



ARIZONA MEDICAL BOARD

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

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FINAL MINUTES FOR SUMMARY ACTION TELECONFERENCE MEETING

Held on Monday, November 25, 2024

1740 W. Adams St., Board Room 4700 • 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: 4:06 p.m.

B. ROLL CALL

The following Board member participated virtually: Dr. Figge, Dr. Bethancourt, Dr. Krahn, Dr. Artz, Ms. Bain, Dr. Beyer, Ms. Dorrell, Dr. Gillard and Ms. Jones.

The following Board members were absent: Dr. Farmer and Dr. Guerrero-Tucker.

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. CALL TO THE PUBLIC

No individuals addressed the Board during the Public Statements portion of the meeting.

LEGAL MATTERS

D. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-24-1076A, CHARLES E. KELLY, M.D., LIC. #42668
Dr. Kelly was not present.

Board staff summarized that this matter is before the Board for consideration of summary action based on Dr. Kelly's refusal to enter into PHP Monitoring as required by his Order for Decree of Censure and Probation which became effective on October 15, 2024. The Order required Dr. Kelly to enroll in PHP within 5 days of the effective date. To ensure Dr. Kelly's compliance, Board staff reached out to Dr. Kelly's attorney on multiple occasions, prior to Dr. Kelly's deadline of October 20, 2024. In an effort to confirm his enrollment in PHP monitoring as documented in the Summary Action Memo. On October 21, 2024, Dr. Kelly emailed Board staff reporting that he permanently closed his clinic, left Arizona, and was traveling looking for a new job and a permanent place to live. Dr. Kelly reported once he secured a new job, he would inform the Board.

Board staff contacted his attorney and advised her of his active Arizona license and requirements of the Board Order and explained the PHP Monitoring process should Dr. Kelly relocate out of state. On November 7, 2024, the attorney informed Board staff that Dr. Kelly was unable to comply with the onerous requirements of the Board's order and was willing to surrender his license. Board staff will note that during the Board's consideration of the ALJ's recommendation for revocation of Dr. Kelly's license on September 24, 2024, Dr. Kelly cited having a well-documented diagnosis resulting in the Board convening in Executive Session to discuss Dr. Kelly's confidential health information. Subsequently, the Board voted to issue a Decree of Censure and 5 year Practice Restriction with PHP Probation to require Dr. Kelly to utilize a chaperone, enroll in PHP and enter into treatment with a psychiatrist, and assessed formal hearing costs. Board staff explained that any consent for surrender would not be adjudicated until the December Board meeting; therefore, in the interim, Dr. Kelly would need to sign an Interim Consent Agreement for Practice Restriction (ICA) based on his refusal to enroll in PHP. On November 15, 2024, the attorney reported Dr. Kelly would not sign the ICA. On November 18, 2024, the attorney withdrew representation of Dr. Kelly. On November 21, 2024, Dr. Kelly confirmed that he did not have a new attorney and Board staff requested any proposed changes to the Consent for Surrender that was offered. Dr. Kelly responded that he has no "health issues" and reiterated his disagreement with the Board's requirements while traveling and seeking employment. Dr. Kelly's Arizona license is active until January 4, 2027 and he remains non-compliant with his Board Order based on his failure to enroll in PHP and enter into treatment with a psychiatrist.

During deliberations, Dr. Beyer opined that the Board had good reason to require this physician to enroll in PHP and the fact that he is unwilling to participate in the PHP tells the Board that he is unregulable in the State of Arizona. If he chooses to give up his license he may do so but in the interim the license should be suspended.

MOTION: Dr. Beyer moved to summarily suspend Dr. Kelly's license pending the outcome of a formal hearing in this matter based on a finding that the public health safety and welfare imperatively requires emergency action.

SECOND: Dr. Bethancourt.

Dr. Bethancourt commented that not only is he unwilling to participate in the PHP but he also did not comply with the previous restrictions that required him to be monitored by a female chaperone. Dr. Krahn spoke in favor of the motion and the Board previously tried to balance his previous non-compliance with the hope that he could be compliant. This recent action shows that he cannot be regulated.

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

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

MOTION PASSED.

E. ADJOURNMENT

MOTION: Dr. Bethancourt moved for adjournment.

SECOND: Ms. Jones.

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

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

MOTION PASSED.

The meeting adjourned at 4:16 p.m.



Raquel Rivera

Raquel Rivera, Interim Executive
Director