 1621. After the dialysis catheter had been inserted, nursing informed Dr. Sifuentes that JW's status was worsening. At 1735, JW was in respiratory distress and placed on oxygen. JW was placed on a bicarbonate drip. At 1800, due to respiratory distress, JW was placed on a non-rebreather mask. The first Code Blue was called overhead by nursing at 1801. JW was unresponsive and CPR was started by the ED nurses. The initial rhythm was asystole. The ED nurse assigned to him discussed intubation with the ED physician. The ED physician, according to hospital records, asked the nurse to call Dr. Sifuentes as he was now the attending for JW. In the records, Dr. Sifuentes said that he did not have intubation privileges. JW was intubated by the ED physician. Once JW was

intubated, the ED physician left and did not return. Hemodialysis was being set up by the dialysis nurse but was halted when the patient arrested. Dr. Sifuentes came to the bedside at 1808 while JW was being intubated. After intubation and resuscitation drugs epinephrine and amiodarone had been given, return of spontaneous circulation (ROSC) was achieved at 1820. Per records and the first peer review, Dr. Sifuentes left soon after without giving ventilation or sedation orders. JW arrested the 2nd time at 1830 and the nurses began performing CPR. The ED nurses documented they were unable to reach Dr. Sifuentes by phone. He was paged overhead. Once again ROSC was achieved at 1836 after JW had been given epinephrine, atropine, and dopamine. Per the nurses' records, Dr. Sifuentes came minutes before ROSC. He did not give any verbal orders and again left the ED. At 1841, JW went into cardiac arrest for the final time. Dr. Sifuentes was paged overhead, but there was no immediate response from him. By 1845, Dr. Sifuentes was in the ED and gave orders for epinephrine while JW was undergoing CPR. Dr. Sifuentes asked nursing to bring the family to the code room. CPR was being performed when the family arrived. Dr. Sifuentes spoke with the family for a few minutes and then left the ED. The family meanwhile decided to withdraw life support and life saving measures. Resuscitation efforts were terminated at 1855. According to the Medical Consultant (MC) who reviewed the case for the Board,, Dr. Sifuentes deviated from the standard of care by not being present for the entirety of resuscitations, leaving the patient's bedside multiple times to speak to family, being difficult to contact and not responding promptly, and lastly, inadequate management of hyperkalemia. JW was found to have critical hyperkalemia at 1259. The MC also opined that Dr. Sifuentes failed to address JW's hyperkalemia before JW arrested or provide empiric treatment for hyperkalemia during the resuscitations. The MC also opined that Dr. Sifuentes failed to document use of defibrillation or dosages of pressors. The MC opined that the outcome could have been different if the hyperkalemia had been treated more aggressively, dialysis had been initiated sooner and the resuscitation had been conducted properly.

Ms. Metcalf provided an opening statement to the Board and stated that the physician was certified in advanced life support prior to this incident and he has since renewed the certification and has completed a CME course on hyperkalemia. This was a complex patient with many comorbidities. The physician was aware of the hyperkalemia and was present for all codes. Ms. Metcalf noted that Dr. Sifuentes was 15 feet away from the patient speaking with the family, and noted that Dr. Sifuentes had provided an expert opinion concluding that he met the standard of care. Ms. Metcalf stated that this does not meet the level of discipline and requested either dismissal or the issuance of an Advisory Letter.

Dr. Sifuentes provided an opening statement to the Board and stated he could have done better job with efficient and effective communication with every single team member. Dr. Sifuentes explained that every time there was a code, ROSC was obtained and he updated the family with each code. Dr. Sifuentes informed the Board of the Hospital's paging system, which they did not use. The nurses called his phone, which was turned off. Dr. Sifuentes explained that he thought the nurses knew where to find him when he was having discussions with the patient's family. Dr. Sifuentes opined that a lot of the issues were from communication and that he should have communicated with the nurses better. Dr. Sifuentes stated that the patient did receive all the appropriate hyperkalemic measures and that this patient was very ill and he felt it was imperative to answer all the family's questions.

