



## Arizona Medical Board

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

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### **FINAL MINUTES FOR REGULAR SESSION MEETING Held on Tuesday, August 6, 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., F.A.C.P.

#### **GENERAL BUSINESS**

##### **A. CALL TO ORDER**

Chair Figge called the meeting to order at: 8:04 a.m.

##### **B. ROLL CALL**

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

The following Board members participated virtually: Dr. Farmer.

The following Board members were absent: Dr. Artz and Dr. Krahn.

##### **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") and Elizabeth Campbell, 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**

- Request for Board Direction Regarding Processing Renewal Application Opioid Continuing Medical Education (CME) Investigations

Ms. McSorley requested Board direction on the processing of the renewal applications, and the requirement for the three hours of opioid continuing medical education. As you

can see, we've had a number of those come to you with a request to dismiss because while the three hours of opioid education has not been completed in the timeframe preceding the renewal. Once the physician is notified that it's a requirement it is done. And so, therefore you as the Board have been dismissing it. Ms. McSorley requested that the Board delegate additional authority for her to dismiss cases under this paradigm, where the CME has been completed, albeit outside the timeframe.

Dr. Figge noted that the opioid hours are not a one-time requirement which is a recurring issue and we are planning to send out education and newsletters regarding this.

Ms. Smith clarified that what the Board is directing the executive director to take action on are cases where the investigation only involves failure to complete the three hours of opioid CME. The 40 hours of CME that are required are completed, otherwise, and the physician in the case during the course of the investigation completes the required opioid CME.

**MOTION: Dr. Gillard moved to grant the Executive Director's request for authority to dismiss investigations regarding failure to complete mandatory opioid CME, where the licensee has completed the CME during the Board's investigation and there are no other unprofessional conduct findings in the case.**

**SECOND: Dr. Beyer.**

Ms. McSorley confirmed that Ms. Rivera is going to be sending out a newsletter with the notification that this needs to be in the forefront when you're doing your CME to choose this Opioid CME.

Ms. Smith confirmed that the statute states that the Board shall randomly audit once every two years at least 10% of physicians to verify continuing medical education compliance.

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

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

**MOTION PASSED.**

- Review and Comment on Draft Reports: FY24 Annual Report, FY24-28 Strategic Plan and the Decision Package for an Increase in FY26 Appropriation to Hire Board Investigators

Ms. McSorley noted that there is an increase in the number of disciplinary actions taken by the Board in fiscal year 2024. This is an anecdotal indicator where we could point to the fact that we are getting more serious and complex cases. This also supports the need for more investigators and staff will continue to seek financial backing to have more staffing in that area. In FY26, the Board will be asking for two additional investigators. The legislature shows that agencies are not meeting the goal to complete investigations in 180 days but to do the right job and to do a complete job it does take a lot of manpower hours, and we need to have the appropriate staff to do that.

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

No report was given.

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

No report was given.

## **G. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES**

There was no discussion on this topic.

## **H. APPROVAL OF MINUTES**

- May 1, 2024 Special Teleconference; including Executive Session

- This item has been removed from the agenda.
- June 11, 2024 Summary Action; including Executive Session

**MOTION: Dr. Gillard moved to approve the May 1, 2024 Special Teleconference; including Executive Session minutes and the June 11, 2024 Summary Action; including Executive Session minutes.**

**SECOND: Dr. Bethancourt.**

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

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

**MOTION PASSED.**

## **LEGAL MATTERS**

### **I. FORMAL INTERVIEWS**

1. MD-20-1000A. DAVID A. CAMARATA, M.D., LIC. #28451

Dr. Camarata was present with counsel Joey Hamby. Dr. Faria addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that on November 20, 2020, the Board initiated this case after receiving a confidential complaint alleging that on January 1, 2020, Dr. Camarata was arrested for DUI and that during the arrest, pills were found in his car. The confidential complainant further alleged that Dr. Camarata, another physician, and a nurse practitioner (NP) prescribed opioids, benzodiazepines, and sedatives to each other. Board staff determined that Dr. Camarata was charged with a DUI, which was eventually dismissed; however, he underwent a PHP assessment and was recommended to complete inpatient treatment wherein he was discharged and recommended to enroll in PHP monitoring for five years. During the investigation, it was confirmed that Dr. Camarata was prescribing and receiving prescriptions from an NP and from another physician. An MC reviewed the care rendered to both providers and determined that Dr. Camarata deviated from the standard of care in his prescribing and monitoring of controlled substances and for inadequate medical records. SIRC discussed the case and stated that the amount of prescriptions between the two physicians and NP were egregious in light of the inadequate examinations, incomplete and inadequate documentation and lack of monitoring while prescribing controlled substances to his colleagues. SIRC noted that the other physician's MME varied from 90 to 270 while being prescribed controlled substances by Dr. Camarata despite correspondence from MR's pharmacy expressing concern regarding the combination of drugs prescribed and despite MR's prior public discipline related to his PA's prescribing of controlled substances to him. SIRC noted that Dr. Camarata also failed to query the CSPMP during the time he was prescribing controlled substances to the two individuals; SIRC agreed with the MC that there was actual and potential harm to Dr. Camarata, the NP, and other physician based on their prescribing to each other and in turn their treatment of patients. SIRC noted that the Board issued an Interim Order for PHP Assessment to Dr. Camarata in 2014 due to a confidential complaint reporting concerns relating to his pain medication use. The Assessor at that time did not recommend monitoring or treatment. However, SIRC stated that based on the records in this case, Dr. Camarata was being prescribed controlled substances and may have missed an opportunity to get assistance and prevent the violations identified in this case. SIRC recognized Dr. Camarata's prior Board history and stated that this case clearly rises to the level of discipline. SIRC highlighted the long-standing nature of the inappropriate prescribing, noting that Dr. Camarata was prescribed 71 controlled substances from the other physician from 2013-2020 and Dr. Camarata prescribed 286 controlled substances to the other physician from 2012-2020 and also prescribed the NP 22 controlled substances from 2019-2020. SIRC also considered the inadequate documentation an aggravating factor in the case as there was minimal support documented for the prescribing to the patients.

Mr. Hamby provided an opening statement to the Board. Mr. Hamby stated that Dr. Camarata is not denying the behavior but disagreed with SIRC's determination that there was a failure to report. Mr. Hamby argued that Dr. Camarata has dealt with this issue since it began and has done extraordinarily well. Mr. Hamby opined that to move forward with staff's recommendation would be moving backward and requested a solution to address Dr. Camarata's ability to continue to work as a supervising physician.

Dr. Camarata made an opening statement to the Board accepting responsibility for the mistakes he has made and apologized for any harm it may have caused. Dr. Camarata stated that he is grateful to practice medicine and acknowledged that he should have sought professional help prior to the actions that brought him to the Board. Dr. Camarata requested leniency regarding the Board's action and noted that he is willing to continue monitoring.

During questioning, Dr. Bethancourt inquired about how he sees things today as opposed to three and a half years ago after completing the CPEP course in ethics.

Dr. Camarata stated that he now realizes the danger in prescribing more medication than necessary and that he no longer prescribes more than a week of pain medication to post-op patients. If an additional prescription is needed the patient can call for a refill. The course also taught him that physicians prescribe to get self-affirmation from their patients and now that is no longer important. Dr. Camarata agreed with Dr. Bethancourt's comment that when treating someone that he knows he must treat them the same as any other person and document well. Dr. Camarata stated that he would not treat anyone he knew requesting prescription medication and would refer them out. Dr. Camarata acknowledged the concerns regarding his recordkeeping and has taken steps to ensure appropriate recordkeeping. Regarding his request to continue as a supervising physician, Dr. Camarata explained that part of the process for doing revisions is that he views his PA as his partner and his experience is invaluable. Dr. Camarata further opined that it would be impossible to find another PA with his experience.

Dr. Beyer noted that the issue is not with being able finding another PA, it's that he is not able to supervise any PA with the recommended consent agreement. Dr. Beyer expressed concern regarding the events in 2020 and inquired if he was experiencing pain at the time.

Dr. Camarata informed the Board regarding his medical history that included surgical procedures and medication for pain management. Dr. Camarata admitted to abusing the medication which led to the events of 2020.

Dr. Beyer inquired if he still dealing with the pain and how it is being managed.

Ms. Smith suggested that if the Board has questions regarding Dr. Camarata's medical condition, they could go into executive session to discuss confidential medical information.

Dr. Camarata informed the Board of how he is currently treating his pain. Dr. Camarata noted that when he was using he would not use pain medication during the day while doing surgery, but at the end of the day. Dr. Camarata requested continuing the stipulations in his interim consent agreement for monitoring.

