



Arizona Medical Board

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FINAL MINUTES FOR REGULAR SESSION MEETING

Held on August 6 and 7, 2008

9535 E. Doubletree Ranch Road - Scottsdale, Arizona

Board Members

William R. Martin III, M.D., Chair
Douglas D. Lee, M.D., Vice Chair
Dona Pardo, Ph.D., R.N., Secretary
Robert P. Goldfarb, M.D., F.A.C.S.
Patricia R. J. Griffen
Andrea E. Ibáñez
Ram R. Krishna, M.D.
Todd A. Lefkowitz, M.D.
Lorraine L. Mackstaller, M.D.
Paul M. Petelin Sr., M.D.
Germaine Proulx
Amy J. Schneider, M.D., F.A.C.O.G.

EXECUTIVE DIRECTOR'S REPORT

Lisa S. Wynn, Executive Director, informed the Board that she had been working collaboratively with other healthcare regulatory board's executive directors to pool resources and ideas and find ways to support each other during the budget crisis. Ms. Wynn reported that the Agency's conversion to its new database is complete; however, the Board's public website is still evolving. Board members noted that the number of open investigations is slowly rising. Ms. Wynn explained that it is due, in part, to the conversion and to three positions that are currently vacant in the agency; two case managers and a medical consultant. Ms. Wynn stated that the number may rise, but will remain within acceptable parameters to not compromise the integrity of the investigative process.

CHAIR'S REPORT

The Board welcomed William Wolf, M.D., who now serves as the Board's Chief Medical Consultant. Monty Lee, Licensing Enforcement Section of the Attorney General's Office, introduced the Board's new Legal Advisor, Jennifer Boucek, Assistant Attorney General. He stated that during the hiring phase, the overwhelming endorsements that Ms. Boucek received from her previous employers and current supervisor were impressive. Ms. Boucek thanked the Board for the opportunity and stated that she looked forward to the challenge. The Board thanked Anne Froedge, Assistant Attorney General, for her services as the temporary Legal Advisor.

APPROVAL OF 2009 MEETING DATES

Board members discussed the agenda and noted that it had been arranged differently than previous meetings and questioned whether Board meetings should begin earlier in the day. The Board concluded to have its October 2008 meeting to begin at 8:30 a.m., on both days.

MOTION: Dr. Martin moved to approve the 2009 Board Meeting dates.

SECONDED: Dr. Lee

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

APPROVAL OF FY 2007-2008 ANNUAL REPORT

MOTION: Dr. Krishna moved to approve the FY 2007-2008 Annual Report.

SECONDED: Dr. Lee

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

APPROVAL OF FY 2009-2011 STRATEGIC PLAN

MOTION: Dr. Lee moved to approve the FY 2009-2011 Strategic Plan.

SECONDED: Ms. Proulx

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

APPROVAL OF OFFSITE MEETING AGENDA

Board members were provided with a draft of the Offsite Meeting Agenda for review and approval. Issues that were added to the Agenda during this meeting include: physicians being treated in university settings, formal hearing costs, actions taken by other states and when the underlying case should be investigated, and mechanics for memorializing the proceedings. Discussion items also include portability of licenses, online tests for licensure and renewal, postgraduate training required for a medical license to practice medicine in Arizona, and institutions failing to report physicians to the Board.

LEGAL ADVISOR'S REPORT

Superior Court Ordered Payment

Dean Brekke, Assistant Attorney General, presented the Superior Court Ordered payment to the Board. He stated that opposing counsel originally applied for \$280,000 for attorney's fees. The Superior Court Judge restricted the amount to a certain time period and ordered that the attorneys resubmit the fees for June 28, 2007 through August 17, 2007. Fees and costs awarded to opposing counsel totaled of \$93,476.28. The Judge found that opposing counsel was entitled to more than the statutory fee due to the expertise that was required of the attorneys. Mr. Brekke informed the Board that the payment was submitted to Risk Management for the State of Arizona and that there were indications that they will pay it. He stated that normally, the payment would have come from the Board's reserve funds and/or the operating budget. However, those funds are no longer available due to the recent fund sweep. Dr. Martin commented that this is an example of how the fund sweep could hurt the Board. Ms. Wynn stated that an offset is that the Board has begun assessing Formal Hearing costs back for cases in which the Board prevails.

APPROVAL OF MINUTES

MOTION: Dr. Krishna moved to approve the June 4-5, 2008 Regular Session Meeting Draft Minutes, Including Executive Session.

SECONDED: Ms. Proulx

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

MOTION PASSED.

ADVISORY LETTERS

MOTION: Ms. Proulx moved to issue Advisory Letters in item numbers 1, 2, 3, 6, 7, 8, 9, 10, 11, 13, 15, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 32, 33, and 34.

SECONDED: Dr. Mackstaller

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	MD-07-0949A	C.J. JOSHUA D. HOLLAND, M.D.	17551	Issue an Advisory Letter for inappropriate prescribing and monitoring of testosterone replacement and for inadequate medical records. This is a one time occurrence that does not rise to the level of discipline.

Dr. Holland was present and spoke during the call to the public. He stated that the Board's medical consultant concluded that no harm was sustained and his care did not affect the patient's outcome. He stated that this was a learning experience for him and that changes will be implemented in his practice.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	MD-07-0940A	AMB JAY S. FLEISHMAN, M.D.	9377	Issue an Advisory Letter for failing, as a Medical Director, to have effective and written protocols for timely communication regarding pathology report results in place and for inadequate recordkeeping. This was a one time occurrence that does not rise to the level of discipline.
3.	MD-07-0703A	H.K. DILIP C. DHADVAI, M.D.	20687	Issue an Advisory Letter for failing to properly evaluate new onset hypertension, failing to follow up on an elevated creatinine, and for inadequate medical records.
4.	MD-07-0547A	S.C. SUSAN P. BRIONES, M.D.	22101	Dismiss.