During questioning, Dr. Sifuentes confirmed that he is not sure who filed the complaint or and is sure of the committee that reviewed the case. When the complaint process was started, he was not working with the Hospital directly. Dr. Sifuentes explained that the locum tenens company was working on it and noted that he did submit a late response to the hospital since he was unsure of the process. Dr. Sifuentes confirmed that he did not

have credentials for intubation per the Hospital's bylaws and the ED physician was present and would have the responsibility. Dr. Sifuentes confirmed that there was some degree of congestive failure, along with creatinine, renal insufficiency and uremia. Dr. Sifuentes explained that hypervolemia contributed to heart failure and he chose not to give more fluids since the patient was hypertensive. Dr. Sifuentes disagreed with the Hospital's complaint since he was present for every code and helped with the trajectory of the patient, and unfortunately the patient decompensated. Dr. Sifuentes stated that the true cause of the decompensation was respiratory failure, secondary to fluid overload complicated by metabolic acidosis and secondary to sepsis, acute renal failure, and hyperkalemia. Dr. Sifuentes opined that the patient had compensated for the hyperkalemia before arriving at the Hospital and the interventions that were given were appropriate. Dr. Sifuentes confirmed that he was on shift when the dialysis was ordered. As soon as the consultant is consulted, they put the orders in and help arrange it with the dialysis nurses. There was an understanding that the dialysis was urgent, and the nurses were there. The patient was unstable and decompensated before they could perform the dialysis. Dr. Sifuentes stated that he did put labs in post-dialysis, but it was not disseminated to the whole team. The patient had coded multiples times within the hour and ultimately the family was at the bedside. Dr. Sifuentes opined that he made the right decision, unfortunately this patient was on multiple pressors and intubated with multi-organ failure. Dr. Sifuentes thought that it was more important to update the family and provide a realistic prognostication. Dr. Sifuentes explained how long the dialysis process can take and the patient did not have the hemodynamic support for it. Dr. Sifuentes stated he is still credentialled through American Physician Partners but was removed from the Hospital's services. Dr. Sifuentes explained that based on the allegations the hospital found he failed to treat for hyperkalemia and be present for the codes. Dr. Sifuentes informed the Board that his role was not to stay in the ED but to travel amongst multiple departments. That's why it took time to arrive at the first code since he had to return to the ED. The patient was stable on oxygen once he arrived at his bedside. Dr. Sifuentes did leave the ED to attend to the family in the waiting room and noted that the waiting room is in the ED's general area. Dr. Sifuentes confirmed that the ED physician was present for the intubation and in the ED the entire time.

Dr. Krahn noted that Dr. Hussain is noted in the hospital letter as well.

Dr. Sifuentes noted that his understanding that the ED physician was also terminated due to this incident. Dr. Sifuentes stated that it was his understanding that the first person to respond to a code is responsible for the code. Dr. Sifuentes explained that after he arrived for the first code, the ED physician informed him that he had it and walked away. Dr. Sifuentes stated that in hindsight, he should have asked the ED physician to help if he was overextended going back and forth between the patient and the family. Dr. Sifuentes explained that other than ordering Vascath and arranging the dialysis, the nephrologist does not have much more involvement.

During deliberations, Dr. Gillard stated that he found it difficult to find unprofessional conduct and noted that the MC stated that the patient had received appropriate medical care for his hyperkalemia. Dr. Gillard stated that looking back at the EKG, a cardiac arrest was not unexpected. Dr. Gillard opined that this was not looked at by anyone with critical care knowledge and that the ED physician should have taken responsibility for the code.

MOTION: Dr. Gillard moved to dismiss.

SECOND: Dr. Beyer.

Dr. Krahn found it hard to find unprofessional conduct based on communication, since the physician thought he was close by, and he made the decision to talk to the family and felt he had communicated that to the nurses. Dr. Gillard stated that the patient was adequately treated. Dr. Moschonas opined that the physician did a good job communicating with the family. Dr. Farmer opined no unprofessional conduct occurred.

Ms. Dorrell commented that in the ED communication with the family was lacking and commended the physician for communicating with the family so well.

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

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

MOTION PASSED.

CONSENT AGENDA

L. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Krahn moved to dismiss item numbers 1-3.

SECOND: Ms. Bain.

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

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

MOTION PASSED.

1. MD-23-1048A, SMRITI RANA, M.D., LIC. #36557

RESOLUTION: Dismissed.

2. MD-23-0669B, JENNIFER T. J. GOMEZ, M.D., LIC. #65852

RESOLUTION: Dismissed.

3. MD-23-0723A, KRISHNA K. KASIREDDY, M.D., LIC. #51232

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

RESOLUTION: Dismissed.

M. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Beyer moved to issue an Advisory Letter in item numbers 1-3 and 5-8.

SECOND: Dr. Gillard.

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

VOTE: 10-yay, 0-nay, 0-abstain, 0 (Dr. Farmer recused from item #7)-recuse, 1-absent.

MOTION PASSED.

