



Arizona Medical Board

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FINAL MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, October 9, 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.
Gail Guerrero-Tucker, M.D., M.P.H., F.A.A.F.P., D.A.B.F.M.
Pamela E. Jones

GENERAL BUSINESS

A. CALL TO ORDER

Chair Figge called the meeting to order at: 8:05 a.m.

B. ROLL CALL

The following Board members were present: Dr. Figge, Dr. Bethancourt, Dr. Krahn, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard and Dr. Guerrero-Tucker.

The following Board member participated virtually: Dr. Gillard.

The following Board members were absent: Dr. Artz, Ms. Bain and Ms. Jones.

ALSO PRESENT

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

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

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

D. EXECUTIVE DIRECTOR'S REPORT

- Discussion and Possible Action on the Draft Proposal from the Federation of State Medical Boards (FSMB) Advisory Commission on Additional Licensing Models and Call for Comments

Ms. McSorley reported that this model addresses what our legislature has been trying to pass legislation on during the last three sessions, which is providing a route for international medical school graduates to get licensed in Arizona. Eight states have models which are

all different. This is for Board comment or opinion. Ms. McSorley noted that when looking at medical school graduates, the proposal has left it to the Board's discretion to evaluate the individual application as opposed to listing some countries. The second issue in the proposal advises the Board to look at whether or not the applicant has substantially similar education as a US resident, which will be one of the hardest parts. Ms. McSorley further noted that our Board does already has some discretion to grant international medical school graduates licenses and has been doing so successfully with certain parameters. This typically means that applicants, with the rare exception, have passed the three parts of the USMLE.

- Request for Approval to Use Immigration Control Number for Licensing Until a Social Security Number is Obtained

Ms. McSorley requested that the Board allow staff to use the Immigration Control Number instead of a Social Security Number in cases where applicants have not received their Social Security number through the immigration process. She explained that medical school graduates applying for the transitional training permit are often also changing immigration status and cannot get a Social Security number until after they become employed, which requires an appropriate permit from the Board. When they get a Social Security Number, it will then be added to the case.

MOTION: Dr Farmer to utilize the Immigration Control Number for Licensing Until a Social Security Number is obtained.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

Dr. Farmer inquired about the first bullet point and noted that the Board is proactively approving most types of licenses and stated that we should provided information to the legislature that we are doing so successfully and have data to back that up.

Ms. McSorley stated that staff has been doing that and each time this comes through the legislature she works with a lobbyist to inform the legislature that the Board does have a mechanism in place to be able to approve those international medical school graduates that the Board opines are qualified.

Dr. Farmer stated that a data set would show the legislature that the Board is proactively licensing international medical school graduates so the legislature could decide if any further legislation is needed or not. Dr. Figge commented that the difference is now the applications come to the Board to decide, but with new legislation it can be done by the Board staff instead of the full Board. Dr. Figge further noted that this is only for foreign medical school graduates. Dr. Gillard inquired if these other states have the Board's ability to grant licenses to foreign medical school graduates.

Ms. McSorley stated that there are some states who do have discretion like our Board, but the FSMB did not specify which states.

Dr. Beyer opined that this is not appear to be a problem in Arizona that requires a legislative solution.

E. CHAIR'S REPORT

No report was given.

F. LEGAL ADVISOR'S REPORT

No report was given.

G. BOARD MEMBER TRAINING ON NON-DISCIPLINARY AND DISCIPLINARY ACTIONS

Ms. Rivera provided training to Board members regarding non-disciplinary versus disciplinary Board actions.

H. DISCUSSION REGARDING DEBRIEFING ON BOARD PROCESSES

Dr. Figge requested a louder timer and a solution for students to be able to view the meeting when the room is full.

I. APPROVAL OF MINUTES

- August 13, 2024 Special Teleconference Meeting

MOTION: Dr. Krahn moved to approve the August 13, 2024 Special Teleconference meeting.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

LEGAL MATTERS

J. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON THE ADMINISTRATIVE LAW JUDGE'S CERTIFIED FINAL DECISION.

The Board, upon a majority vote of a quorum of the members, may hold an Executive Session, which will not be open to the public to obtain legal advice with the Board's attorney(s) pursuant to A.R.S. § 38-431.01(A)(3) or for discussion or consultation with the Board's attorney(s) to consider its position and instruct its attorney(s) regarding contemplated litigation pursuant to A.R.S. § 38-431.01(A)(4).

Possible action includes, but is not limited to decree of censure, or other legal options.

1. MD-16-1248A, MD-17-0092A, MD-17-0388A, MD-17-0719A, STEVE FANTO, M.D., LIC. #21415

Dr. Fanto was not present. Counsel Sara Stark was present on behalf of the physician. Carrie Smith, AAG was present on behalf of State. Lynette Evans, AAG was present as the Board's Independent Legal Advisor.

Ms. Smith, on behalf of the State, informed the Board that this case went to formal hearing and the ALJ recommended a Decree of Censure. Counsel on behalf of the physician accepted the Decree of Censure within the required timeframe. Ms. Smith stated that the State takes no position on any further action.

Ms. Stark confirmed that the physician has accepted the decision.

Dr. Figge commented that since it's a certified decision, it is a final decision. The physician has not practiced since 2017 and this opens an avenue for re-licensure. Dr. Gillard commented that since the licensee's license has expired, he would need to reapply and given the time out of practice the Board can request a competency evaluation.

MOTION: Dr. Gillard moved to accept the Certified ALJ Order for a Decree of Censure.

SECOND: Dr. Krahn.

Dr. Beyer inquired about the costs of the hearing that were in the ALJ's recommendation.

Ms. Smith confirmed that the costs are in the order just not itemized.