Mr. Hamby stated that Dr. Camarata is willing to continue monitoring; however, the issue is that if there is discipline that includes probation, there is a restriction on the license. Probation would prohibit Dr. Camarata to supervise and work with his PA. Mr. Hamby requested a non-disciplinary resolution and to continue monitoring until the Board determines Dr. Camarata is safe.

Dr. Beyer inquired if an investigation or referral was made regarding the other physician and nurse.

Board staff confirmed that referrals have been made regarding the other physician and NP.

**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. Bethancourt.**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 10:48 a.m.

The Board returned to Open Session at 11:24 a.m.

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

Dr. Bethancourt inquired if Dr. Camarata cannot supervise the PA is there another physician who could supervise the PA.

Dr. Camarata explained that he could approach the company regarding this but doubts that they would go through with this due to billing. Dr. Camarata noted that the PA would qualify with 8000 hours for collaboration, but the hospital does not allow it.

Mr. Hamby provided a closing statement and requested a fruitful solution for Dr. Camarata. Dr. Camarata has three and a half years of compliance, and discipline would come with many consequences.

During deliberations, Dr. Bethancourt commented that the Board is looking back three and a half years into an issue and noted that everything that the Board has requested was to protect the public, which has been done.

**MOTION: Dr. Bethancourt moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(a) (for a violation of A.R.S. § 36-2606(F)), (e), (f) and (r) for reasons as stated by SIRC.**

**SECOND: Ms. Bain.**

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

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

**MOTION PASSED.**

Dr. Gillard noted that Dr. Faria has written a letter of support. Dr. Gillard suggested that the PHP would need to be terminated early to solve the issue with Probation. Dr. Gillard opined that the Board cannot take away the problem regarding the prescribing, but granting early termination of the PHP would allow the Board to issue discipline without probation for monitoring.

**MOTION: Dr. Gillard moved to return the case for further investigation to have the PHP proceed with an early termination evaluation.**

**SECOND: Dr. Bethancourt.**

Dr. Bethancourt spoke in favor of the motion given what has been done to remediate this. Dr. Beyer spoke against the motion and opined that the facts of the case warrant discipline, but this has been significantly mitigated by the physician's dedication to recovery. Dr. Beyer commented that he would be comfortable with non-disciplinary action but not comfortable with terminating monitoring. Ms. Bain commented that this motion would allow a larger set of options with regard to discipline or non-disciplinary options. Dr.

Farmer commented that this is complicated, but opined that this was an egregious set of circumstances and that discipline is necessary. Dr. Farmer stated that he is comfortable with the practitioner's idea to work with this PA but it is not necessarily the Board's place to question the practice's business decisions. Ms. Jones noted the monitor's findings cited in the SIRC report and opined that the PHP monitoring should continue, but expressed concern regarding the relationship and prescribing between the physicians and the nurse practitioner. Dr. Moschonas suggested ongoing monitoring and issuing an Advisory Letter. Dr. Beyer opined that there was no patient put at risk and that had there been an immediate threat to patients he would be less willing to accept that the discipline has been mitigated.

Ms. Smith clarified the Board's disciplinary and non-disciplinary options for monitoring. She noted that the Physician Assistant Practice Act requires that the supervising physician have an unrestricted license. Probation qualifies as a restriction under the PA Practice Act.

Dr. Gillard noted that these types of prescribing issues have historically risen to the level of discipline. Dr. Gillard further noted that there has been over three years of monitoring and a letter of support from the PHP and therefore spoke in favor of the motion. Dr. Farmer opined that given the severity and egregious behavior it would set a bad precedent to not have a disciplinary action on record and monitoring is required. Dr. Farmer commented that the whole reason that this is not acceptable is due to the physician being able to work with the PA. The Board should stick to its precedent and the physician would be still be able to continue to practice.

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

**VOTE: 5-yay, 4-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **J. FORMAL INTERVIEWS**

1. MD-23-0809A, AJAY M. NARWANI, M.D., LIC. #35814  
Dr. Narwani was present with counsel Claudia Stedman.

Board staff summarized that on August 21, 2023, the Board received a complaint from the Director of Medical Staff services at a Surgery Center, alleging that an incident occurred on May 12, 2023, in which Dr. Narwani was scheduled to perform a lumbar spinal cord stimulator battery replacement with a surgical assistant on patient V.S. Dr. Narwani did not perform the procedure. It was done entirely by the surgical assistant. Dr. Narwani was in the operating room, though he did not scrub in or participate in the procedure. The incident was reported by a float nurse to a nurse manager, and the case was reviewed in June of 2023 by risk management where it was determined there was no evidence of harm. Senior leadership and Dr. Narwani contacted V.S. and explained to her that the surgical assistant performed the procedure. V.S. questioned whether this was the reason she had an infection, and Dr. Narwani responded that her infection occurred because she did not take her antibiotics until three days after the surgery. It was further explained by senior leadership that she would not be charged for the procedure, nor would her insurance be billed. Senior leadership apologized on behalf of the facility. In September of 2023, the Surgery Center issued a Letter of Concern and scope of practice for the surgical system to Dr. Narwani, which indicated that surgical assistance privileges do not include replacement of spinal stimulator batteries. Further, Dr. Narwani was required to undergo tracking and trending of his cases for six months. Dr. Narwani reported that he is not surgically trained, however, he commented that during his pain management fellowship he performed numerous pain management surgical procedures. Dr. Narwani admitted that he did not know the Surgery Center's procedure policies when he had his surgical assistant replace the stimulator battery. Board Staff considered sending this case for review by a Medical Consultant ("MC"). However, Board Staff noted that the surgical procedure was not performed by Dr. Narwani and elected to address the

professional conduct violations related to inappropriate supervision and potential harm to the patient as a result of Dr. Narwani's decision to allow the surgical assistant to perform the procedure.

Dr. Narwani provided an opening statement to the Board and stated that the primary mode of treatment for chronic pain by interventional pain specialists is by controlling chronic pain by doing injections or interventional procedures to minimize or eliminate the use of controlled drugs. Dr. Narwani informed the Board that in addition to using epidural and radio frequency ablations, he was also trained to perform minimally invasive surgical procedures to treat chronic pain. These procedures include surgical implantation, removal and provision of spinal cord stimulators as well as in this case, a faulty battery replacement. Dr. Narwani stated that over the last 20 years he has performed over a hundred spinal cord stimulator replacements and at least 10 to 15 of these procedures were these quick batter replacements. The procedure itself, although surgical, is to replace a faulty batter and only takes five to 10 minutes. Dr. Narwani informed the Board of the steps of the procedure. Dr. Narwani explained that the clinical surgical assistant (CSA) he had been working with has over 30 years of surgical experience at high level orthopedic surgery and spinal surgery background. Dr. Narwani stated that he has worked with the CSA in the past for most of his surgical procedures in an effort to minimize complications. The patient had requested replacement of the expired battery. She is well known to his practice and continues to be a patient of his to this day. Dr. Narwani explained that V.S. had presented to the surgical center with her husband where he evaluated her in the preoperative area, discussed the procedure, she signed the consent, he marked the patient and briefly walked her back to the operating room. Dr. Narwani stated that he situated her on the OR table, so she was properly placed and then he briefly discussed the case with the CSA before the patient was prepped. After she was prepped and draped the CSA was already scrubbed, gowned and gloved so he instructed the CSA to proceed and within a few minutes the battery was removed and a few minutes later the new battery was placed and the incision closed. During the procedure Dr. Narwani stated that he was not more than two feet away from the patient and the CSA. He was directly supervising the CSA the entire time. The procedure was quick, uneventful and uncomplicated. Dr. Narwani informed the Board that there's never been an instance where he did not scrub into a surgical case, no matter how minor, and in retrospect he should have scrubbed in for this patient's batter replacement procedure. Dr. Narwani recognized that he may have misunderstood the clinical scope of practice of the CSA however, in supervising the CSA he relied on published guidelines of the NCCSA. Dr. Narwani stated that he did not do this for any secondary gain, or cause he was tired or lazy or was trying to manipulate the system. In terms of money everything was returned to the insurance company and it was not even a \$200 case. Dr. Narwani stated that he understands that his decision to not scrub in was unacceptable however, he respectfully disagreed that his conduct was dishonest or selfish in motive. Dr. Narwani also disagreed that his conduct was egregious. Dr. Narwani stated that it was a lapse in judgment and that he will never make that mistake again. Dr. Narwani stated that he contacted his patient and disclosed that he did not scrub in and apologized. He reimbursed her and the insurance company for the cost of the procedure. He has participated in a peer review process and received a letter of concern as a result. There were no issues during his six-month monitoring period. Dr. Narwani also stated that he has registered for the PRoBE course.