Board members noted that the medical consultant who reviewed this case found that Dr. Briones deviated from the standard of care and noted mitigating factors. Dr. Schneider noted that cancer screening tests were ordered prematurely and opined that Dr. Briones was correct in her suspicion and recommended the case be dismissed.

MOTION: Dr. Schneider moved for dismissal.

SECONDED: Dr. Mackstaller

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
5.	MD-07-0987A	N.W. BRYAN W. GAWLEY, M.D.	33914	Dismiss.

Dr. Gawley was present and spoke during the call to the public. He stated that the standard of care was met with regard to his medical recordkeeping, his care for the patient and his consent forms and stated that an Advisory Letter was unwarranted.

MOTION: Dr. Lee moved for dismissal.

SECONDED: Ms. Proulx

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
6.	MD-07-1064A	B.M. MARIE T. PIMENTEL, M.D.	22505	Issue an Advisory Letter for failing to consider a diagnosis of a transient ischemic episode and for failing to start the patient on aspirin/Aggrenox. This was a one time occurrence that does not rise to the level of discipline.

BM was present and spoke during the call to the public. She stated it was wrong for Dr. Pimentel to give her mother different medications without looking into her medical history and knowing that she had a mild heart attack in the past. She stated that her mother died three days after taking the medication that Dr. Pimentel prescribed.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
7.	MD-07-0742A	AMB MOHAMMAD GOLPARIAN, M.D.	32921	Issue an Advisory Letter for failing to recognize that a venous Doppler instead of an arterial Doppler was ordered and completed on a patient that led to a delayed intervention on an ischemic limb and for inadequate documentation. This was a one time occurrence that does not rise to the level of discipline.
8.	MD-07-0898A	J.C. NICHOLAS M. PHAM, M.D.	28681	Issue an Advisory Letter for failure to document and provide written notification of termination of care, and for failure to maintain adequate medical records, including diagnoses and treatment plans. This matter does not rise to the level of discipline.
9.	MD-07-1008B	E.R. RICHARD V. CHUA, M.D.	33722	Issue an Advisory Letter for inadequate medical records. This was a one time occurrence that does not rise to the level of discipline.
10.	MD-07-0994A	AMB RONALD J. SIERZENSKI, M.D.	28468	Issue an Advisory Letter for inadequate medical records. This was a one time occurrence that does not rise to the level of discipline.
11.	MD-07-0932A	M.H. SCOTT J. HILLMANN, M.D.	12852	Issue an Advisory Letter for failure to close a 10mm fascial layer trocar site. This was a technical error that does not rise to the level of discipline.

Dr. Hillmann was present and spoke during the call to the public. He stated that he has changed his practice since this incident occurred. He asked that the Board rescind the recommended Advisory Letter and dismiss the case, as it has served its purpose without having been issued.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
12.	MD-07-0413A	K.C. ZELELEM YILMA, M.D.	25431	Dismiss.

Dr. Yilma was present and spoke during the call to the public. She stated that she performed tests on the patient prior to discharge that demonstrated no evidence of myocardial infarction. She said the patient's condition was neurologic rather than cardiovascular. Stephen Myers, legal counsel to Dr. Yilma, also addressed the Board during the call to the public. He stated that there was no indication that the patient sustained any heart condition post-discharge. He said the Board does not require documentation for communication of test results, but only requires that the test results are documented. He further stated that Dr. Yilma clearly documented the test results and that there were no grounds for the Advisory Letter.

MOTION: Dr. Mackstaller moved for dismissal.

SECONDED: Dr. Schneider

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
13.	MD-06-1015A	S.M. ABRAHAM J. SAYEGH, M.D.	18816	Issue an Advisory Letter for inadequate medical records. This was a minor or technical violation that does not rise to the level of discipline.
14.	MD-07-0933A	K.L. DANIEL M. LIEBERMAN, M.D.	28519	Dismiss.

Dr. Lee stated that he knows the medical consultant who reviewed this case but it would not affect his ability to adjudicate this matter. KL was present and spoke during the call to the public. He stated that he underwent a laminectomy and disk perfusion performed by Dr. Lieberman. He stated that he experienced postoperative complications, but Dr. Lieberman continued to give him medication instead of working up his condition. KL stated that he required an additional surgery to correct the complication. Dr. Lieberman also addressed the Board during the call to the public. He stated that he did his very best for KL and apologized for the ultimate outcome. He said he did not encounter problems during the procedure and that it went as planned. The Board

noted that Board staff found that Dr. Lieberman failed to document that KL had a brace. The Board found that documentation did exist and Dr. Lee recommended dismissal.

MOTION: Dr. Lee moved for dismissal.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
15.	MD-07-1137A	B.C. ERIC D. SONDERER, M.D.	16721	Issue an Advisory Letter for failing to diagnose the patient's condition, for using IPL in the treatment of melasma, and for inadequate medical records. This matter does not rise to the level of discipline.
16.	MD-07-0098A	A.S. FRANK E. CIBULKA, M.D.	22921	Issue an Advisory Letter for failure to perform a neurological examination and completely assess the patient's complaints, for failing to reassess a patient when the patient's condition deteriorated, and for inadequate medical records. This was a one time occurrence that does not rise to the level of discipline. Within six months obtain 20 hours non-disciplinary CME in medical recordkeeping.

Dr. Cibulka was present and addressed the Board during the call to public. He stated that he recognized that his recordkeeping was inadequate, but his care for the patient was appropriate. Dr. Pardo commented that Dr. Cibulka's records were very illegible and noted that he failed to assess the patient's complaints. Dr. Pardo recommended requiring Dr. Cibulka obtain non-disciplinary CME.