Ms. Evans clarified that Board staff will follow up on invoicing the costs of the hearing.

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

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

MOTION PASSED.

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

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

Pursuant to A.R.S. § 41- 1092.08(i), the Board may meet and confer for purposes of modifying the recommended decision, including the Findings of Fact, Conclusions Of Law and Recommended Order set forth in the ALJ's recommended decision issued in case no. 24A-48291-MDX involving Dr. Sherman Washington Jr. and 24A-60338-MDX involving Dr. Jordan D. Bevans.

1. MD-21-1118A, SHERMAN WASHINGTON JR., M.D., LIC. #48291

Dr. Washington was not present. Elizabeth Campbell, AAG was present on behalf of State. Lynette Evans, AAG was present as the Board's Independent Legal Advisor.

Ms. Campbell, on behalf of the Stated, requested that the Board accept the ALJ's recommendation with the assessment of costs in the total of \$462.43.

MOTION: Dr. Krahn moved to adopt the Findings of Fact as recommended by the ALJ.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

MOTION: Dr. Gillard moved to adopt the Conclusions of Law as recommended by the ALJ.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

MOTION: Dr. Beyer moved to adopt the ALJ's recommended Order for a Letter of Reprimand; to include the amount of costs of the formal hearing that were incurred, for a total cost of \$462.43.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

2. MD-21-1049A, JORDAN D. BEVANS, M.D., LIC. #60338

Dr. Bevans was not present. Elizabeth Campbell, AAG was present on behalf of State. Lynette Evans, AAG was present as the Board's Independent Legal Advisor.

Ms. Campbell noted that the physician did not appear for the hearing and was unwilling to comply with the investigation and the PHP recommendations. Therefore, revocation is appropriate. Ms. Campbell requested that the Board adopt the ALJ's recommendation with proposed modifications to the Findings of Fact.

MOTION: Dr. Farmer moved to adopt the proposed Findings of Fact with the proposed amendments as requested by the State.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

MOTION: Dr. Farmer moved to adopt the Conclusions of Law as recommended by the ALJ.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

MOTION: Dr. Farmer moved to adopt the ALJ's recommended Order for Revocation.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

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

1. MD-23-0821A, RONALD C. MILLER, M.D., LIC. #43230

Dr. Miller was present with counsel Steven Long. AAG Seth Hargraves was present on behalf of State. Lynette Evans, AAG was present as the Board's Independent Legal Advisor.

Mr. Long requested that the Board approve the proposed consent agreement that he stated included the terms and conditions of probation offered by the Board without the initial term of license suspension.

Mr. Hargraves clarified that the consent agreement proposed by Dr. Miller's counsel also included striking two Findings of Fact and one Conclusion of Law, and adding additional text in the Findings of Fact. Mr. Hargraves stated that the State does not take a position on this matter, and if the Board agrees to proposal they should consider if the Findings of Fact and Conclusions of Law are to the Board's liking.

Dr. Miller noted that he has enrolled in the PBI course.

Dr. Beyer opined that the Decree of Censure is appropriate and that the Probation requiring the Civility and Communication CME course is appropriate. Dr. Beyer further opined that

PHP for 18 months is not sufficient. On the issue of suspension, Dr. Beyer agreed with the physician that the license has been suspended and opined that with strong PHP support, he can return to practice.

Mr. Hargraves clarified that the PHP did review this and opined that he completes the remainder of the PHP, which at this point it is a year and a half left.

MOTION: Dr. Beyer moved to accept the proposed settlement offer for a Decree of Censure and Probation Respondent shall provide the Board with proof that Respondent has enrolled in the Elevating Civility and Communication in Health Care (CC-30 Extended) course offered by the Professional Boundaries, Inc. ("PBI"). Respondent shall complete the pre-course assignments and live virtual portion of the course within six (6) months of the date of this Order. Respondent is placed on Probation for one year and six months from the date of this Order. While on Probation, Respondent shall enroll in and successfully complete the Maintenance and Accountability Seminars required by the CC-30 Extended course. Respondent shall comply with any and all requirements and practice recommendation made by his PBI facility as well as any and all recommendations made for further education and/or remediation by PBI, subject to the approval of the Board or its staff. Respondent shall provide Board staff with proof that he successfully completed all seminars. Respondent shall sign any and all consents or releases necessary to allow for PBI to communicate to the Board directly and furnish PBI's "AIR" Letter after completion of the required CME. Respondent shall participate in the Board PHP during the period of Probation and shall abide by the terms of the Order. Respondent may not request early termination of Probation, and the Probation shall not terminate except upon affirmative request of Respondent and approval by the Board. SECOND: Dr. Gillard.

Dr. Krahn inquired about how many strikes there have been, with regards to the Board's three strike policy.

Mr. Hargraves confirmed that the next strike would be the third strike.

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

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

MOTION PASSED.

M. FORMAL INTERVIEWS

1. MD-23-0446A, ISMAEL I. GUERRERO, M.D., LIC. #21545
Dr. Guerrero was present with counsel Paul Guerding.

Board Staff summarized that on May 10, 2023 the Board received a report from the DEA notifying the Board of the suspension of Dr. Guerrero's DEA registration alleging inappropriate prescribing of opioids and sedatives to three patients and failing to conduct an appropriate evaluation and establish medical justification for the treatment, failure to maintain adequate records, failure to query the CSPMP and inadequate monitoring in violation of federal and state law. The DEA order also indicated that as recently as March 7, 2023, Dr. Guerrero continued to unlawfully prescribe controlled substances and included a finding that his prescribing posed an "imminent danger". Dr. Guerrero's DEA registration was suspended immediately and would remain suspended until a final determination was reached. The DEA indicated that on October 26, 2023, Dr. Guerrero surrendered his DEA registration for cause, effective October 31, 2023. Board staff chose three additional patients based upon review of his CSPMP report from January 2017 to May 2023. In total, six patients were selected to further review the quality of care allegations. A Medical Consultant (MC) reviewed the quality of care allegations and identified multiple deviations from the standard of care in five of the six patients relating to inappropriate prescribing of controlled substances, failing to obtain urine drug screens (UDS) for monitoring