During questioning, Dr. Narwani explained he had thought about what led to his decision that day and stated that it was Friday late afternoon and he had done a full day of cases. This was a simple case, this CSA was very experienced and so he said go ahead but he cannot think of any other reason. Dr. Narwani confirmed that normally this procedure does not require an assistant, but he had stayed to complete the day. Dr. Narwani confirmed that the patient is sedated and is being managed by a CRNA or anesthesiologist. The level of anesthesia is very minimal. Dr. Narwani he cannot say if this is something that a CSA typically does but this CSA has successfully completed this procedure many times before. Dr. Narwani stated that if something had occurred it would have taken him 30 seconds to scrub in. His hands had already used surgical goop, his

gloves were there and his gown was already on the table. Dr. Narwani confirmed that this CSA had done significantly more of these procedures than he has. Regarding the operating report not listing the CSA, Dr. Narwani explained that the operative report does have his name on it as the assistant in the procedure and it describes the procedure but it did not mention his or the physician's portion of the procedure. Dr. Narwani confirmed that he did not do any part of the procedure, so in retrospect it should have stated that the CSA completed the entire procedure. Dr. Narwani clarified his statement that he could be scrubbed in in 30 seconds to he could have thrown on his gloves and gown in 30 seconds. Dr. Narwani clarified that the CSA has assisted in many cases but believes that he has not done any on his own. Dr. Narwani confirmed that the patient was reimbursed.

Dr. Figge commented regarding supervising and the procedure, that it is not how fast you could get your hands clean. You are either ready and supervised or you're not. If you are not scrubbed in, you are not sterile and even though this is a low risk procedure, there is always the potential for a problem.

In closing, Ms. Stedman stated that this was a one-time mistake and will not happen again. There was no patient harm and Dr. Narwani understands how important it is to provide direct supervision. Ms. Stedman requested that the Board take into account the mitigating factors in this case and that Dr. Narwani has acknowledged his error in judgement and that it was an isolated event.

**MOTION: Dr. Beyer moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e), (r), (v) and (jj) for reasons as stated by SIRC.**

**SECOND: Dr. Farmer.**

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

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

**MOTION PASSED.**

Dr. Beyer commented that he believes that this was a one-time event and noted that this has not happened since. Dr. Beyer opined that it is difficult to imagine that a physician would have an assistant complete the procedure without having been scrubbed in but opined that this was not a selfish motive, Dr. Beyer expressed concern regarding the medical record issue since it is a reoccurring theme.

**MOTION: Dr. Beyer moved to issue an Advisory Letter and CME Order for inadequate supervision of a surgical assistant during a procedure. Within six months, Medical Ethics and Professionalism Course (ME-15) offered by Professional Boundaries, Inc. ("PBI"). The CME hours shall be in addition to the hours required for license renewal. The licensee shall obtain an unconditional or conditionally passing grade. 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. Gillard.**

Dr. Figge's spoke against the motion and opined that even if this was one-time this was an experienced physician who was not scrubbed in could not qualify as supervising. Dr. Figge opined that what the physician did was wrong and egregious. The operative note implied that he did it which was incorrect and had to be redone. Dr. Figge opined that there was some minimization of what occurred.

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

**VOTE: 6-yay, 2-nay, 0-abstain, 0-recuse, 3-absent.**

**MOTION PASSED.**



## K. FORMAL INTERVIEWS

1. MD-20-0811B, MD-20-0857A, MD-20-0457A, NIKHILKUMAR C. PATEL, M.D., LIC. #55916

Dr. Patel was present with counsel Adam Anderson.

Board staff summarized that in Case MD-20-0457A, Dr. Patel diagnosed peripheral arterial disease based on patient symptoms. Dr. Patel interpreted a duplex study as inconclusive, but indicative of an occluded anterior tibial artery, prompting recommendation for angiography. Angiography then established bilateral atretic anterior tibial arteries with occluded dorsalis pedis loop resulting with poor collateral flow and ischemic rest pain. The MC stated that peripheral pulses and doppler ultrasound revealed no evidence of significant arterial disease in either leg. Ankle brachial indices were not documented as being performed. No ischemic ulcers were present, and there was no other clinical evidence of decreased perfusion to either foot so intervention should not have been considered. In Case MD-20-0811B the patient felt that Dr. Patel performed multiple unnecessary procedures not indicated and this resulted in irreversible vascular damage that ultimately resulted in requiring leg amputation. The MC provided a detailed investigation and summary noting a deviation from the standard of care, based on the failure of the July 8, 2019 interventional vascular procedure performed by Dr. Patel. This was the third interventional procedure the patient had undergone, but the first procedure performed by Dr. Patel. A second procedure performed by Dr. Patel on September 25, 2019, again had a poor outcome and another procedure was performed on March 16, 2020. The MC opined that this procedure had little chance of improving patient outcome and Dr. Patel should have considered alternative treatments, such as a referral to a vascular specialist for bypass options. The delay in appropriate additional care led the patient to require a below knee amputation that could have been avoided. In Case MD-20-0857A the MC opined that The patient in this case had leg pain, but classic ischemic rest pain is unlikely considering the patient's hemodynamic studies. The MC opined that the patient probably had some degree of peripheral vascular disease but had significant venous insufficiency likely causing most of his clinical and physical findings. Therefore, in the MC's opinion there was no indication to perform a lower extremity angiogram on this patient. SIRC considered all three cases together and opined that the care provided by Dr. Patel represented an egregious pattern of poor judgment and substandard care due to the misdiagnosis of peripheral arterial disease, performance of inappropriate angiography and angiographic interventions and the lack of a referral to a vascular surgeon when indicated. SIRC agreed with the MCs that there was actual harm that occurred to patients that Dr. Patel cared for, and that these cases, when considered collectively, rose to the level of discipline.

Dr. Patel provided an opening statement to the Board. Regarding Case MD-20-0457A, Dr. Patel explained that this patient was initially referred to another physician by his primary doctor for PAD evaluation in January, 2019. However, at the time of the evaluation by that physician he felt there was venous issues rather than arterial issues. There was no documentation of any arterial evaluation on that physician's exam, including symptom signs or physical exams. The patient went back to his primary care doctor six months later and continued to have PAD symptoms, now with breast pain, and was then sent to him for evaluation. Dr. Patel explained that on the patient's intake form, the patient filled out all the questions himself about claudication and breast pain as positive. In addition to that, the patient also had multiple risk factors and an ultrasound was performed which demonstrated occlusive disease in stadium vessels. This prompted a left leg angiogram on Dr. Patel's angiogram findings. Dr. Patel stated that he was able to successfully reopen up his blood flow into the left leg with improvement and resolution of his symptoms. The patient came back later for his right leg angiogram and again there were included findings on the Angiogram. Unfortunately, he was not able to open up all his blood flow, including his plantar loop. In an attempt to open up the circulation, the patient had pain and swelling in his foot due to minor traumas with wire manipulation and catheter manipulation. There were no other symptoms or complications and he followed up with the patient one week later and his symptoms were improving. After that, there

was a follow-up appointment, however, the patient's insurance changed and he was seen by another physician.

Regarding MD-20-0811B, Dr. Patel stated this was a very complex patient with multiple comorbidities and critical limb ischemia that he presented with. Dr. Patel noted that there is no cure out there for critical limb ischemia and that 45% of the patients lose a limb within a year once they've been diagnosed. The patient presented to him initially with ischemic breast pain and a new wound on his foot from wearing tight tennis shoes, which did not heal on exam. The patient had a cold foot and the duplex ultrasound findings confirmed critical stenosis and occlusive disease in his legs. Dr. Patel stated that he was able to revascularize the patient after a lengthy procedure and the patient felt better as documented by a third party. Dr. Patel stated that the patient was then prescribed with Plavix and antiplatelet therapy by him. Unfortunately, the patient had a kidney stone in the hospital. The Plavix was stopped and not restarted. Then the patient had symptoms of left leg pain and had a cold left leg. Dr. Patel was able to successfully revascularize him except for his pedal loop, which Dr. Patel had attempted, but could not. However, the revascularization improved his symptoms as documented by his cardiologist. The patient then had a hot water burn and had third degree burns, as documented by his podiatrist, who was managing his wound care as well. The patient was referred to Dr. Patel again for his peripheral vascular disease. On exam, the patient had cold foot and no pulses, which he was able to revascularize part of his circulation to the extent that it improved his breast pain but the wound did not heal. The patient was then later referred to another physician for an attempt at revascularization. Dr. Patel noted that at each time of his intervention the patient presented with critical ischemia, cold leg and additional injuries that required repeat intervention.