MOTION: Dr. Pardo moved to issue an Advisory Letter for failure to perform a neurological examination and completely assess the patient's complaints, for failing to reassess a patient when the patient's condition deteriorated, and for inadequate medical records. This was a one time occurrence that does not rise to the level of discipline. Within six months obtain 20 hours non-disciplinary CME in medical recordkeeping.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
17.	MD-07-1070A	K.R. GRAYSON J. GUZMAN, M.D.	35714	Issue an Advisory Letter for performing a partial posterior labioplasty instead of performing the bilateral labioplasty and for inadequate medical records.
18.	MD-08-0100A	M.P. JAMES R. BURKS, M.D.	7877	Issue an Advisory Letter for failing to retain medical records as required by statute.
19.	MD-07-1042A	I.V. LINDA L. AUSTIN, M.D.	21329	Issue an Advisory Letter for failing to provide adequate termination of care. This matter does not rise to the level of discipline.
20.	MD-07-1020A	AMB RALPH E. MAYBERRY, M.D.	16890	Issue an Advisory Letter for inappropriate monitoring of a physician assistant. This case does not rise to the level of discipline.
21.	MD-07-0398A	B.S. TIMOTHY P. SALMON, M.D.	20433	Issue an Advisory Letter for injecting an excessive amount of local anesthetic for a minor biopsy procedure. This does not rise to the level of discipline.
22.	MD-07-0989B	AMB TAIMUR H. HABIB, M.D.	30387	Issue an Advisory Letter for failing to timely evaluate changes in a patient's neurologic status by failing to personally perform a complete neurologic examination. This matter does not rise to the level of discipline.
23.	MD-07-0841A	A.H. WILL INNOCENT, M.D.	32113	Issue an Advisory Letter for changing Lasix and potassium dosages without indication or discussion with the patient and for inadequate medical records.
24.	MD-08-0109A	R.J. CARLOS R. GARRETON, M.D.	12428	Dismiss.

Dr. Schneider pulled this case for discussion and questioned the risks for a sulfa allergy in a small laceration. Board staff informed the Board that risks of any type of sulfa allergy for a small laceration is minimal. Once aware of the mistake, Dr. Garreton immediately acted appropriately.

MOTION: Dr. Schneider moved for dismissal.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
25.	MD-07-0953A	AMB EDWIN C. MGBAM, M.D.	33253	Issue an Advisory Letter for failing to obtain and act upon abdominal CT scan findings, specifically free intraperitoneal air. This matter does not rise to the level of discipline.
26.	MD-07-1017A	AMB JAGDEEP K. BAINS, M.D.	29311	Issue an Advisory Letter for failing to review the patient's

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
				response to nitroglycerin, the abnormal EKG, cancelling the cardiology consultation; and for inadequate medical records. This matter does not rise to the level of discipline.
27.	MD-07-1093A	AMB JASON M. BARCLAY-WHITE, M.D.	30450	Issue an Advisory Letter for failing to identify a hip fracture on the patient's initial MRI. This was a one time occurrence that does not rise to the level of discipline.
28.	MD-07-1138A	AMB JASON YE-SHENG LIU, M.D.	27423	Dismiss.

Dr. Krishna pulled this case for discussion. Board staff stated that all the clinical information may not have been provided to Dr. Liu, and this may have handicapped his opinion of the study.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Mackstaller

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
29.	MD-07-1075A	G.M. KENNETH C. WELCH, M.D.	19851	Issue an Advisory Letter for failing to perform a mathematically accurate conversion of Dilaudid and Fentanyl to intravenous methadone.

Dr. Pardo noted in his response to the Board, Dr. Welch stated that he reviewed his medication calculation with a pharmacist and registered nurse; however, neither caught the mistake.

MOTION: Dr. Pardo moved to issue an Advisory Letter for failing to perform a mathematically accurate conversion of Dilaudid and Fentanyl to intravenous methadone.

SECONDED: Dr. Lee

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

Board members noted that the calculation was complicated, but the end result was a much higher dose than needed. There was no documented evidence that consultation was obtained by the pharmacist. Dr. Pardo instructed Board staff to refer this case to the Arizona Board of Nursing and the Pharmacy Board.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
30.	MD-07-0965A	A.M. TAMAR K. GOTTFRIED, M.D.	26354	Issue an Advisory Letter for failing to discuss ultrasound findings with a patient. This matter does not rise to the level of discipline.

Dr. Gottfried was present and spoke during the call to the public. She stated that she has no prior Board history and if the Advisory Letter was issued, she asked that the language be modified to adequately reflect what occurred. Ms. Christine Cassetta, legal counsel for Dr. Gottfried, also addressed the Board during the call to the public. Board members stated they had worked with Ms. Cassetta in the past, but it would not affect their ability to adjudicate this case. She stated that based upon Dr. Gottfried's responses to the Board and her statement, the case should be dismissed. Dr. Krishna commented that it is expected that physicians inform patients of their test results, even if it is negative.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failing to discuss ultrasound findings with a patient. This matter does not rise to the level of discipline.

SECONDED: Dr. Lee

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
31.	MD-08-L004A	AMB KELLY TYLER, M.D.	Post Graduate Permit 81545	Issue an Advisory Letter for signing a blank, undated prescription and providing it to a colleague. This was a one time occurrence that does not rise to the level of discipline. Within one year obtain 15 hours non-disciplinary CME in boundary issues related to ethics.

Dr. Pardo recommended requiring Dr. Tyler obtain non-disciplinary CME in boundary issues.

MOTION: Dr. Pardo moved to issue an Advisory Letter for signing a blank, undated prescription and providing it to a colleague. This was a one time occurrence that does not rise to the level of discipline. Within one year obtain 15 hours non-disciplinary CME in boundary issues related to ethics.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
32.	MD-07-0764A	R.E. MARK M. MACELWEE, M.D.	26806	Issue an Advisory Letter for inadequate treatment of hyponatremia. This was a one time occurrence that does not rise to the level of

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
				discipline.
33.	MD-07-1057A	AMB STANLEY MILLER, M.D.	27653	Issue an Advisory Letter for failing to supervise a PA. This matter does not rise to the level of discipline.
34.	MD-07-0224A	AMB SCOTT J. CRAWFORD, M.D.	10293	Issue an Advisory Letter for failing to properly follow up. This matter does not rise to the level of discipline.