1. MD-23-0205A, IHTISHAM CHOUDHRY, M.D., LIC. #46421

RESOLUTION: Advisory Letter for failing to comply with CSPMP mandatory use requirements. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

2. MD-23-0061A, DAVID M. FRANEY, M.D., LIC. #11335

RESOLUTION: Advisory Letter for non-compliance with CSPMP mandatory use requirements and for inappropriate prescribing of opioids and benzodiazepines. 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-23-0816A, EDWARD S. OH, M.D., LIC. #34433

RESOLUTION: Advisory Letter for failure to diagnose a cerebellar infarct on an MRI. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

4. MD-23-0849A, DANIEL J. MULLEN, M.D., LIC. #30294
C.M. addressed the Board during the Public Statements portion of the meeting.

Ms. Bain spoke in favor of the Advisory Letter and noted that the Board cannot enforce the collection of debt or restitution.

MOTION: Ms. Bain moved to issue the Advisory Letter 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.

SECOND: Dr. Moschonas.

Dr. Beyer noted that staff found that there was unprofessional conduct for obtaining a fee by misrepresentation and for inadequate medical records but the Advisory Letter language only includes medical records.

Board staff noted that in the final paragraph of the SIRC report it is explained why the violations were sustained.

Ms. Jones found it concerning that this check was made out to the physician as a personal payment instead of the company. Dr. Beyer opined further investigation is needed. Dr. Bethancourt noted that there is no allowance for balance billing and opined that there is an ethical issue here since they have a contract with the healthcare plan that they will not balance bill. Dr. Gillard inquired if this would be a civil matter.

Ms. Smith explained that this is something that can be resolved through a civil suit; however, the Board can issue an order for restitution.

Board Staff noted that the patient elected to pay cash due to not having insurance. After the payment was made, the patient decided to obtain an insurance policy and there was a no refund clause for cash payment. Dr. Mullen tried to negotiate a partial refund.

Ms. Jones questioned the documentation of payment.

Board Staff responded there was no record of receipt for the cash payment.

Ms. Jones asked if the physician was able to provide an itemized receipt of expenses occurred to justify keeping the cash payment.

Ms. Smith explained that generally, the Board has two fee related unprofessional conduct violations. These include charging a fee for services not rendered and for obtaining a fee by fraud or misrepresentation.

Ms. Bain agreed with the Advisory Letter noting that it is unclear if the fee received is over the amount that should have been paid and that there was a non-refundability policy and it would be difficult to prove this was fraud.

Ms. Smith agreed that this was SIRC's rationale for the Advisory Letter. Ms. Smith noted that restitution is only possible with discipline.

Dr. Farmer expressed concern regarding the legalities of the payment and found it to be highly unethical to take full private pay and then accept the health insurance payment.

Ms. Smith informed the Board that if there is a concern regarding the expenses he incurred then they can send it back for further investigation.

Dr. Beyer and Ms. Jones agreed that this is unethical and spoke in favor of sending it back for further investigation. Dr. Figge inquired if the \$12,000 was half of the payment then the other half was due after the surgery.

Board Staff confirmed that the other half of the payment was due after the surgery.

Ms. Bain noted that the check is made out to the physician and could have been deposited into a corporate account. The Board cannot tell if payment was deposited into a personal or corporate account.

MOTION WITHDRAWN.

MOTION: Dr. Farmer moved to return the case for further investigation to obtain the accounting of the expenses and fees incurred by the physician.

SECOND: Dr. Krahn.

Dr. Bethancourt inquired if this belongs to the Department of Insurance regarding balance billing.

Ms. Smith informed the Board that this likely does not belong to the Department of Insurance since this would not cover the private pay dispute and staff is not sure that this is a case of balance billing.

Dr. Figge noted that there needs to be further investigation of when the complainant did and did not have insurance. Dr. Krahn requested that staff investigate if anyone else was present to witness the conversation that the complainant discussed at the call to public.

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

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

MOTION PASSED.

5. MD-23-1050A, MARK P. MENOLASCINO, M.D., LIC. #30277

RESOLUTION: Advisory Letter for failing to timely report a DUI charge within ten days as required by statute. 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.

6. MD-23-0944A, HAZEM AFIFI, M.D., LIC. #44008

RESOLUTION: Advisory Letter for action taken by the Nevada Board of Medical Examiners. 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-23-0745A, ALMA I. MURPHY, M.D., LIC. #14148

Dr. Farmer recused from this case.

RESOLUTION: Advisory Letter for failing to remove a pupillary expansion device prior to completion of cataract surgery and for inaccurate 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.

8. MD-22-0830A, MOHAMED S AHMED, M.D., LIC. #35805
Counsel Lynette Odum addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Advisory Letter for failing to notify the patient of CT angiography results in a timely manner. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

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

MOTION: Dr. Krahn moved to issue an Advisory Letter with Non-Disciplinary CME in item numbers 1, 2 and 4.

SECOND: Ms. Bain.

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

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

MOTION PASSED.