Regarding MD-20-0857A, Dr. Patel stated that the patient was referred to him for long-term lower leg wounds with cellulitis for over two to three years with the abnormal ABI that was performed at an outside facility. The patient was referred to him for arterial evaluation. On the intake form the patient himself answered all the questions pertaining to PAD and CLI as positive. He also had multiple previous venous procedures done. Since he had already had the venous procedure done and he had no active infection in the wound to delay healing the only alternative option in this patient was to look at his arterial system. Dr. Patel stated he suggested a diagnostic angiogram and that's all he did. Dr. Patel stated that he never did an angiogram on this patient. It was just a suggestion of an angiogram that led to this complaint.

Mr. Anderson provided an opening statement to the Board and requested that discipline not be imposed.

During questioning, Dr. Patel informed the Board of the circumstances that led him to working at Modern Vascular, which he worked at for three years. Dr. Patel stated that these complaints affected him personally and it was obvious that they were an attack on him and his family situation allowed him to move to California. He has been there since without a complaint and continues to do peripheral artery disease work. Dr. Patel confirmed regarding patient RD that he did not actually complete the angiogram procedure it was just his suggestion of a diagnostic angiogram that led to the complaint. Regarding SG, Dr. Patel stated that the patient did have an ultrasound which showed occlusive disease and the patient had symptoms of ischemic breast pain. He treated the left leg with improvement of his symptoms. It was when the patient came for treatment of his right leg intervention where he had occlusive disease, and he was unable to open all his occluded vessels that led to the deterioration. The patient had a side effect of the procedure rather than gangrene or amputation. He did have a follow up a week later with improvement but was not seen again since his insurance changed. The patient went back to his initial doctor, who evaluated him for varicose veins and then the complaint was filed.

Regarding DB, Dr. Patel confirmed that there was improvement after the three procedures and the images submitted showed the improvement. After the second

procedure he was not completely able to open the pedal loop but there was improvement overall in his symptoms, which were documented by his cardiologist. Dr. Patel explained that his main symptoms were ischemic breast pain its not so important to open the pedal loop as compared to when there is a wound to heal. Dr. Patel stated that he referred the patient to a vascular surgeon after the third time when there was the foot burn. Dr. Patel confirmed that he just had an employment agreement with Modern Vascular.

Regarding SG, the MC's issue was that the intervention was not indicated. Dr. Patel opined that the MC ignored the patient's symptoms and the ultrasound showed the occlusion and then the angiographic pictures clearly shows that there was an occlusion before. After the intervention there was improved blood flow. Dr. Patel informed the Board of the claudication spectrum and that critical limb ischemia, which is on the other spectrum of PAD. These patients do not present with claudication because their circulation problems are in the smaller vessels, in their feet, toes and legs. Dr. Patel explained that there is a misunderstanding that PAD only presents as claudication and not breast pain and that's when all this confusion arises in interpreting the patient's symptoms and signs. Dr. Patel explained to the Board why DB did not qualify for bypass options.

In closing, Dr. Patel stated that he reads literature and follows guidelines and standards of procedures. Dr. Patel stated that he did that in all three of these patients to the best of his ability. Dr. Patel opined that he followed the standard of care in providing care for these patients.

In closing, Board staff noted that the Board receives complaints from various sources and it goes through the investigation process. Regarding the two MC reports in MD-20-0857A, Board staff explained that once a report comes through the Board's Chief Medical Consultant (CMC) will review it. If they determine that the report is internally inconsistent, they may direct staff to obtain another MC. Specific to this case, the CMC's concern was that the MC's report was brief and that the patient had a right ABI of 0.9 and a left ABI of 0.84, with clear triphasic waveforms yet the licensee recommended an angiogram, which is why the CMC requested a second MC review. The original report is still included in the case file. Regarding MD-20-0457A, there was a statement made that the MC cited that he didn't review the images and the doctor and his attorney took issue with that today. In the supplemental response provided by that MC, he states that he did not believe those images were in the original set of images, but in any case it did not change hi opinion. His concern was whether or not the angiogram should have ever been performed, and he knew it was performed when he proposed those deviations from the standard of care.

During deliberations, Dr. Figge opined that this physician is well informed, well educated and seems proficient at what he was doing.

Ms. Smith suggested for purposes of clarity that the Board consider each case individually with regard to unprofessional conduct findings.

With regard to Case MD-20-0857A, Dr. Figge stated that the procedure was never done although it was recommended. Given the physician's argument that it would have helped in addition to one of the MC's agreeing with that, Dr. Figge did not find misconduct. In case MD-20-0457A, there was a question about reviewing the right sided leg imaging, and some discrepancy where the left leg was improved, but then the right leg seems to have been improved. Dr. Figge opined that all of the allegations the MC made were adequately addressed by the physician and Dr. Figge found that there was no misconduct. In case MD-20-0811B, DB had a bad outcome of a below the knee amputation. In listening to Dr. Patel's arguments of critical limb ischemia versus bypassable artery with an end result distally to actually save the foot and lower leg, Dr. Figge found it hard to believe that there would have been an ability to bypass this at the time the patient was last seen by Dr. Patel. Dr. Figge opined that there has been no unprofessional conduct.

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

**SECOND: Dr. Gillard.**

Dr. Gillard commented that when looking at peripheral vascular disease, sometimes in the best of hands, they still end up with a below the knee amputation. Regarding the allegations that these procedures were done for personal gain, Dr. Gillard noted that this position is salaried so he does not see any benefit or personal gain of doing extra work. Regarding SG, Dr. Beyer found the physician's response compelling regarding claudication. Regarding Case MD-20-0811B, Dr. Beyer found it compelling the physician's concern that revascularization may not have been accomplished surgically but was troubled by the fact that there wasn't an attempt to reach out to another practitioner. Dr. Beyer opined that this patient might have benefited from an earlier consultation with a vascular surgeon. Dr. Figge opined that this may be a case of hindsight and Dr. Patel's explanation on why it wasn't realistic was compelling.

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

**VOTE: 6-yay, 1-nay, 1-abstain, 0-recuse, 3-absent.**

**MOTION PASSED.**

## **L. FORMAL INTERVIEWS**

1. MD-23-1114A. HASAN F. CHAUDHRY, M.D., LIC. #50556  
Dr. Chaudhry was present with counsel Donn Alexander.

Board staff summarized that the Board initiated this case after receiving notification from a hospital indicating that Dr. Chaudhry was asked and agreed to voluntarily refrain from exercising his medical staff privileges while reviewing a complaint alleging that Dr. Chaudhry may have engaged in inappropriate and/or prohibited conduct. Specifically, a hospital employee alleged that on November 8, 2023, Dr. Chaudhry walked towards her, whistled, made direct and prolonged eye contact while sticking his tongue out towards her and gesturing with his hand, placing it adjacent to his groin on his thigh and dragging it upwards along the length of his torso. The hospital reviewed a video recording of the incident and determined that Dr. Chaudhry could be seen walking towards the door all the while making direct eye contact with the employee, who was approaching from his right. Dr. Chaudhry was seen maintaining direct eye contact with the employee the entire time, even once he had reached the door and she had kept going, out of frame. The hospital cited the employee's account as substantiated by the video recording and noted that when zooming in, they could see that Dr. Chaudhry was sticking his tongue out at the employee, and he made a gesture with his right hand, from his groin area up his torso and, paused at the door, staring at the employee, before reaching for his badge to unlock the door. Dr. Chaudhry elected to resign prior to the conclusion of the hospital's investigation. In his response to the Board, Dr. Chaudhry admitted to sticking his tongue out at another employee, which he reported was intended to be in a joking manner. Dr. Chaudhry maintained that he and the technician did not exchange any words, and no physical contact of any type occurred. In 2022, Dr. Chaudhry entered into a behavioral Stipulation Agreement with the hospital following an investigation of a report that he told a violent, sexually explicit, and inappropriate joke about a child while at the hospital. The Stipulation Agreement required him to complete the Professional Boundaries program offered by PACE and to comply with the hospital's Professional Conduct Policy. This was investigated by the Board and in February, 2023, Dr. Chaudhry entered into a consent agreement for a Letter of Reprimand for his conduct. Therefore, based on the second instance of concerning conduct reported, Dr. Chaudhry was issued an Interim Order to undergo a neuropsychological evaluation with an emphasis in boundaries. The evaluator commented that Dr. Chaudhry presented with impulsive behavior that crosses professional boundaries with co-workers and that the behavior most likely relates to his mental health status and warranted multidisciplinary behavioral health intervention. The evaluator opined that Dr. Chaudhry was safe to practice medicine and recommended continued treatment for his mental and physical health conditions, as well as treatment