ADVISORY LETTERS WITH NON-DISCIPLINARY CME

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	MD-07-0854A	R.P. THEODORE D. LONDON, M.D	27819	Issue an Advisory Letter for inadequate documentation. Within one year obtain 15-20 hours non-disciplinary CME in recordkeeping. This matter does not rise to the level of discipline.

Dr. Pardo pulled this case for discussion noting Dr. London's prior Board history that included a previous Advisory Letter for similar documentation issues. Dr. Pardo stated that she recalled the Board issuing Letter of Reprimands for repeat offenses. Dr. Krishna agreed with Dr. Pardo that repeated offenses are of concern, but if the case does not rise to the level of discipline then the Board may issue an additional Advisory Letter.

MOTION: Dr. Schneider moved to issue an Advisory Letter for inadequate documentation. Within on year obtain 15-20 hours non-disciplinary CME in recordkeeping. This matter does not rise to the level of discipline.

SECONDED: Dr. Mackstaller

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

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	MD-07-0317A	AMB RUSSELL E. WESTERFIELD, M.D.	17798	Dismiss.

Paul Giancola, attorney to Dr. Westerfield, addressed the Board during the call to the public. He stated that the errors found in this case have been corrected in Dr. Westerfield's practice to assure that it does not occur again. He stated that requiring Dr. Westerfield to obtain CME in recordkeeping would be excessive due to the circumstances of this case. Dr. Lee pulled this case for discussion. Dr. Lee stated that there did not seem to be any mal intent on Dr. Westerfield's behalf and recommended dismissal.

MOTION: Dr. Lee moved for dismissal.

SECONDED: Dr. Mackstaller

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
3.	MD-07-0368A	AMB MICHAEL L. LEWIS, M.D.	12372	Invite the physician for a Formal Interview.

Dr. Pardo pulled this case for discussion. Board staff summarized the case for the Board and stated that Dr. Lewis resigned when his privileges were under review. Dr. Pardo commented that non-disciplinary CME did not seem appropriate and agreed with Dr. Lee that Dr. Lewis should be invited for a Formal Interview.

MOTION: Dr. Lee moved to invite the physician for a Formal Interview.

SECONDED: Dr. Pardo

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
4.	MD-07-0632A	M.L. CHRISTINE C. DONNELLY, M.D.	31311	Issue an Advisory Letter for failure to establish an appropriate doctor/patient relationship prior to furnishing samples of prescription medication and for failing to maintain adequate medical records. Within six months obtain 15-20 hours of Board staff approved non-disciplinary CME in boundary issues.

The Board noted that this case involved Dr. Donnelly dispensing medication to a friend. Dr. Donnelly kept progress notes, but never treated the gentlemen in the office. Board members noted that the complainant alleged an affair between he and Dr. Donnelly; however, the allegation was not sustained.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failure to establish an appropriate doctor/patient relationship prior to furnishing samples of prescription medication and for failing to maintain adequate medical records. Within six months obtain 15-20 hours of Board staff approved non-disciplinary CME in boundary issues.

SECONDED: Dr. Schneider

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

REVIEW OF EXECUTIVE DIRECTOR (ED) DISMISSALS

MOTION: Ms. Ibáñez moved to uphold the ED Dismissal in item numbers 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18.

SECONDED: Ms. Proulx

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	MD-07-0941A	D.G. DAVID A. HARCLERODE, M.D.	34490	Uphold ED Dismissal.
2.	MD-07-0975A	C.D. ARMITY A. SIMON, M.D.	20603	Uphold ED Dismissal.

CD was present and spoke during the call to the public. She stated that she experienced complications from the surgery performed by Dr. Simon and that he charged her for services not rendered. CD stated that she required a second surgery and may require a third.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
3.	MD-07-0826A	R.B. LYNDEN L. BLUTH, M.D.	10921	Uphold ED Dismissal.

Dr. Lefkowitz was recused from this case.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
4.	MD-07-0733A	H.N. PAUL R. INGRAHAM, M.D.	17747	Uphold ED Dismissal.
5.	MD-07-0540A	R.C. ROBERT S. KINKADE, M.D.	26410	Uphold ED Dismissal.

Dr. Lee was recused from this case. RC was present and spoke during the call to the public. RC stated that he underwent surgery performed by Dr. Kinkade in February 2006. He stated that he experienced complications postoperatively that required a two week hospitalization. RC stated that he believed Dr. Kinkade failed to appropriately perform the surgery.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
6.	MD-08-0030A	J.H. AMY L. LIPAN, M.D.	23884	Uphold ED Dismissal.

Dr. Martin was recused from this case. MH, wife of JH, was present and spoke during the call to the public. She stated that Dr. Lipan fraudulently placed a progress note in JH's medical record a month later to cover up a mistake. Board staff informed the Board that Dr. Lipan's management of JH was found to be appropriate and that the alleged fraudulent record was not substantiated.

MOTION: Dr. Krishna moved to uphold the ED dismissal.

SECONDED: Dr. Schneider

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

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
7.	MD-08-0127A	L.M. DAVID L. SWANSON, M.D.	30867	Uphold ED Dismissal.
8.	MD-07-0999A	R.G. F. HUGO VILLAR-VALDES, M.D.	9674	Uphold ED Dismissal.

Dr. Mackstaller was recused from this case. RG was present and spoke during the call to the public. She stated that a mastectomy would not have been required had she been diagnosed sooner.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
9.	MD-07-1106A	J.J. JAMES K. PAQUIN, M.D.	12914	Uphold ED Dismissal.

Dr. Krishna was recused from this case.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
10.	MD-08-0122A	D.B. MATTHEW C. KIDD, M.D.	35101	Uphold ED Dismissal.
11.	MD-07-0699A	S.T. MICHELLE L. CABRET-CARLOTTI, M.D.	30196	Uphold ED Dismissal.