compliance, failing to trial non-pharmacological and/or interventional pain measures, failing to address aberrant behaviors, and failing to refer to specialists. The MC stated that Dr. Guerrero did not attempt to reduce or taper controlled medication in any of the patients and Dr. Guerrero's documentation lacked discussions regarding substance abuse, aberrant behaviors, efforts to reduce or taper controlled medications, nor trialed alternative modalities for pain management. In addition to the quality of care review, Board staff performed a review of Dr. Guerrero's compliance with CSPMP queries and confirmed that Dr. Guerrero failed to properly query the CSPMP for all six patients despite long-term controlled substance prescribing. SIRC discussed the case and found Dr. Guerrero's inappropriate prescribing of controlled substances outside the course of professional practice and not for legitimate purposes to be egregious with increased potential harm for patients. SIRC remained troubled by Dr. Guerrero's position that his prescribing to the patients was appropriate; disputing the deviations identified by the MC. SIRC noted Patient SS had an overdose that was unaddressed. SIRC also found Dr. Guerrero's report that he is familiar with the standard of care and laws for prescribing controlled substances, opioids, and benzodiazepines highly concerning since the investigation has identified significant knowledge and judgment gaps related to prescribing, monitoring, and tapering patients on controlled substances as well as a failure to comply with CSPMP mandatory use requirements. SIRC noted that although some of the care in these patients predates the four-year statute of limitations, the deviations from the standard of care continue throughout the applicable timeframe. Additionally, SIRC noted that the statutory obligation to query the CSPMP has been in force since 2017. SIRC recognized that Dr. Guerrero has no prior Board history and reported during the investigation that he has retired. SIRC noted that the Board does not have a retired licensed status and Dr. Guerrero could decide to return to work at any time or re-apply for his DEA registration after conclusion of the investigation, as his license is currently active until June 11, 2025. Therefore, based on the constellation of deviations identified, SIRC determined that this case clearly rises to the level of discipline.

Mr. Guerding provided an opening statement to the Board and stated that Dr. Guerrero does not intend to prescribe narcotics again and concedes to most of the stipulations in the consent agreement offered by Board staff. Mr. Guerding explained that Dr. Guerrero now works in Yuma and was called in to assist on a temporary basis at a family practice. Mr. Guerding requested a Letter of Reprimand and Probation with no suspension.

Dr. Guerrero provided an opening statement to the Board, and informed the Board of his rationale for prescribing the narcotics that he did to his complicated patients. Dr. Guerrero agreed that he should have queried the CSPMP but noted that sometimes he would try new agents to help these individuals, and that if he did not treat these patients they would not have anywhere to go. Dr. Guerrero agreed that he should have been more diligent with drug screening, but stated that he did the best he could to be of service to these patients in this underserved community.

During questioning, Dr. Farmer stated that a lot of these patients have been in the practice for over a decade and there have been a lot of changes regarding prescribing controlled substances in the past decade. Dr. Farmer inquired about how the physician has incorporated those changes.

Dr. Guerrero explained that in the past, physicians were asked to be more considerate of a patient's pain and use a pain scale. At that time, some medications were more dangerous than physicians were led to believe. This has all changed and drug screening is more important with more physicians involved in the care. Dr. Guerrero further noted that he knew these patients really well but that today he tries not to prescribe these medications if he can avoid it. Regarding long-term effects, Dr. Guerrero opined that it is controversial since some patients need these medications long-term to function while others believe they should be weaned off these medications as much as possible. Dr. Guerrero agreed that these cocktails are risky but explained that he would always start off with one agent and then if it wasn't working he would use other medications, including benzodiazepines.

Regarding his medical records, Dr. Guerrero stated that unfortunately, not all the records are available and that in retrospect, he should have queried the CSPMP.

Dr. Beyer acknowledged the problems of practicing in a rural area however, these cases seem to be problematic enough to catch the attention of the DEA and the Medical Board. Dr. Krahn acknowledged the issues regarding the records that predated his involvement in the practice. Dr. Krahn explained that drug screening is recommended to determine if patients are accessing dangerous medications from an illicit source.

Dr. Guerrero explained that he could have utilized a drug contract but did not since there would not be anyone else to care for the patients. Dr. Guerrero noted that if he found that they were using an illicit drug it may not have been enough for him to stop treating them. In this new clinic, Dr. Guerrero explained that when patients call to schedule an appointment they are informed that he does not have a DEA license and cannot prescribe controlled substances.

In closing, Mr. Guerding stated that Dr. Guerrero has no intent to obtain his DEA registration and wishes to continue to practice in Yuma until he retires.

Board staff noted that today is the first time that staff is hearing about his return to practice which affected SIRC's decision to not recommended CME.

Dr. Farmer opined that there has been unprofessional conduct supported by the record.

MOTION: Dr. Farmer 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), (q) and (r) for reasons as stated by SIRC.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

Dr. Farmer opined that SIRC got the recommendation correct.

MOTION: Dr. Farmer moved for a draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure and Probation with Practice Restriction. Dr. Guerrero shall be prohibited from prescribing controlled substances in any setting for the duration of his licensure in Arizona. In the event that the physician requests Probation termination, the Board may require any combination of examinations and/or evaluations in order to determine whether or not the physician is safe prescribe controlled substances and the Board may continue the Practice Restriction and Probation or take any other action consistent with its authority. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

SECOND: Dr. Bethancourt.