with a PhD level behavioral health professional with expertise assessing and treating his mental health conditions and maintaining professional boundaries. The evaluator noted that the goals of treatment should include effective management of impulsive behaviors and acquiring and or improving adaptive and effective social skills. SIRC reviewed the case and found it concerning that the Board was in receipt of an additional complaint related to inappropriate behaviors at work despite the recent Letter of Reprimand issued in April, 2022. SIRC stated that it remained unclear why Dr. Chaudhry would walk toward a female employee with his tongue out and watch her walk down the hall. SIRC noted that the hospital documented that the employee found the behavior sexually inappropriate and that it had a negative impact on the work environment. SIRC stated that this inappropriate behavior is especially concerning since Dr. Chaudhry was under a stipulation agreement with the hospital, completed a professional boundaries course in 2022, and received discipline from the Board. SIRC stated that due to the prior history, progressive discipline was warranted and recommended a Decree of Censure and One Year PHP Probation to monitor Dr. Chaudhry's treatment by a health care professional.

Mr. Alexander provided an opening statement on behalf of his client and argued that Dr. Chaudhry did not violate the medical practice act, and no disciplinary action is warranted. Mr. Alexander requested that this case be dismissed or in the alternative, that the Board issue an Advisory Letter.

Dr. Chaudhry provided an opening statement to the Board and stated that healthcare workers deserve to have a safe working environment free from harassment and intimidation and stated that he deeply regrets sticking out his tongue at this co-worker. It was a non-sexual action, and was not meant to threaten, harass, or intimidate her. Dr. Chaudhry denied making a sexually explicit action. Dr. Chaudhry informed the Board that he voluntarily followed the recommendation by Dr. Lett to seek counseling for management strategies of impulsive behaviors secondary to his medical condition and is using this counseling to inform his professional interactions moving forward. Dr. Chaudhry requested that this case be dismissed.

During questioning, Dr. Chaudhry clarified that at the time of the incident he was a consulting medical consultant at the facility with psychiatry being the primary. He had worked there for two years at the time. Dr. Chaudhry stated that CD had worked on the unit frequently but his interaction with her was minimal. Dr. Chaudhry confirmed that he was still under the stipulation agreement with the hospital. Dr. Chaudhry stated that he does not remember an incident where he bumped CD and that there's no time where he would make physical contact with somebody to push them into a room. Dr. Chaudhry confirmed that he would sometimes stick his tongue out to other staff to say hello to create a feeling of a friendly collegial environment. It is not something that he does anymore. Dr. Chaudhry stated that he did not whistle at her. Dr. Chaudhry informed the Board that he did not have a written Personal Prevention Plan but that he primarily to remind himself of the fluorescent light test. Dr. Chaudhry explained that the test is if you see fluorescent lights, then you are at work and while at work you need to adjust your behaviors. Dr. Chaudhry confirmed that he took counseling as recommended by Dr. Lett. The counseling was short term and was terminated by the counselor when he felt there was achievement of the goals. The counselor stated that he needed more specific and explicit guidance from the Board if there needed to be counseling towards a specific goal. Dr. Chaudhry stated that he learned from counseling strategies on checking the action before doing anything. He's more hesitant to make any sort of playful actions at work and focus on the reason that he is there. Dr. Chaudhry explained during the time of the incident in the video his badge was clipped to the collar of his scrubs. Dr. Chaudhry reiterated that he did not make a sexual gesture to the employee. Dr. Chaudhry stated that it was his understanding that this case was brought to the Board because of the accusation of the sexual action with the hand, which he did not perform that action. Dr. Chaudhry stated that he understands that what he suspected to be a playful nature of sticking his tongue out, which was not well received. Dr. Chaudhry stated that he had not previously received negative feedback from anybody that they were displeased with him

doing that. This is very strong negative feedback. This has made a significant mark on him and it will not happen again.

Mr. Alexander provided a closing statement and requested that the case be dismissed.

Board staff noted that they had emailed the attorney on five different occasions, asking for the name and CV of the therapist who provided counseling to Dr. Chaudhry and was unable to get the CV or the name of the therapist, let alone subpoena any records. No records have been provided to support that he's gone to therapy. Board staff noted her supplemental that there were five individuals that are seen in the video camera however, none of the individuals were looking at either CD or Dr. Chaudhry. Additionally, Dr. Chaudhry brought up that he was not able to view the video prior to providing the initial response. Board staff explained that physicians are given the complaint and the notice letter with allegations to provide their initial response. They are not given the case file until they are provided with the opportunity for a supplemental response. At that time, he was provided with the video and all of the records that in the investigative file.

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

**SECOND: Ms. Bain.**

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

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

**MOTION PASSED.**

The Board entered into Executive Session at 2:55 p.m.

The Board returned to Open Session at 3:08 p.m.

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

Ms. Jones opined that there has been unprofessional conduct as stated by SIRC and that the doctor's actions were offensive to the employee. She felt intimidated and unwelcome by his sticking his tongue out and we cannot know the physician's intent.

**MOTION: Ms. Jones moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(r) for reasons as stated by SIRC.**

**SECOND: Dr. Beyer.**

Dr. Beyer commented that regardless of intent, a lot of it depends on how it's interpreted and how the other person reacts to it is really important. Dr. Beyer opined that it is important to recognize that in this case, several actions that in this case several actions that did take place were reasonably perceived differently by the nurse. Dr. Beyer opined that this does sustain the violation. Dr. Bethancourt commented that everybody accepts this issue with the sticking out the tongue; however, after watching the video he could not substantiate the other accusation. Dr. Bethancourt noted that when his hand goes up with the badge to open the door half of his body is blocked by the wall, so he does not see how anyone could say what did or did not happen at that time of the film.

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

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

**MOTION PASSED.**

Ms. Jones opined that the physician does understand that what he did was offensive to the employee. Reading Dr. Lett's recommendations and looking at the physician's prior incident, the Board needs to follow Dr. Lett's recommendations for further PHP for improving his adaptive or effective social skills, impulsive behaviors and improving effective communications.

Ms. Smith suggested motion language for the Board to consider based on Ms. Jones' statements and clarified that if the physician does not accept the Stipulated Health Agreement (SHA) the matter would return to the Board for consideration.

Board staff provided Advisory Letter language for the Board's consideration.

**MOTION:** Ms. Jones moved to offer the physician a Stipulated Health Agreement for PHP participation to complete the recommendations by Dr. Lett. If accepted, issue an Advisory Letter for inappropriate professional interaction. 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. Gillard.

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

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

**MOTION PASSED.**

## CONSENT AGENDA

### M. CASES RECOMMENDED FOR DISMISSAL

**MOTION:** Ms. Jones moved to dismiss item numbers 1-11.

**SECOND:** Dr. Bethancourt.

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

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

**MOTION PASSED.**

1. MD-24-0335A, LINDA S. SNYDER, M.D., LIC. #19197

**RESOLUTION:** Dismissed.

2. MD-24-0341A, HOWARD B. FLEISHON, M.D., LIC. #16014

Dr. Beyer, Dr. Farmer and Dr. Figge stated that they know the physician but that it would not affect their ability to adjudicated the case.

**RESOLUTION:** Dismissed.

3. MD-24-0364A, SEBASTIAN RUGGERI, M.D., LIC. #12438

**RESOLUTION:** Dismissed.

4. MD-24-0427A, KARL B. HIATT, M.D., LIC. #19230

**RESOLUTION:** Dismissed.

5. MD-24-0429A, JOHN D. MARSHALL, M.D., LIC. #10961

**RESOLUTION:** Dismissed.

6. MD-24-0490A, JAIME BALDERRAMA-RODRIGUEZ, M.D., LIC. #17010

**RESOLUTION:** Dismissed.

7. MD-24-0491A, PAUL M. BLOCK, M.D., LIC. #13694

**RESOLUTION: Dismissed.**

8. MD-23-0337A, RAINER. W. G. GRUESSNER, M.D., LIC. #36718

**RESOLUTION: Dismissed.**

9. MD-24-0565A, ALAN G. GOLSTON, M.D., LIC. #14178

**RESOLUTION: Dismissed.**

10. MD-24-0575A, ANITA E. P. MAYER, M.D., LIC. #16855

**RESOLUTION: Dismissed.**

11. MD-24-0337A, JAMES D. MC DANIEL, M.D., LIC. #18751

**RESOLUTION: Dismissed.**

## **N. CASES RECOMMENDED FOR ADVISORY LETTERS**

**MOTION:** Dr. Gillard moved to issue an Advisory Letter in item numbers 1, 4 and 5.

**SECOND:** Ms. Bain.

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

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

**MOTION PASSED.**

1. MD-23-0211A, PHILLIP Z. SABA, M.D., LIC. #24549

**RESOLUTION:** Advisory Letter for failing to recognize the signs and symptoms of strangulation within an umbilical hernia 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.

2. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

3. MD-22-0222A, SACHIN NARAIN, M.D., LIC. #51557

Counsel Calli Maxwell addressed the Board during the Public Statements portion of the meeting.

Dr. Bethancourt commented that where the position of the needle goes in does not necessarily mean that is where it ends up and is unsure how that can be confirmed that it was in the right or wrong place. Dr. Moschonas agreed and commented regarding the use of the C-arm; when there is no tech it is up to the physician to locate the c-arm to get the images and is under his control. The only issue here is regarding the saving of the images; which has been addressed. Dr. Gillard noted that there was actual damage done and that there have been three reviews with the same findings. Dr. Gillard spoke in favor of the Advisory Letter since there was patient harm and no images were saved to confirm the placement of the needles.

**MOTION:** Dr. Gillard moved to issue an Advisory Letter for making a false statement to the Board and for failing to maintain fluoroscopic images. 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. Farmer.

**VOTE:** The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Ms. Bain, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard, Ms. Jones



and Dr. Moschonas. The following Board members were absent: Dr. Artz and Dr. Krahn.

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

**MOTION PASSED.**

4. MD-23-0842A, BINITA N. PATEL, M.D., LIC. #27009

**RESOLUTION: Advisory Letter for failing to timely follow-up on lab test results and for inadequate documentation. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.**

5. MD-23-0499A, JOHN C. LIN, M.D., LIC. #31442

**RESOLUTION: Advisory Letter for failing to timely respond to a request for consultation. 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.**

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

1. MD-23-0539A, ROBYN E. STIEFELD, M.D., LIC. #30583

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

Dr. Gillard commented that there was alleged contact and yelling at a nurse. The physician has gotten counseling, a psychiatric evaluation and has taken a leave of absence. Dr. Gillard opined that CME is not necessary as the physician has gotten the message. Dr. Gillard agreed with the issuance of the Advisory Letter but given the mitigating factors opined that CME is not needed.

**MOTION: Dr. Gillard moved to Advisory Letter for inappropriate interaction with a nurse. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.**

**SECOND: Ms. Jones.**

Ms. Jones noted that the physician does plan to take the recommended communication course and she has had a lot of counseling.

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

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

**MOTION PASSED.**

2. MD-23-0380A, GREGORY L. DE SANTO, M.D., LIC. #19465

Counsel Callie Maxwell addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Gillard opined that this was a complicated case and that CME is not necessary. Dr. Gillard further opined that the physician has learned from the Board's investigation.

**MOTION: Dr. Gillard moved to Advisory Letter for inadequate informed consent and for failing to document a procedure. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.**

**SECOND: Dr. Bethancourt.**

Dr. Beyer opined that communication was a significant deficiency in this case. Dr. Beyer further opined that the CME is indicated. Ms. Jones spoke against the motion since there was a significant communication issue and the patient went through trauma because of this. Ms. Bain opined that communication training in this setting and sensitivity was lacking. Ms. Bain spoke again the motion since there was yelling and screaming. Dr. Figge noted that some of this is a situation of he said/she said and this complaint was filed a year later with billing issues that may have prompted this. Dr. Figge spoke in favor of the motion since it is not clear what truly happened and CME is not needed. Ms. Bain commented that there was a significant issue with obtaining or properly documented informed consent and opined that CME would help streamline the patient care and administrative process. Dr. Gillard commented that CME is to mitigate inefficient physician knowledge. Dr. Beyer noted that CME is also for physicians with behavioral, communication or ethical issues or when there is something missing when interacting with the patient.

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

**VOTE: 4-yay, 5-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION FAILED.**

**MOTION: Ms. Jones moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate informed consent and for failing to document a procedure. 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 Enhanced Patient Communication course; and complete no less than 5 hours of Board staff preapproved Category I CME regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Dr. Beyer.**

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

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

**MOTION PASSED.**

3. MD-23-0784, BRIAN W. CHONG, M.D., LIC. #33277

Dr. Gillard noted that the physician is retired and had two wrong site procedures in the past. Dr. Gillard opined that CME is not going to help. Dr. Beyer questioned whether wrong site CME is right for this case since it is about the level. Dr. Beyer inquired from staff about what is involved in this CME.

Board staff informed the Board that this CME is a general requirement so the physician would find potential CME courses and the CMC would review and approve the CME course. Dr. Deschamps noted that this could happen and that this physician is practicing in Colorado so he has not retired entirely. SIRC had significant discussion regarding this and noted that there were multiple steps, which the physician did not follow to prevent a wrong site procedure. Board staff further noted that this physician's license in AZ does not expire until 2025.

**MOTION: Dr. Beyer moved to issue an Advisory Letter and Order for Non-Disciplinary CME for performance of two wrong site procedures. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 6 hours of Board staff pre-approved Category I CME in the prevention of wrong site**

procedures. The CME hours shall be in addition to the hours required for license renewal.

**SECOND: Ms. Bain.**

Dr. Gillard reiterated that CME is not going to help protect the public since the physician is aware of wrong site surgery. Ms. Bain noted that since this physician has retired and there is a pattern; a CME course to follow check site procedures is beneficial. Dr. Farmer commented that if you have a license you can move in multiple different directions and the Board should stick to precedent and not take the physician's plans into account.

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

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

**MOTION PASSED.**

4. MD-23-0343A, RAVI YARLAGADDA, M.D., LIC. #65140

Dr. Gillard commented that he does not agree with CME being ordered that is not going to help. Dr. Gillard noted that this was a malpractice case against a neurologist and that there is only one treatment for Wernicke's encephalopathy, which in this case was missed. Having gone through litigation, the physician is now aware.

**MOTION: Dr. Gillard moved to issue an Advisory Letter for failing to diagnose Wernicke's encephalopathy and for failing to recommend neurological follow-up. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.**

**SECOND: Dr. Beyer.**

Ms. Jones commented that even though there was a malpractice case, the physician was in a defensive position and the lab test showed that the patient had a low thiamine level which was not reviewed after the first visit. Dr. Beyer further commented that since this was a malpractice settlement, we do not know all the details or if the physician has learned from this. This was a diagnosis where the physician should have been attuned to and recognized and that this is a matter of how and when to ask the question. Dr. Moschonas noted that having a patient with Wernicke's encephalopathy the neurologist's job is to confirm the diagnosis, look at all the testing that has been completed or order testing that needs to be done and to evaluate them to decide on treatment. There is room for improvement since it's not just ordering the test, it is to evaluate the results of the test to determine the cause and treatment. Dr. Gillard noted that the CME is on how to treat Wernicke's encephalopathy, which is not needed. Dr. Beyer noted that the wording in the SIRC report includes the diagnosis and treatment of Wernicke's encephalopathy, so this would include the diagnostic side of this. Dr. Bethancourt commented that he does not doubt this physician knows how to diagnose Wernicke's encephalopathy, the issue here is he did not take his time in checking the results to confirm it.

**MOTION WITHDRAWN.**

Dr. Farmer inquired about more focused CME regarding procedure or organization.

Board staff noted that staff can take the Board's comments into account when approving the CME.

Dr. Beyer commented that this was about having a high index of suspicion for the possibility of Wernicke's encephalopathy, since this is something that is reversible with the right treatment. Dr. Beyer reiterated that CME specific to Wernicke's is appropriate. Dr. Gillard noted that there is no lab or imaging that can be done but agree with CME on missing the diagnosis as opposed to the treatment.

**MOTION: Dr. Beyer moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to diagnose Wernicke's encephalopathy and for failing to recommend neurological follow-up. While there is insufficient evidence to**

support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in the diagnosis and treatment of Wernicke encephalopathy. The CME hours shall be in addition to the hours required for license renewal.

**SECOND: Ms. Dorrell.**

Dr. Moschonas for a neurologist most of the issues associated with Wernicke's is association with alcoholism but now it is also associated with weight management. Dr. Moschonas agreed that the CME should be in evaluating all the data.