Dr. Lefkowitz was recused from this case. Paul Giancola was present and spoke during the call to the public. He stated that the case was thoroughly reviewed and appropriately dismissed by the Executive Director and asked that the Board uphold the decision.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
12.	MD-07-0998A	B.D. MITZI J. BARMATZ, M.D.	24224	Uphold ED Dismissal.
13.	MD-07-0972A	C.R. WEN ZHONG, M.D.	26766	Uphold ED Dismissal.
14.	MD-07-0900A	R.A. TODD C. CASE, M.D.	19569	Uphold ED Dismissal.
15.	MD-07-1025A	W.G. MICHAEL L. FUCHS, M.D.	15309	Uphold ED Dismissal.
16.	MD-08-0239A	L.J. MURUGASU NAGUL, M.D.	19864	Uphold ED Dismissal.
17.	MD-08-0015A	A.A. IRENE S. DUARTE, M.D.	21997	Uphold ED Dismissal.
18.	MD-08-0257A	C.M. BRITT W. FERRELL, M.D.	27733	Uphold ED Dismissal.

CM was present and spoke during the call to the public. She stated that she was humiliated and ridiculed by Dr. Ferrell when she needed proper care and support. She further stated that she deserved a reimbursement for such poor treatment.

OTHER BUSINESS

MOTION: Dr. Krishna moved to accept the proposed consent agreements in item numbers 1, 3, 4, 5, 6, 7, 8, 10, and 16.

SECONDED: Ms. Proulx

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
1.	MD-07-1059A	AMB	HARRY L. HAWKINS, M.D.	27932	Accept proposed consent agreement for a Letter of Reprimand for action taken by another state for quality of care issues.
2.	MD-07-1095A	AMB	ADAM J. HANSEN, M.D.	31928	Accept proposed consent agreement for a Letter of Reprimand for photographing and viewing a patient's penile tattoo.

Dr. Hansen was present and spoke during the call to the public. He stated that he realized he made a mistake and apologized to the Board. He further stated that he learned from this experience and has become a better physician. Dr. Mackstaller commented that Dr. Hansen was a young physician who made a very bad decision.

MOTION: Dr. Mackstaller moved to accept the proposed consent agreement for a Letter of Reprimand for photographing and viewing a patient's penile tattoo.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
3.	MD-07-1117A	AMB	DANIEL H. KINZIE, M.D.	16046	Accept proposed consent agreement for a Letter of Reprimand for action taken by another state.
4.	MD-06-0438A MD-07-0290A	M.W. AMB	SUSAN B. FLEMING, M.D.	14840	Accept proposed consent agreement for a Letter of Reprimand and One Year Probation for improper prescribing, inadequate examination and evaluation of the patient, prescribing in excess of findings reported and failure to recognize or deal with evidence of narcotics abuse on several occasions. Within one year obtain 20 hours CME in appropriate evaluation and treatment of chronic pain patients. The CME hours are in addition to the hours required for the biennial renewal of medical license and in addition to hours obtained under the previous Order. Probation to terminate upon successful completion of the CME. Probation to include random chart reviews.
5.	MD-07-0480A	S.H.	MICHAEL OGDEN, M.D.	11188	Accept proposed consent agreement for a Letter of Reprimand and One Year Probation for treating his grandchildren for several years without documenting his relationship in the records and actively seeking alternative care for the grandchildren and failure to maintain adequate medical records. Within one year obtain 10 hours CME in psychiatric recordkeeping. Probation to include random chart reviews.

Dr. Pardo instructed Board staff to refer this case to the Arizona Board of Nursing.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
6.	MD-07-0677A	AMB	LAURENCE M. SUSINI, M.D.	17611	Accept proposed consent agreement for a Letter of Reprimand for transecting the nerve during surgery, for failure to diagnose and treat the complication in a timely manner and for failure to perform a motor neurologic examination during postoperative follow up.
7.	MD-07-0707A	AMB	RAJIV JETLY, M.D.	29064	Accept proposed consent agreement for a Letter of Reprimand for failure to properly evaluate a patient with persistent weight loss, including an oral cavity examination and for failure to obtain a surgical consultation for a patient with new bilateral pneumothoraces, chest pain and hypoxia after a procedure.

Dr. Pardo instructed Board staff to refer this case to the Arizona Board of Nursing.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
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NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
8.	MD-07-1012A	AMB	PRIDO POLANCO-MARTINEZ, M.D.	13131	Accept proposed consent agreement for a Letter of Reprimand for failure to order prothrombin time, an international normalized ratio and head computed tomography scan for a patient on Coumadin involved in a motor vehicle accident with a forehead abrasion.
9.	MD-07-0730A	B.R.	HUMBERTO ROSADO, M.D.	19978	Accept proposed consent agreement for a Stayed Revocation, Practice Restriction and Ten Years Probation, as amended, to seek treatment with a Board approved psychotherapist, participate in Board approved group therapy for sexual offenders; submit to polygraph if/when recommended by therapists; restrict practice to 40 hours per week, re-evaluation at PRC four months after the date of the final Order for a minimum of two weeks; a female licensed healthcare provider to serve as a chaperone when providing services to female patients or anytime a female accompanies a patient, including in a hospital setting; provide a copy of his Order to his staff to place them on notice of the issues surrounding his conduct, and inform them of the necessity of reporting any future misconduct to the Board. Within 6 months obtain 20 hours CME in professional boundaries. The CME hours are in addition to hours required for biennial renewal of medical license. After five years, Dr. Rosado may petition the Board to terminate the restriction and probation. Upon any alleged violation of a probationary term, Dr. Rosado shall be given notice and an opportunity to be heard on the alleged violations. Thereafter, the Board shall terminate the probation and revoke Dr. Rosado's license.

Dr. Krishna was recused from this case. Dr. Pardo pulled this case for discussion and requested that line eleven of page eight be removed from the Order as it was incorrect to state that the Probation would terminate upon completion of the CME.