Dr. Beyer spoke in favor of the motion, but opined that CME is not necessary since the practice restriction would address the prescribing concerns. Dr. Beyer commented that regarding urinary drug screens, one of these patients did show an illicit drug and even though the physician knew the patient, this is important. Dr. Beyer noted that three patients were flagged by the DEA and three due to the CSPMP but opined that the management of controlled substances is the issue not the rest of the practice and that this outcome is appropriate. Dr. Krahn recognized that the physician chose to care for and manage these very difficult patients and made the conscious decision to not discharge them from his practice since he was worried that they could not find another provider.

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

Guerrero-Tucker. The following Board members were absent: Dr. Artz, Ms. Bain and Ms. Jones.

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

MOTION PASSED.

N. FORMAL INTERVIEWS

1. MD-22-0694A, MD-21-0984A, WILLIAM M. JACOBSEN, M.D., LIC. #21620
Dr. Jacobsen was present without counsel. C.C. and L.C. addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that the Board initiated case number MD-21-0984A after receiving a complaint regarding Dr. Jacobsen's care and treatment of a 31-year-old female patient ("CC") alleging inadequate post-operative care and treatment, inappropriate placement of silicone implant(s) without consent, and failure to properly perform a breast augmentation and lift. The Board initiated case number MD-22-0694A after receiving a complaint regarding Dr. Jacobsen's care and treatment of a 58 year-old female patient ("LC") alleging failure to properly perform breast reconstruction and mastectomy resulting in multiple subsequent infections and surgeries; failure to advise of risks of procedures; failure to obtain informed consent; inadequate post-operative care, treatment, and communication; inadequate post procedure instructions, and false representation of board certification status. SIRC considered cases MD-21-0984A and MD-22-0694A together. In case MD-21-0984A, the MC stated that Dr. Jacobsen deviated from the standard of care by failing to obtain an informed consent from patient CC for her second surgical procedure; Dr. Jacobsen did not dispute this fact. Documentation regarding saline breast implants was provided to the Board and the documents were initialed by CC; no similar documentation regarding her silicone implants was provided. In MD-22-0694A, the MC determined that Dr. Jacobsen inappropriately replaced foreign bodies into LC's recent breast reconstruction site approximately 48 hours after a culture of her initial implant revealed 'heavy growth' of Methicillin Resistant Staph Aureus (MRSA). Particularly considering Dr. Jacobsen's description of LC's poor tissue condition, asthenic body habitus, and poor patient compliance, this surgical plan engendered a high risk of failure which should have been considered a relative contraindication. Secondly, the MC found that Dr. Jacobsen's manner of technical execution of his repeated surgeries on LC demonstrated deviations from the standard of care. Specifically, the repeatedly documented debridement of hundreds of square centimeters of soft tissue in this asthenic, frequently operated on individual describes such an extensively comprehensive debridement that is difficult to imagine how immediate re-implantation of a foreign body would be deemed appropriate. The MC found that Dr. Jacobsen's medical record keeping and coding was suboptimal and possibly disingenuous; specifically, coding and operative note documentation was inconsistent with photographs of the surgical site. In addition, Board staff noted inconsistencies between Dr. Jacobsen's office notes regarding his recommendations to LC and his plan of treatment regarding the patient's MRSA infection as well as discrepancies between Dr. Jacobsen's submitted office notes and his Board response. Dr Jacobsen responded that he discussed the risks and benefits of the plan for immediate reconstruction versus delayed reconstruction. He stated that the patient could not find a general surgeon/plastic surgery combination acceptable to her and he graciously accommodated the patient by performing a mastectomy and reconstruction simultaneously as she requested. He further stated that the patient left his practice healed, cured of cancer, and reconstructed nicely. The MC's fourth concern was Dr. Jacobsen's lack of investigation into the possibility of a C. difficile infection in LC. Dr. Jacobsen indicated that he relied on his own significant professional experience with this infection and determined that LC did not have this infection. Finally, the MC felt it inappropriate that Dr. Jacobsen's removal of unfavorable patient reviews from his website was not documented on the site. SIRC stated that there is no evidence to support the complainant's allegation that Dr. Jacobsen falsely advertised his board certification status as his website indicates he is board certified in plastic surgery only. Dr. Jacobsen admitted that negative reviews had been removed by a separate entity that he contracted with, but he requested those reviews to be reinstated and cut ties with that company when he became aware. SIRC determined that Dr. Jacobsen's inconsistent care,

documentation, and patient recommendations especially in a case involving MRSA and implantation of foreign material are such that this case rises to the level of discipline. SIRC observed that Dr. Jacobsen was issued an Advisory Letter for inadequate records in 2019.

During questioning, Dr. Jacobson was asked about Patient CC's consent for saline versus silicone implants. Dr. Jacobsen explained his decision on operating day was that since he did not have the 92 page consent filled out and at the time had a failing saline implant, he had to make the decision to wake her up without placing an implant or taking out the other silicone implant. He elected to implant the silicone implant. He called her after and informed her of the change. Dr. Jacobsen agreed that it would have been ideal to communicate with CC's fiancée, but noted that he could not have had her sign the consent for silicone since she was not awake. Dr. Jacobsen informed the Board of his communications regarding the implant options and confirmed that normally he would not dictate in the record the patient's preference. Dr. Jacobsen noted that this was the first time he's seen an implant fail in the operating room and further explained that he had two devices on hand but did not have a backup. Dr. Jacobsen confirmed that it is normal to have a backup available and he should have had one.