1. MD-23-0045A, CHRISTOPHER S. RAY, M.D., LIC. #32707

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for inappropriate prescribing of controlled substances, inadequate evaluation of radiculopathy, improper discharge of a patient from care, inadequate patient communication, and inadequate documentation. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing; and complete CPEP's Enhanced Patient Communication course: Building Compassion, Communication, and Trust. The CME hours shall be in addition to the hours required for license renewal.

2. MD-22-0511A, GEORGE M. ARMENDARIZ, M.D., LIC. #33274

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for inadequate documentation. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person (virtual) course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

3. MD-22-0373A, DAVID J. KUMASAKA, M.D., LIC. #30832

Dr. Farmer noted that this was a case where an anesthesiologist left Northern Arizona Medical Center under a cluster of cases. Dr. Farmer opined that this was a violation with concern of human error. Dr. Farmer expressed concern regarding the case of discharging a hypoxic patient and if managing patient CME is available. Dr. Farmer found the medical recordkeeping to be poor and agreed with CME for medical records. Dr. Farmer requested if specific CME can be found for discharging a patient or handling a patient in the recovery room.

Ms. Smith commented that SIRC intended for 10 hours of CME in intraoperative and post operative anesthesia care and management.

Dr. Farmer agreed with the proposed CME and opined that SIRC evaluated this case appropriately.

MOTION: Dr. Farmer moved to Advisory Letter and Order for Non-Disciplinary CME for inadequate intraoperative and post-anesthesia care, improper discharge of a hypoxic patient, 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 (virtual) course regarding medical recordkeeping; and complete no less than 10 hours of Board staff pre-approved Category I CME in intraoperative and post-operative anesthesia care and management. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Gillard.

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

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

MOTION PASSED.

4. MD-23-0471A, ALBERT AMINI, M.D., LIC. #47277

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for inadequate documentation. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 6 hours of Board staff pre-approved Category I CME regarding documentation of critically ill patients. The CME hours shall be in addition to the hours required for license renewal.

O. PROPOSED CONSENT AGREEMENTS (Disciplinary)

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

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

1. MD-22-1018A, MD-22-0196A, MICHAEL P. ALBERTI, M.D., LIC. #24716

RESOLUTION: Consent Agreement for a Letter of Reprimand and Civil Penalty. Dr. Alberti shall pay a Civil Penalty within ninety days via certified funds in the amount of \$2,500.

2. MD-21-1039A, WHITAKER M. SMITH, M.D., LIC. #59894

RESOLUTION: Consent Agreement for a Letter of Reprimand.

3. MD-23-0190A, PHILIP L. JOHNSON, M.D., LIC. #16267

RESOLUTION: Consent Agreement for a Letter of Reprimand.

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 1-5.

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

1. MD-23-0443A, ADRIANNE N. BANKS, M.D., LIC. #N/A

RESOLUTION: License granted.

2. MD-23-0421A, MILTIADIS N. LEON, M.D., LIC. #N/A

RESOLUTION: License granted.

3. MD-24-0233A, VANDANA ARGARWAL, M.D., LIC. #N/A

RESOLUTION: License granted.

4. MD-24-0166A, PAUL A. REHDER, M.D., LIC. #N/A

RESOLUTION: License granted.

5. MD-24-0188A, STEPHEN W. BAYLES, M.D., LIC. #N/A

RESOLUTION: License granted.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND PROPOSED CONSENT AGREEMENT (Non-Disciplinary)

1. MD-23-0654A, RICHARD A. CHASE, M.D., LIC. #32970

MOTION: Dr. Krahn moved to accept the Final Practice Limitation. Dr. Chase's practice is limited in that he shall not practice medicine and is prohibited from prescribing any form of treatment including prescription medications until the physician applies to the Board and receives permission to do so. The Board may require any combination of examinations and/or evaluations in order to determine whether or not the physician is safe to resume practice and the Board may continue the Practice Limitation or take any other action consistent with its authority.

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

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

1. PIOTR N. GALASKA, M.D., LIC. #N/A

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

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

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

OTHER BUSINESS

Q. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-18-0737A, MICHAEL S. YASINSKI, M.D., LIC. #44236

Dr. Gillard noted that this was complicated, however all the CME has been completed and the Probation was retroactive to May 2019. Dr. Karp has stated that he is in full compliance with the Order.

MOTION: Dr. Gillard moved to grant the request for termination of the November 8, 2019 Board Order.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

R. GENERAL CALL TO THE PUBLIC

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

S. ADJOURNMENT

MOTION: Dr. Farmer moved for adjournment.

SECOND: Ms. Bain.

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

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

MOTION PASSED.

The meeting adjourned at: 11:40 a.m.



Patricia E. McSorley, Executive Director