MOTION: Dr. Pardo moved to accept proposed consent agreement for a Stayed Revocation, Practice Restriction and Ten Years Probation, as amended, to seek treatment with a Board approved psychotherapist, participate in Board approved group therapy for sexual offenders; submit to polygraph if/when recommended by therapists; restrict practice to 40 hours per week, re-evaluation at PRC four months after the date of the final Order for a minimum of two weeks; a female licensed healthcare provider to serve as a chaperone when providing services to female patients or anytime a female accompanies a patient, including in a hospital setting; provide a copy of his Order to his staff to place them on notice of the issues surrounding his conduct, and inform them of the necessity of reporting any future misconduct to the Board. Within 6 months obtain 20 hours CME in professional boundaries. The CME hours are in addition to hours required for biennial renewal of medical license. After five years, Dr. Rosado may petition the Board to terminate the restriction and probation. Upon any alleged violation of a probationary term, Dr. Rosado shall be given notice and an opportunity to be heard on the alleged violations. Thereafter, the Board shall terminate the probation and revoke Dr. Rosado's license.

SECONDED: Dr. Lee

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board member was recused: Dr. Krishna. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

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

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
10.	MD-07-0995A	M.A.	DOUGLAS A. SLAUGHTER, M.D.	23614	Accept proposed consent agreement for a Decree of Censure for failure to properly assess a patient before and after surgery and for performing wrong level spine surgery.

Dr. Martin stated that he knows Dr. Slaughter but it would not affect his ability to adjudicate this case.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
11.	MD-08-0418A	AMB	MARK R. AUSTEIN, M.D.	14196	Accept proposed consent agreement for License Reactivation and Five Years Probation with MAP terms.

Kathleen Muller, Physician Health Program, summarized the case for the Board. In December 2007, Dr. Austein notified the Board that he relapsed and his license was placed on inactive status with cause. He successfully completed treatment and entered into an Interim Consent Agreement for MAP. Ms. Muller stated that Dr. Austein requested his license be reactivated with probation and MAP terms.

MOTION: Dr. Schneider moved to accept proposed consent agreement for License Reactivation and Five Years Probation with MAP terms.

SECONDED: Dr. Lee

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
12.	MD-08-L002A	AMB	CHARLENE WOOD, M.D.	N/A	Deny appeal of ED denial of licensure.

Dr. Wood was present and spoke during the call to the public. She requested that the Board issue her a probationary license and that she is ready to fulfill any condition that the Board deems necessary. Anita Shepherd, Case Manager, summarized the case for the Board. The University of Arizona asked Dr. Wood to resign from her residency program, based upon performance concerns in lieu of being dismissed. Dr. Wood failed to disclose this information on her application for licensure. Dr. Wood later informed the Board that she was advised by the University's Director that she did not need to report it to the Board, but when asked, the Director told Board staff that he never would have advised her to not report her resignation to the Board. Board members commented that Dr. Wood did not meet the qualifications for licensure with this Board and agreed with SIRC's suggestion that she may benefit by undergoing a residency program prior to reapplying to the Board.

MOTION: Dr. Lee moved to deny appeal of ED denial of licensure.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
13.	MD-03-0445A	AMB	PATRICIA R. EVANS, M.D.	21895	Approve Modification of Board Order.

Ms. Muller stated that Dr. Evans requested the Board modify her Board Order by reducing the number of group therapy session per month. The Board's Addiction Medicine Consultant reviewed the request and recommended that Dr. Evans be allowed to attend group therapy two times per month and the weeks that she is not attending, attend individual sessions.

MOTION: Dr. Mackstaller moved to approve modification of Board Order.

SECONDED: Ms. Proulx

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
14.	MD-07-0892A	AMB	DAVID I. PLUMB, M.D.	37523	Terminate previous Board Order and accept proposed consent agreement for a Practice Limitation.

Anne Froedge, Assistant Attorney General, informed the Board that one of the items that deleted from the new agreement is the requirement for alcohol and substance screening. Ms. Froedge informed the Board that Dr. Plumb recently tested positive for alcohol; however, his Order did not prevent him from consuming alcohol.

MOTION: Dr. Krishna moved to terminate previous Board Order and accept proposed consent agreement for a Practice Limitation.

SECONDED: Dr. Lefkowitz

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	SUBJECT
15.	MD-07-0586A	N.R.	RONALD B. JOSEPH, M.D.	8699	Approval of draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for placing a prosthetic arthroplasty implant into a recently infected shoulder and failing to properly treat a recurrently infected shoulder prosthesis.

Jeff Pyburn, attorney to Dr. Joseph, was present and spoke during the call to the public. He stated that it is their belief that this case does not involve a standard of care issue, but rather an opinion issue. He stated that the patient was advised of the risk and opted not to have the prosthesis removed.

MOTION: Dr. Krishna moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for placing a prosthetic arthroplasty implant into a recently infected shoulder and failing to properly treat a recurrently infected shoulder prosthesis.

SECONDED: Dr. Lee

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	SUBJECT	
16.	MD-08-0074A MD-08-0387A	AMB V.G.	JAMES H. ARMSTRONG, M.D.	24923	Accept proposed consent agreement for surrender of an active license.

WEDNESDAY, AUGUST 6, 2008

CALL TO ORDER

The meeting was called to order at 9:30 a.m.

ROLL CALL

The following Board members were present: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

CALL TO THE PUBLIC

SP was present and spoke during the call to public regarding case numbers MD-08-0187A and MD-08-1087B involving Drs. Albert Carlotti and Michelle Carlotti. She stated that she required additional surgery to correct her nose due to a procedure performed by Dr. Albert Carlotti. She said he disregarded her wishes while she was under the anesthesia. SP stated she was severely burned by a laser procedure performed by Dr. Michelle Carlotti and alleged the physicians have altered her medical records to cover up their actions. In addition, SP stated that she found their laser equipment was not registered.

All other statements issued during the call to the public appear beneath the case referenced.

FORMAL HEARING MATTERS – CONSIDERATION OF ADMINISTRATIVE LAW JUDGE (ALJ) RECOMMENDED DECISION

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION	
1.	MD-03-1046A MD-05-0086A MD-06-0925A MD-06-0937A MD-07-0139A	R.L. AMB J.J. AMB R.P.	JOHN V. DOMMISSE, M.D.	22164	Accept the ALJ's recommended Order for Revocation, and modify the Order to assess the costs of the Formal Hearing, not to exceed \$20,000.