Regarding LC's preoperative note that he had not seen the biopsy report, Dr. Jacobsen stated that he does not recall but is certain that he did and noted that he knew she had cancer from her records. Dr. Jacobsen stated that he practices plastic surgery, but occasionally does general surgery procedures. Dr. Jacobsen explained that he does mastectomies for a variety of reasons and doing it for LC was not a stretch for him. Dr. Jacobsen opined that there was not a competency issue and further noted that he felt inclined to help her due to her connections. Dr. Jacobsen noted that he did refer her to a general surgeon and explained that he had wanted to do conservative therapy, but she was adamant that she have her breasts removed, so he decided to help her.

Dr. Jacobsen informed the Board of his rationale for the procedure he performed on CC and his care and treatment of the infection afterwards. Regarding the consent form, Dr. Jacobsen explained that there is a state mandated consent requirement, so he put together a 92 page consent form but cannot confirm if this process was done for the patient. Dr. Jacobson commented that for CC, due to the failure of the saline implant, she should have had the consent for the silicone, but for LC he does not typically get it for the breast augmentation. Dr. Jacobsen confirmed that his consent agreement was not written by him, but adopted and mostly done by Mentor.

In closing, Dr. Jacobsen stated that he accommodated CC very well and it is painful to experience this. Regarding LC, he stated that he went out of his normal practice to help her and although she had complications, they were known complications, and he attempted to help her. Dr. Jacobsen opined that these patients are healthy and he hopes that they can move on with their lives.

Board staff agreed with the MC that placing a foreign body in an infected wound, even after two days is a significant deviation from the standard of care.

Dr. Jacobsen commented that there is a trend towards salvaging infected prosthesis in human beings with this irrigation process and it has worked very well. Dr. Jacobsen agreed that it is not standard, but he hopes to continue to do so as he has not caused anyone harm.

Board staff further commented that salvaging is justifiable in cases where patient's life is at risk due to a bleeding and exposed major vessel. It seems a lot less careful to re-implant in an infected wound.

During deliberations, Dr. Beyer opined that there has been unprofessional conduct.

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

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

Dr. Beyer opined that this does rise to the level of discipline.

MOTION: Dr. Beyer moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person (virtual) regarding medical recordkeeping; and no less than 6 hours of Board staff pre-approved Category I CME in the treatment of post-operative wound infections. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon proof of successful completion of the CME coursework.

SECOND: Dr. Krahn.

Dr. Beyer commented on the management of post-operative wound infections, while it is true an aortic graft may require being left in place, a breast implant is different. Dr. Beyer recognized the downside of removing the implant in a patient, but given a significant infection in an otherwise fragile patient, the standard of care still requires removal. When we deviate from the standard of care, it requires an extraordinary amount of documentation and counseling that was not seen in the record. This was not standard, and it is unclear how much this patient understood. Dr. Beyer opined that the number of consent issues were fairly significant. Regarding the CC, she signed a 13 page consent stating she wanted saline implants and did not sign a 92 page consent on silicone implants. Regarding the subsequent surgery for the evacuation of the hematoma, there was an incomplete consent, and incomplete documentation. Based on both cases, Dr. Beyer concluded that discipline was warranted.

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

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

MOTION PASSED.

O. FORMAL INTERVIEWS

1. MD-23-0013A, LISA M. HURST, M.D., LIC. #29229

Dr. Hurst was present with counsel Robert Milligan. H.J., K.C. and Dr. Monica Faria addressed the Board during the Public Statements on behalf of the physician. Dr. Krahn recused from this case.

Board staff summarized that this case was initiated after receiving Dr. Hurst's self-report that she had an incident at work. Effective June 9, 2023, Dr. Hurst entered into an Interim Consent Agreement for PHP Participation. SIRC reviewed the case and found it mitigating that Dr. Hurst self-reported, admitted to the conduct, has been compliant with the investigation and monitoring. However, SIRC recommended discipline since Dr. Hurst presented to work impaired.

Dr. Hurst provided an opening statement and stated that she recognized that her actions have blemished her career and assured that this will not happen again. Dr. Hurst noted the letters of support that have been provided and stated that she has made changes to her practice and schedule since this incident. Dr. Hurst stated that her new work schedule allows her to prioritize her own well-being and recovery and requested that the Board resolve this matter without imposing discipline on her license.

Mr. Milligan provided an opening statement and stated that Dr. Hurst acknowledged what occurred and has taken many steps to ensure that this does not happen again. Mr. Milligan understands the importance of consistency and precedent, but requested that the Board consider that probation would prohibit Dr. Hurst from acting as a supervising physician to a PA.

During questioning, Dr. Figge acknowledged the letters of support and request for leniency as well as SIRC's comments for precedent.

Dr. Hurst confirmed that there was no patient care after she consumed alcohol. Dr. Hurst informed the Board that she left the building to consume the alcohol since she did not bring it into the hospital. Dr. Hurst explained that she reviewed the recording that the hospital provided, but she stated that she knew she left the building. Dr. Hurst stated that she did not drink more than the four small travel bottles and cannot explain the blood level seven hours after the incident. Dr. Hurst explained that her shifts and nights off at the time would fluctuate and were not consistent. On days that she was not working, she would consume alcohol. On the days she was working, she would stop drinking by 7 a.m. or 8 a.m. Dr. Hurst stated that she typically worked 12 hour shifts beginning at 6 p.m. Dr. Hurst confirmed that her report to Dr. Faria is what she recalls from that incident and that she was extremely busy and stressed that evening. After she consumed alcohol, she did not provide patient care and that the PA woke her up in her office around 11 a.m. When she went out to the car, her only thought at the time was to help her anxiety that she was feeling. When the PA woke her she had no intention of treating a patient while under the influence. Dr. Hurst stated that this was the only time while at work she was clearly under the influence of alcohol. Dr. Hurst stated that she never wants to experience what occurred in December again and she has learned that the opposite of addiction is connection. She now connects with her sobriety group, friends, family and community. Dr. Hurst stated that she has made a change in her career and would not jeopardize this happening again.