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

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

**MOTION PASSED.**

5. MD-23-0412A, JAYANTH MANOHARAN, M.D., LIC. #60928

Dr. Figge recused from this case.

Dr. Gillard agreed that CME as recommended by SIRC is warranted given that there was a delay in obtaining a scan for a post-op complication. Ms. Jones noted that the communication between the physician and the patient's family was abysmal. The MC stated that communication was vitally important. Ms. Jones opined that this physician would benefit from CME on communication.

Dr. Gillard noted that the CME can be customized given the Board's discussion by staff.

Ms. Smith explained that this is true if the targeting of the CME can be accomplished within the language of the motion however, in this case the CME is entirely different and needs to be changed within the motion.

**MOTION: Dr. Gillard moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to timely recognize and treat a post-operative complication. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 6 hours of Board staff pre-approved Category I CME in the treatment of postoperative complications and within six months, complete CPEP's Enhanced Patient Communication course. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Ms. Jones.**

Dr. Beyer opined that he is unsure if discipline is warranted in this case. Dr. Gillard noted that in-person CME is not easy for the physician to accomplish and the order is posted on the Board's website and spoke in favor of the motion. Dr. Gillard agreed that there were some problems here but is unsure that this rises to the level of discipline. Ms. Bain noted that the complainant stated that laparoscopic was not the appropriate procedure and questioned if this is being overlooked. Dr. Bethancourt commented that it is hard to say at this point as it is a judgment call on what needs to be done.

Dr. Deschamp commented that SIRC's concern was not on the appropriateness of laparoscopy but on the lack of responsiveness of the treating surgeon in front of repeated calls to treat a post-op complication.

Dr. Beyer commented that the letter from the family member of the patient, who is also a physician, asserts that the laparoscopic procedure should not have been done so it is not black and white. However, the MC did not find that so we can't go on record but the management of the patient was deficient.

**VOTE: The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Ms. Bain, Ms. Dorrell, Dr. Farmer, Dr. Gillard, Ms. Jones and Dr.**

Moschonas. The following Board member voted against the motion: Dr. Beyer. The following Board members were absent: Dr. Artz and Dr. Krahn.

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

**MOTION PASSED.**

6. MD-23-0721A, SANDEEP RAO, M.D., LIC. #51872

C.P. addressed the Board during the Public Statements portion of the meeting.

Ms. Bain inquired about the call to public statement regarding the incorrect stent placement and if that happened. The MC report states that there was no evidence that the stent was dislodged. Dr. Gillard noted that the patient did have symptoms and further noted that the pain medication was just called in without the patient coming in for an examination; which is concerning and the CME is warranted.

Dr. Deschamps stated that SIRC agreed with the MC that there was no evidence that the stent was dislodged.

**MOTION:** Dr. Gillard moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to evaluate and treat acute and severe post-procedure pain. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 6 hours of Board staff pre-approved Category I CME in the diagnosis and treatment of complications after vascular stenting procedures. The CME hours shall be in addition to the hours required for license renewal.

**SECOND:** Ms. Bain.

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

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

**MOTION PASSED.**

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

**MOTION:** Dr. Gillard moved to approve the consent agreement in item numbers 1, 2, 4 and 5.

**SECOND:** Dr. Moschonas.

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

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

**MOTION PASSED.**

1. MD-24-0247A, STEPHEN G. NJOROGE, M.D., LIC. #46643

**RESOLUTION:** Consent Agreement for License Reactivation with Five Year Probation to participate in PHP with terms consistent with the PHP Contractor's recommendations. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Njoroge's request for termination shall be accompanied by a recommendation from his PHP Contractor stating that monitoring is no longer required.

2. MD-22-0059A, FARHAAD R. RIYAZ, M.D., LIC. #61934

**RESOLUTION:** Consent Agreement for a Letter of Reprimand.

3. MD-22-0769A, LASZIO J. CSERNAK, M.D., LIC. #32531

Counsel Gary Fadell addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Ms. Jones inquired about the chart reviews given the attorney's Call to Public statement.

Ms. Smith clarified that his license is active until it expires, if the physician is unable to complete the chart reviews with staff or given the health issues, he can enter into a practice limitation or surrender his license.

Ms. Jones inquired about how is staff notified if the physician does start practicing.

Ms. Smith explained that the consent agreement is drafted anticipating that he is continuing to practice and states that 35 days after the CME is completed, he must enroll in chart reviews. Once the CME is completed this triggers staff to reach out. Also, there is tolling language.

**MOTION: Ms. Jones moved to accept the Consent Agreement for a Letter of Reprimand and Two-Year Probation. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in the recognition and treatment of anesthesia complications. The CME hours shall be in addition to the hours required for license renewal. Within thirty days of completing the Board ordered CME, Dr. Csernak shall enter into a contract with a Board approved monitoring company to perform periodic chart reviews, at the physician's expense. After three consecutive favorable chart reviews, Dr. Csernak may petition the Board to terminate the Probation. Dr. Csernak shall not request early termination of Probation without having completed the chart review process. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.**

**SECOND: Dr. Gillard,**

Dr. Gillard noted that the physician can always petition the Board to modify the Order.

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

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

**MOTION PASSED.**

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

**RESOLUTION: Consent Agreement for Surrender of License.**

5. MD-23-0268A, MD23-0367A, MD-23-0656A, MD-23-0891A, ANDRES ALVARADO, M.D., LIC. #26109

**RESOLUTION: Consent Agreement for Decree of Censure and Five-Year Probation with Practice Restriction. The physician shall be prohibited from prescribing controlled substances until receiving permission from the Board to do so. Respondent may prescribe controlled substances in a hospital setting, including five days of discharge medications, during the period of Probation. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.**

## **Q. PROPOSED CONSENT AGREEMENTS (Non-Disciplinary)**

1. MD-24-0397A, JAMES F. GANEM, M.D., LIC. #16666

**MOTION: Dr. Gillard moved to approve the Consent Agreement for a Non-Disciplinary Surrender of License.**

**SECOND: Dr. Bethancourt.**

**VOTE: The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard, Ms. Jones and Dr.**

Moschonas. The following Board member abstained: Ms. Bain. The following Board members were absent: Dr. Artz and Dr. Krahn.  
VOTE: 8-yay, 0-nay, 1-abstain, 0-recuse, 2-absent.  
MOTION PASSED.

## R. LICENSE APPLICATIONS

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

**MOTION:** Dr. Bethancourt moved to 1-5 and 7.

**SECOND:** Dr. Gillard.

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

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

**MOTION PASSED.**

1. MD-23-1130A, ARYENDRA G. SHRIVASTAVA, M.D., LIC. #N/A

**RESOLUTION:** License granted.

2. MD-23-1135A, ERIC G. LEVEEN, M.D., LIC. #N/A

**RESOLUTION:** License granted.

3. MD-24-0022A, CARMELO A. ECHEVERRIA, M.D., LIC. #N/A

**RESOLUTION:** License granted.

4. MD-23-0949A, GERALD E. GRUBBS, M.D., LIC. #N/A

**RESOLUTION:** License granted.

5. MD-23-1059A, MITZI R. KROCKOVER, M.D., LIC. #N/A

**RESOLUTION:** License granted.

6. MD-23-0939A, NITIN P. DHIMAN, M.D., LIC. #N/A

Ms. Jones expressed concern regarding the physician's previous board action history from other medical boards. Ms. Jones acknowledged that these were from several years ago but expressed concern regarding the relationship between his fraud charges and his plans to preceptor of medical students. Ms. Jones also noted that he has since taken the PBI Ethics course in 2018 and he states that he does take CME regarding medical ethics and professionalism. Dr. Farmer agreed that this is duplicitous conduct and agreed with Ms. Jones' concerns. Dr. Gillard agreed with the comments but noted that per our statutes and staff's recommendation for licensure this has been mitigated.

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

**SECOND:** Dr. Bethancourt.

Dr. Beyer expressed concern regarding the behavior this physician has exhibited over the years but acknowledged that there has been disciplinary action in the other states and he has completed CME to mitigate this issue. Dr. Beyer spoke in favor of the motion. Ms. Bain spoke against the motion and opined that there is a pattern of issues that cross different judgment lines that have continued for over a decade. This is not a question regarding clinical judgement but on how to be truthful, which is a problem. Dr. Farmer noted that the Board has the option of a licensee interview. Ms.