Sherry Whitfield was present and spoke during the call to the public on behalf of Dr. Dommissee. She stated that she has known Dr. Dommissee for thirteen years as his patient. She stated he is a good physician and asked the Board to consider the patients he has helped over the years when making its final decision. Nancy Barnett also addressed the Board during the call to the public in support of Dr. Dommissee. She asked that the Board consider the thousands of patients that are in better health thanks to Dr. Dommissee when taking final action. Board members indicated that they received and reviewed the administrative record from the ALJ. Michael Sillyman, Outside Counsel, summarized this matter for the Board. He stated that the cases involved date back to 2003 and involved quality of care and documentation issues, and in one case, failure to provide medical records to a patient. He asked that the Board accept the ALJ's recommended Findings of Fact, Conclusions of Law and Order for Revocation, as amended. Dr. Dommissee was present without legal counsel. He stated that out of the sixteen cases against him, only one originated from a patient complaint. He stated that the Board's consultants had no knowledge of Nutritional Medicine and should not have served as peer reviewers of his cases. He stated had the Board used a proper peer of his, the findings against him would be negated. Mr. Sillyman readdressed the Board stating that Nutritional Medicine is not recognized as a specialty by the Board.

MOTION: Dr. Martin moved to go into executive session.

SECONDED: Dr. Mackstaller

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 11:55 a.m.

The Board returned to Open Session at 12:05 p.m.

No deliberations or discussions were made during Executive Session.

MOTION: Dr. Krishna moved to accept the ALJ's recommended Findings of Fact and Conclusions of Law, as amended.

SECONDED: Dr. Lee

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

MOTION: Dr. Krishna moved to accept the ALJ's recommended Order for Revocation, and modify the Order to assess the costs of the Formal Hearing, not to exceed \$20,000.

Board members discussed assessing the cost of the Formal Hearing and noted that Dr. Dommissé did not request the Hearing, but was referred by the Board. Dr. Martin instructed Board staff to include Formal Hearing costs as a discussion topic to the Board's Offsite Meeting Agenda. The Board clarified that assessing Formal Hearing costs to the physician is not intended to be punitive.

SECONDED: Ms. Ibáñez

ROLL CALL VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	MD-05-1180A MD-07-0195A	C.S. AMB JOHN C. MORGAN, M.D.	25871	Modify and Accept ALJ's recommended Order to issue a Letter of Reprimand in case number MD-05-1180A and a Letter of Reprimand in case number MD-07-0195A, and modify the Order to assess the costs of the Formal Hearing, not to exceed \$20,000.

Board members indicated that they received and reviewed the administrative record from the ALJ. Philip Overcash, Outside Counsel, summarized this matter for the Board. He stated that the ALJ found that Dr. Morgan engaged in unprofessional conduct in both cases. He requested the Board accept the ALJ's recommended Findings of Fact, Conclusions of Law and Order and assess the costs of the Formal Hearing. Mr. Michael Golder was present on behalf of Dr. Morgan. He requested that the Board modify the ALJ's recommended Order and issue Dr. Morgan Advisory Letters in both cases. Mr. Overcash readdressed the Board and recommended that the Board issue Dr. Morgan the ALJ's recommended discipline.

MOTION: Dr. Krishna moved to accept the ALJ's recommended Findings of Fact and Conclusions of Law and Order, as amended.

SECONDED: Ms. Ibáñez

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

Dr. Krishna stated that the recommended Decree of Censure seemed excessive and recommended issuing Dr. Morgan a Letter of Reprimand in both cases.

MOTION: Dr. Krishna moved to modify and accept the ALJ's recommended Order for a Letter of Reprimand in case number MD-05-1180A and a Letter of Reprimand in case number MD-07-0195A, and modify the Order to assess the costs of the Formal Hearing, not to exceed \$20,000.

SECONDED: Ms. Proulx

ROLL CALL VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
3.	MD-06-0323A	A.M. KENNETH M. FISHER, M.D.	12762	Accept ALJ's recommended Order for a Letter of Reprimand, and modify the Order to assess the Formal Hearing costs, not to exceed \$20,000.

Board members indicated that they received and reviewed the administrative record from the ALJ. Mr. Overcash summarized the case for the Board. He stated that the ALJ found Dr. Fisher engaged in unprofessional conduct as a result of improperly prescribing Suboxone and for failing to maintain adequate medical records. Dr. Fisher was present with legal counsel, Mr. Cal Raup. Mr. Raup stated that there was credible evidence that Dr. Fisher maintained adequate medical records and that there is no preponderance of evidence to support the alleged quality of care violation. Mr. Raup asked that the Board dismiss this case.

MOTION: Dr. Krishna moved to go into executive session.

SECONDED: Dr. Mackstaller

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 12:43 p.m.

The Board returned to Open Session at 12:49 p.m.

No deliberations or discussions were made during Executive Session.

MOTION: Dr. Krishna moved to accept the ALJ's recommended Findings of Fact and Conclusions of Law, as amended.

SECONDED: Dr. Lee

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

MOTION: Dr. Lee moved to accept the ALJ's recommended Order for a Letter of Reprimand, and modify the Order to assess the Formal Hearing costs, not to exceed \$20,000.

SECONDED: Dr. Krishna

ROLL CALL VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION	
4.	MD-07-0728A MD-07-0763A MD-07-0885A MD-07-0762A MD-07-0738A MD-07-0768A MD-07-0936A MD-07-0857A	AMB A.Z. D.C. W.W . D.C. R.J. S.N. C.D.	DAVID L. GREENE, M.D.	32747	Accept the ALJ's recommended Order for Revocation, and modify the Order to assess the Formal Hearing costs.