During deliberations, Dr. Figge opined that there has been unprofessional conduct.

MOTION: Dr. Figge moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(f) and (r) 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. Krahn, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Gillard and Dr. Guerrero-Tucker. The following Board members were absent: Dr. Artz, Ms. Bain and Ms. Jones.

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

MOTION PASSED.

Dr Figge noted that the physician has the support of many people and that the Board's mission is to protect the public. Dr. Figge noted that there is precedence that if you show up to work impaired there is usually discipline, however, Dr. Figge believes the physician when she stated that she had no intention to and did not treat any patients.

MOTION: Dr. Figge moved to issue an Advisory Letter for consuming alcohol while on duty. While the licensee has demonstrated substantial compliance through rehabilitation 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. Offer Dr. Hurst a CONFIDENTIAL Stipulated Rehabilitation Agreement for PHP participation, retroactive to June 9, 2023.

SECOND: Dr. Bethancourt

Dr. Bethancourt commented that the physician was in the wrong place for her mentality and she recognizes that and has put her safe in a place to better serve the public and her career. Dr. Farmer noted that the physician had not left work however, there are enough mitigating factors in this case that he speaks in favor of the motion. Dr. Farmer noted that this case does not set a precedent and was considered on its own merits. Dr. Beyer opined that the physician was lucky and had she not passed out in her office she could have

treated patients. Dr. Beyer stated that she was on call and when a physician is on duty and could be called on it counts as a danger to the public. The Board has heard a number of pleas for leniency and Dr. Beyer spoke in favor of the motion since the current motion protects the public. Dr. Figge given the set of circumstances this is the right thing to do.

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

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

MOTION PASSED.

P. FORMAL INTERVIEWS

1. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

CONSENT AGENDA

Q. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Gillard moved to dismiss item numbers 1-4.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

1. MD-23-0244A, JOHN W. VANDERHOOF, M.D., LIC. #31892
Dr. Vanderhoof and counsel Cody Hall addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissed.

2. MD-23-1021A, ERNEST W. KINCHEN, M.D., LIC. #36304

RESOLUTION: Dismissed.

3. MD-23-0754A, SARTHAK GARG, M.D., LIC. #R78886
Counsel Cory Tyszka addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissed.

4. MD-24-0058A, VINAY G. BANGALORE, M.D., LIC. #41889
Counsel Elizabeth Petersen addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissed.

R. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Krahn moved to issue an Advisory Letter in item numbers 4-9 and 11-12.

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

1. MD-22-1098A, HILDA FLORES-VIDAL, M.D., LIC. #31903

Counsel Zaheer Shah addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Guerrero-Tucker opined that this should be dismissed since it can be difficult to transfer a patient in a rural area and this physician was doing what needed to be done.

MOTION: Dr. Guerrero-Tucker moved to dismiss.

SECOND: Ms. Dorrell.

Dr. Bethancourt inquired about the three month delay to the Board's request for response.

Board staff commented that the physician expressed that she was confused and thought the Board only wanted the patient records.

Dr. Beyer opined that failing to respond to the Board deserves an advisory letter but inquired if the physician thought she had timely responded.

Board staff confirmed that is correct, the physician thought she had responded to the Board's request.

Dr. Gillard expressed concern that at the last office visit on 10/12/2021, the patient complained of abdominal problems was told she had depression. Thirteen days later the patient appeared at the emergency room and was found to have metastatic disease. Dr. Gillard noted that the MC did not blame the physician but agreed with SIRC which recommended an advisory letter for failing to address the patient's complaints and not doing a full neurological examination.

Board staff clarified the timeline and noted that multiple attempts were made to get a narrative response from the physician.

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

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

MOTION FAILED.

MOTION: Dr. Krahn moved to issue an Advisory Letter for failing to adequately address the patient's complaint of right leg weakness and for failing to timely respond to the Board. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Beyer.

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

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

MOTION PASSED.

2. MD-23-0526B, KYLENE A. KENT, M.D., LIC. #42078

Counsel Tracy Olson addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Bethancourt stated that it appeared that the physician was attentive to the patient and did not see active bleeding. Dr. Bethancourt opined that this case should be dismissed.

MOTION: Dr. Bethancourt moved to dismiss.

SECOND: Dr. Beyer.

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

Guerrero-Tucker. The following Board members were absent: Dr. Artz, Ms. Bain and Ms. Jones.

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

MOTION PASSED.

3. MD-23-0667A, NATHANIEL S. RIAL, M.D., LIC. #43902

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

Dr. Beyer noted that this was a desperately ill patient that was admitted from the ER to the general floor that needed to be transferred to the ICU. The patient was seriously sick and it does not make sense that the hospitalist who was assigned to the care of the patient on the floor is being criticized by the MC for the delay of transfer to the ICU. The transfer could have taken place at any time and this physician knew that and was trying to see if the patient could be stabilized. Dr. Beyer opined that this should be dismissed.

MOTION: Dr. Beyer moved to dismiss.

SECOND: Dr. Krahn.

Dr. Bethancourt noted that this patient should have been admitted to the ICU directly to begin with and that the person who triaged the patient should have requested transfer to the ICU. Dr. Bethancourt opined that the physician who triaged the patient may have erred, but not Dr. Rial. Dr. Figge commented that the physician did call critical care management to get their input and tried other things first.

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

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

MOTION PASSED.