Jones spoke in favor of bringing this physician in for an interview. Dr. Figge noted that his charges were dismissed and expunged in 2012 that started in 2007 and there hasn't been an issue since. Regarding precepting students, it can be compelling to hear from a sanctioned physician who can inform them of his experience and not to do that. Dr. Figge spoke in favor of the motion given the time that has gone by and that he would not deny the license with his Board's in internal medicine.

Ms. Smith noted that this is a Universal application which falls under a different statute with regard to licensure investigations as well as the analysis of the underlying professional or criminal conduct. All license denials are reported to the NPDB, the only difference is for Universal Recognition License denials must be sent to the governor's office for approval prior to denying the license.

Ms. Bain noted that there was a 2019 Michigan investigation for a quality of care issue and a disciplinary order in 2021 was put in place and has since been completed.

Ms. Smith informed the Board of the Universal Recognition License application requirements and this bootstraps the previous licensing board's requirements. With regard to discipline that occurred in another state, if the previous state has resolved the issue, then the Board is required to also consider the issue resolved due to the language of the statute. The analysis with regard to disqualifying criminal history pulls in a statute from Title 41, which is different from the Board's statutes. There is another statute in Title 41 that applies to all licensing cases, which says the Board is not allowed to apply standards that don't exist in rule or statute, including the ability to invite the applicant in for a licensing interview. This does not exist in the Universal Recognition License statute. Essentially the Board's discretion is less in these types of applications.

Dr. Figge inquired if the Board can still offer the applicant the opportunity to withdraw in lieu of denial.

Ms. Smith confirmed that the Board is still able to make that motion.

**VOTE: The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Gillard, Ms. Jones and Dr. Moschonas. The following Board member voted against the motion: Ms. Bain. The following Board abstained: Dr. Farmer. The following Board members were absent: Dr. Artz and Dr. Krahn.**  
**VOTE: 7-yay, 1-nay, 1-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

7. MD-23-1271A, SHYAM K. GUPTA, M.D., LIC. #N/A

**RESOLUTION: License granted.**

8. MD-23-0830A, PETER B. CRAIG, M.D., LIC. #N/A

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

Ms. Bain inquired if executive session would be needed to discuss issues related to the potential licensee being terminated from Medicare and other insurance programs and if it ethically affects the board.

**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: Ms. Jones.**

**VOTE: The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Ms. Bain, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard, Ms.**



**Jones and Dr. Moschonas. The following Board members were absent: Dr. Artz and Dr. Krahn.**

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

**MOTION PASSED.**

The Board entered into Executive Session at 9:54 a.m.

The Board returned to Open Session at 10:03 a.m.

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

Dr. Gillard commented that this has been reviewed and mitigated.

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

**SECOND: Dr. Bethancourt.**

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

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

**MOTION PASSED.**

9. MD-21-1006A, DARRYL J. FISHER, M.D., LIC. #N/A

Ms. Jones noted that this is a Universal Recognition application and expressed concern that this physician had legal issues from several years ago and his emails written to Board staff were condescending, belligerent tone and unprofessional to the staff who were just trying to obtain information to obtain his license application information. Ms. Jones noted that he does live in Arizona but he did not give any plans to practice in Arizona. Ms. Jones noted that there was some difficulty where he was not supplying information and was going to have to withdraw.

Board staff explained that this case was an older case. Since he had been so unresponsive in the past, the licensing coordinator was instructed to send a certified letter requesting that he withdraw his application. She did make one more attempt to contact him and he expressed his wish to proceed with licensure. He has been respectful throughout this process. Board staff did not obtain information on Dr. Fisher's Arizona plans since he is already in the state.

Ms. Jones stated for the record that staff does work hard on all cases and did not appreciate his emails towards staff. Dr. Figge commented that the physician does have two active licenses in California and New Mexico that expire in 2025 and that this was is a Universal Recognition application.

Ms. Rivera commented regarding the correspondence with the applicant. There was some shared frustration since this has taken a while and he had difficulty getting the records. Board staff did not provide a lot of answers on how to get those records and then he was sent his withdrawal offer. This was a difficult time period that was worked out in the end.

Ms. Jones understood the situation but reiterated that he is a professional and should have acted as such. Dr. Beyer agreed that the email was out of line but it is not disqualifying and the issues that could have been disqualifying were remote and from the 1990s. There are no other issues against his other licenses and opined that he qualifies for a license under Universal Recognition.

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

**SECOND: Ms. Jones.**

**VOTE: The following Board members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard, Ms. Jones and**

Dr. Moschonas. The following Board member voted against the motion: Ms. Bain. The following Board members were absent: Dr. Artz and Dr. Krahn.  
VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 2-absent.  
MOTION PASSED.

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

1. MD-21-0566A, JEFFREY D. GROSS, M.D., LIC. #N/A

The physician has withdrawn their application.

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

MOTION: Dr. Gillard moved to grant the waiver request and grant the license in item numbers 1-3.

SECOND: Dr. Moschonas.

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

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

MOTION PASSED.

1. ALISA L. HIDEG, M.D., LIC. #N/A

RESOLUTION: Waiver request and license granted.

2. ENSOR E. TRANSFELDT, M.D., LIC. #N/A

RESOLUTION: Waiver request and license granted.

3. JOHN J. MCCORMICK, M.D., LIC. #N/A

RESOLUTION: Waiver request and license granted.

iv. **REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSURE BY ENDORSEMENT PURSUANT TO A.R.S. § 32-1426(B) AND R4-16-201(F), OR TAKE OTHER ACTION**

MOTION: Ms. Jones moved to grant licensure by endorsement in item numbers 1 and 2.

SECOND: Dr. Gillard.

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

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

MOTION PASSED.

1. MARC S. BRACY, M.D., LIC. #N/A

RESOLUTION: Licensure by endorsement granted.

2. CHRISTOPHER P. RODGERS, M.D., LIC. #N/A

**RESOLUTION: Licensure by endorsement granted.**

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

**OTHER BUSINESS**

**S. REQUEST FOR TERMINATION OF BOARD ORDER**

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

**MOTION: Dr. Gillard moved to grant the request for termination of the April 7, 2023 Board Order.**

**SECOND: Dr. Bethancourt.**

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

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

**MOTION PASSED.**

2. MD-22-0427A, MITCHELL C. KAYE, M.D., LIC. #25021

Counsel Andrew Plattner addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Dr. Beyer stated that he knows the physician but that it would not affect his ability to adjudicate the case.

Ms. Jones commented that she did not find the emails from Board staff threatening, as stated in the letter from the attorney. Ms. Jones opined that in the letter the attorney appears to be derogatory toward not only staff but also to the hospital and the nursing staff. Ms. Jones inquired about the PULSE program and requested clarification on if the issue is that the physician can't get it completed or won't.

Board staff explained that Dr. Kaye can complete PULSE. He has three out of the four points that are required. Even if he no longer has privileges at the hospital, he does work at another surgery center and would be able to complete it should he choose to at that surgery center. Board staff opined that the issue is that the physician needs to survey the staff where he is working now and opined that he does not want to do that.

Ms. Jones noted that the hold up is that he would need to survey the staff where he is currently working not as stated per his attorney's letter. Dr. Gillard noted that his case when to Committee A and the physician was not happy with the results and petitioned for rehearing, which was denied. The physician has fulfilled everything except this one part, and there is an avenue to do that. Dr. Gillard inquired if this should be tabled to allow the physician to complete the remaining part. Dr. Figge inquired if the Board simply deny the request for termination to make that statement.

Ms. Smith opined that denial would make the same statement.

**MOTION: Ms. Jones moved to deny the request for termination of the February 13, 2024 Board Order.**

**SECOND: Dr. Bethancourt.**

Dr. Beyer noted that the attorney's issue was that PULSE program was not responding to Dr. Kaye's concerns. Dr. Beyer inquired if staff is aware of any communication issues or any legitimate problems that this program is putting in their way. Dr. Figge commented that in the letter the attorney stated that he's not getting any response from the hospital about completing it and they won't complete it because he is no longer on staff there.

Board staff noted that it can be completed from his current place of employment. Board staff had an interview with PULSE over the phone and they were very positive that he

could complete it if he could do it at this other facility but it would require work on his part. The physician either doesn't understand this or doesn't want to understand it.

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

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

**MOTION PASSED.**

## **T. GENERAL CALL TO THE PUBLIC**

T.D. addressed the Board during the General Call to the Public regarding COVID-19.

## **U. ADJOURNMENT**

**MOTION: Dr. Beyer moved for adjournment.**

**SECOND: Dr. Bethancourt.**

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

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

**MOTION PASSED.**

The meeting adjourned at: 3:52 p.m.



*Patricia E. McSorley*  
Patricia E. McSorley, Executive Director