4. MD-24-0014A, AVNI B. PANDYA, M.D., LIC. #60628

RESOLUTION: Advisory Letter for action taken by the North Carolina Medical Board. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

5. MD-23-0907A, DINNA ROSENTHAL, M.D., LIC. #54388

RESOLUTION: Advisory Letter for practicing on an expired license and failing to timely update her practice address. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

6. MD-23-1001A, PRITI R. PATEL, M.D., LIC. #58079

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

7. MD-22-0837A, MUHAMMAD A. ALAM, M.D., LIC. #34472

RESOLUTION: Advisory Letter for non-compliance with CSPMP mandatory use requirements 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.

8. MD-24-0370A, JESSE L. COSTALES, M.D., LIC. #58656

RESOLUTION: Advisory Letter for action taken by the Maryland Board of Physicians. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.

9. MD-22-1072A, JOEL M. KUPFER, M.D., LIC. #22221

RESOLUTION: Advisory Letter for engaging in unprofessional behavior towards colleagues, staff members, and trainees. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.

10. MD-23-0481A, BELLAL A. JOSEPH, M.D., LIC. #42083

Dr. Joseph and counsel Corey Tyszka addressed the Board during the Public Statements portion of the meeting.

Dr. Bethancourt opined that it was appropriate to request a consultation from the on call surgeon to evaluate the patient. This was not below the standard of care.

MOTION: Dr. Bethancourt moved to dismiss.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

11. MD-23-0688A, AVERY J. KNAPP, M.D., LIC. #50201

RESOLUTION: Advisory Letter for failure to diagnose a non-displaced fracture of the right midistal radial shaft. 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.

12. MD-24-0372A, GUSTAVO A. BARRAZUETA, M.D., LIC. #71493

RESOLUTION: Advisory Letter for action taken by the Medical Board of Ohio. 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.

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

MOTION: Dr. Bethancourt moved to issue an Advisory Letter in items 1-2, 4, and 7.

SECOND: Ms. Dorrell.

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

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

MOTION PASSED.

1. MD-23-0694A, AMMAR ALSHEIKH, M.D., LIC. #34235
C.M. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for failing to recommend a repeat surveillance colonoscopy and for inadequate documentation. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in the management of colorectal disease; and complete no less than 3 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.

2. MD-22-0984A, DENNIS C. WESTIN, M.D., LIC. #6417

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for failing to properly prescribe lamotrigine and for failing to document informed consent. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME regarding the proper prescribing of psychiatric medications. The CME hours shall be in addition to the hours required for license renewal.

3. MD-23-0732A, MITCHELL ROEFE, M.D., LIC. #19460

Dr. Beyer opined that there is no need for CME since the physician has surrendered his DEA license.

MOTION: Dr. Beyer moved to issue an Advisory Letter for inappropriate prescribing of controlled substances, inadequate documentation, and for noncompliance with CSPMP mandatory use requirements. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

4. MD-23-0591A, SHASHI GOEL, M.D., LIC. #24977

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for inadequate documentation. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

5. MD-23-0987A, STEVEN G. NELSON, M.D., LIC. #13731

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

Dr. Bethancourt noted that the physician explained that the patient requested a hysterectomy and agreed that for a physician to agree to a 39 year-old asking for a hysterectomy at the first visit would be inappropriate. Dr. Bethancourt understood his rationale for prescribing letrozole and although it was off label it was more affordable and agreed with dismissal.

MOTION: Dr. Bethancourt moved to dismiss.

SECOND: Dr. Krahn.

Dr. Krahn commented that the physician's call to public statement was very helpful.

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

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

MOTION PASSED.

6. THIS CASE HAS BEEN MOVED TO ITEM R. #12
7. MD-23-0710A, ROMAN A. CHUBATY, M.D., LIC. #11316

RESOLUTION: Advisory Letter and Order for Non-Disciplinary CME for failing to maintain medical records, failing to register and query the CSPMP prior to prescribing controlled substances, and prescribing controlled substances without a physician-patient relationship. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete the Arizona Board of Pharmacy's PMP Training "How to Register for the PMP/Pharmacists/Prescribers"; and complete CPEP's ProBE course. The licensee shall obtain an unconditional or conditionally passing grade. The CME hours shall be in addition to the hours required for license renewal. Dr. Chubaty shall provide proof of his registration with the CSPMP.

8. MD-22-1023A, ESTEBAN MAGANA, M.D., LIC. #35409

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

Dr. Gillard opined that CME would not help in this case. It was very unfortunate that there was a perforated globe. Dr. Gillard noted that the issue was for the inaccurate record but this is the only procedure that the physician does perform and it was on the consent form.

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

SECOND: Bethancourt.

Dr. Figge commented that when there has been a medical malpractice case CME may not be necessary. Dr. Beyer opined that a learning experience may or may not have taken place and the medical records were poor. The CME is not for how to provide anesthesia for the eye, but for medical records. Dr. Beyer agreed with the recommended CME. Dr. Farmer commented that it is not clear how the complication occurred and although they do a lot of these procedures, there is a systems issue here that was complicated and recurring enough that CME is warranted.

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

VOTE: 4-yay, 4-nay, 0-abstain, 0-recuse, 3-absent.

MOTION FAILED.

MOTION: Dr. Farmer moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to maintain adequate records. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee. Within six months, complete no less than 10 hours of Board staff pre-

approved Category I CME in an intensive, in-person (virtual) course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Krahn

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

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

MOTION PASSED.

T. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

Dr. Bethancourt commented on item numbers 7 and 8 and acknowledged A.T.'s public statements. Dr. Bethancourt noted that in the medical records there was discussion between the hospitalist, the internist, hospice and the daughter where she did agree to the DNR.

MOTION: Dr. Krahn moved to uphold the ED Dismissal in items 1-8, and 10.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

1. MD-23-0819A, CARLA L. DORMER, M.D., LIC. #37374

RESOLUTION: Dismissal upheld.

2. MD-23-0936A, KHANG T. NGUYEN, M.D., LIC. #62601

RESOLUTION: Dismissal upheld.

3. MD-23-1163A, BRUCE A. GLEASON, M.D., LIC. #54408

RESOLUTION: Dismissal upheld.

4. THIS CASE HAS BEEN PULLED FROM THE AGENDA.

5. MD-23-0136B, REGINA B. VAN BUREN, M.D., LIC. #41478

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

RESOLUTION: Dismissal upheld.

6. MD-23-0990A, OMAR R. WANI, M.D., LIC. #41280

Counsel Douglas Loudon addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissal upheld.

7. MD-23-1213A, RAMA J. DEVINENI, M.D., LIC. #29426

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

RESOLUTION: Dismissal upheld.

8. MD-23-1213B, DEEPA R. MANDALE M.D., LIC. #60198

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

RESOLUTION: Dismissal upheld.

9. MD-23-0677A, SCOTT A. SCHRAFF, M.D., LIC. #36508

J.A.W. addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard opined that it is cavalier for the physician to make a decision without imagining and opined that imaging should have been done. Dr. Gillard opined that this case should be sent back for further investigation to be reconsidered at SIRC.

MOTION: Dr. Gillard moved for the case to return for further investigation for SIRC to reconsider.

SECOND: Dr. Bethancourt.

Dr. Farmer found that the consultant's review was pretty clear about the standard of care and the likely hood that something was missed. Dr. Beyer expressed concern that this was a patient who had radiation therapy 7 years prior, but it may be appropriate for a second look by another OMC who might think differently regarding if this is a simple case of a child who develops these symptoms.

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

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

MOTION PASSED.

10. MD-24-0311A, MICHAEL B. HORSELY, M.D., LIC. #44829

Counsel Megan Gailey addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

RESOLUTION: Dismissal upheld.

U. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. MD-23-0030A, MD-23-0059A, MD-23-0549A, KIUP A. KIM, M.D., LIC. #42708

MOTION: Dr. Krahn moved to accept the consent agreement for a Letter of Reprimand and Probation with Practice Restriction. Dr. Kim shall be prohibited from performing or assisting in the performance of venous procedures including the interpretation of ultrasound images in any setting for the duration of his licensure in Arizona. In the event that the physician requests Probation termination, the Board may require any combination of examinations and/or evaluations in order to determine whether or not the physician is safe to perform or assist in the performance of venous procedures including the interpretation of ultrasound images and the Board may continue the Practice Restriction and Probation or take any other action consistent with its authority. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board.

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

V. PROPOSED CONSENT AGREEMENTS (Non-Disciplinary)

1. MD-23-0543A, GRAYSON J. GUZMAN, M.D., LIC. #35714

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

MOTION: Dr. Beyer moved to accept the consent agreement for Non-Disciplinary Practice Limitation. Physician's practice is limited in that he shall not practice more than 25 hours in a work week until Physician applies to the Board for modification or termination of this limitation. The Board may require, at the Physician's expense,

any combination of staff approved assessments, evaluations, treatments, examinations or interviews it finds necessary to assist in determining whether the Physician is able to safely resume full time practice.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

W. LICENSE APPLICATIONS

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

MOTION: Dr. Krahn moved to grant the license in item numbers 1-5.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

1. MD-24-0359A, KEVIN J. BLANKENSHIP, M.D., LIC. #N/A

RESOLUTION: License granted.

2. MD-24-0060A, MATTHEW J. STALKER, M.D., LIC. #N/A

RESOLUTION: License granted.

3. MD-23-0422A, JUAN C. MENA, M.D., LIC. #N/A

RESOLUTION: License granted.

4. MD-24-0426A, AARON N. SARTIN, M.D., LIC. #N/A

RESOLUTION: License granted.

5. MD-24-0238A, TORRE L. HALSCOTT, M.D., LIC. #N/A

Dr. Halscott, counsel Robert Milligan and R.K. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: License granted.

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

1. ROBERT A. ZADIK, M.D., LIC. #N/A

Dr. Gillard commented that this physician has been in practice and has certification in Canada.

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

SECOND: Dr. Bethancourt.

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

Guerrero-Tucker. The following Board members were absent: Dr. Artz, Ms. Bain and Ms. Jones.

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

MOTION PASSED.

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

MOTION: Dr. Gillard moved to grant the waiver and grant the license in item numbers 1 and 2.

SECOND: Dr. Bethancourt.

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

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

MOTION PASSED.

1. DAVID M. LIU, M.D., LIC. # N/A

RESOLUTION: Waiver and License granted.

2. MICHAEL Y. H. WU, M.D., LIC. # N/A

RESOLUTION: Waiver and License granted.

END OF CONSENT AGENDA

OTHER BUSINESS

X. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-23-0278A, ROBERT S. FOWLER, M.D., LIC. #20406
Dr. Krahn recused from this case.

Dr. Gillard noted that this Order was for a probation and a fine and that all terms have been completed.

MOTION: Dr. Gillard moved to grant the request for termination of the February 7, 2024 Board Order.

SECOND: Dr. Farmer.

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

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

MOTION PASSED.

Y. GENERAL CALL TO THE PUBLIC

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

Z. ADJOURNMENT

MOTION: Dr. Figge moved for adjournment.

SECOND: Dr. Bethancourt.

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

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

The meeting adjourned at 2:26 p.m.



Patricia E. McSorley
Patricia E. McSorley, Executive Director