Dr. Lefkowitz was recused from this case. Eydie Greene was present and spoke during the call to the public on behalf of her son, Dr. Greene. She stated that Dr. Greene is only 39 years-old and has only been practicing for 3 years. Ms. Greene stated that Dr. Greene has learned from this experience and is capable of translating what he has learned in his assessments and treatments of his patients. She said his faults require remediation, not revocation. Board members indicated that they received and reviewed the administrative record from the ALJ. Dean Brekke, Assistant Attorney General, summarized the matter for the Board. He stated that the cases involved postoperative complications that resulted in patients who died and some that sustained permanent injuries. Mr. Brekke stated that the recommended Order for Revocation is necessary to protect the public. He stated the Board's medical consultant was not concerned with Dr. Greene's knowledge or education, but was concerned with his clinical judgment. The Board's consultant testified that Dr. Greene's judgment has not been in the best interest of many of his patients. Mr. Brekke asked that the Board accept the recommended Order and modify to assess the cost of the Formal Hearing.

Dr. Greene was present with legal counsel, Mr. Paul Giancola. Mr. Giancola stated that he Board should consider a lesser form of discipline and assist Dr. Greene in remediating his practice. He stated that Dr. Greene voluntarily underwent PACE, and the evaluators concluded that he is competent to practice general orthopedic surgery with six months of proctoring. Dr. Greene told the Board he received excellent education and training and that he has no history of discipline with the Board. He said he chose this particular specialty because he wanted to be part of a field of medicine that was rapidly changing and help patients by improving their quality of life. He said he completed several hours of CME, has undergone an ethics course, and has observed surgeons. He asked the Board to not revoke his license. Mr. Brekke readdressed the Board and pointed out that when PACE made its recommendation, it did not have all of the evidence. He said PACE only had the information from when the Board issued the Decree of Censure to Dr. Greene in August 2007. He said that the Director of PACE testified that had all the cases been presented to PACE at that time, their recommendation may have been different.

MOTION: Dr. Martin moved to go into executive session.

SECONDED: Dr. Krishna

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

MOTION PASSED.

The Board went into Executive Session for legal advice at 1:20 p.m.

The Board returned to Open Session at 1:23 p.m.

No deliberations or discussions were made during Executive Session.

MOTION: Dr. Lee moved to accept the ALJ's recommended Findings of Fact and Conclusions of Law, as amended.

SECONDED: Dr. Krishna

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

MOTION PASSED.

MOTION: Dr. Lee moved to accept the ALJ's recommended Order for Revocation, and modify the Order to assess the Formal Hearing costs.

SECONDED: Dr. Krishna

Dr. Mackstaller was concerned that PACE may have changed their recommendation if they had been presented with Dr. Greene's additional cases. Dr. Schneider commented that the cases were very difficult and noted that the Board had a difficult time coming to a conclusion. However, she opined that this was not an issue of knowledge, but an issue of judgment.

ROLL CALL VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: Roll call vote was taken and the following Board Members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board member was recused: Dr. Lefkowitz. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

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

MOTION PASSED.

OTHER BUSINESS

MOTION: Dr. Lee moved to rescind the referral to formal hearing and accept the proposed consent agreement in item numbers 1, 2, 4, 5, 6, and 8.

SECONDED: Ms. Ibáñez

ROLL CALL VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 0-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	MD-03-1016A MD-06-0579A MD-06-0353A MD-02-0713A	S.H. T.S. AMB F.H HARA P. MISRA, M.D.	14933	Rescind referral to Formal Hearing and accept proposed consent agreement for a Decree of Censure and Ten Years Probation for failing to conduct an adequate preoperative evaluation, including a consultation with a gynecological oncologist, that compromised the patient's initial surgical procedure; and for inadequate medical records. Dr. Misra shall not perform any gynecological surgeries or any vein stripping and ligation surgeries. However, Dr. Misra shall be permitted to perform vein surgeries using a laser technique. Dr. Misra shall maintain an operative log to be submitted to Board for monthly review. Probation to include biannual chart reviews.

Dr. Krishna was recused from this matter.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	MD-05-0013A MD-05-0681A MD-05-0605A MD-05-1018A MD-07-0150A	J.D. AMB AMB R.S. AMB SUDHIR GOEL, M.D.	27103	Rescind referral to Formal Hearing and accept proposed consent agreement for surrender of an active license.
3.	MD-06-0622A MD-06-0780A MD-07-0009A MD-07-0255A	AMB AMB AMB D.B. JAMES L. ROBROCK, M.D.	16209	The Board took no action on this matter.

Dean Brekke, Assistant Attorney General, summarized this matter to the Board. He stated that Dr. Robrock signed a consent agreement for Surrender of his medical license in lieu of Formal Hearing. Mr. Brekke clarified that surrender of an active license is equivalent to Revocation and that it is placed in the record and reported as a disciplinary action.

MOTION: Dr. Lee moved to go into executive session.

SECONDED: Dr. Schneider

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 2:15 p.m.
The Board returned to Open Session at 2:17 p.m.
No deliberations or discussions were made during Executive Session.

The Board tabled this matter and moved on to other business.

The Board returned to this noting Dr. Robrock's late submission of material.

MOTION: Dr. Lee moved to go into executive session.

SECONDED: Dr. Krishna

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

The Board went into Executive Session for legal advice at 3:07 p.m.
The Board returned to Open Session at 3:16 p.m.
No deliberations or discussions were made during Executive Session.

Board members noted that Dr. Robrock was requesting that he be allowed to withdraw his acceptance of the consent agreement for Surrender of his license as he had additional evidence to offer.

MOTION: Dr. Lee moved for the Board to take no action on this matter.
SECONDED: Dr. Mackstaller

The Board stated that it is being put at a disadvantage by Dr. Robrock's tactics as he signed the consent agreement at the Formal Hearing and is now withdrawing his acceptance of the consent agreement. Mr. Brekke assured the Board that Dr. Robrock's initial acceptance of the consent agreement was placed on record as it was presented to the ALJ at the Formal Hearing.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
4.	MD-04-0796A	AMB WILLIAM N. FOXLEY, M.D.	17023	Rescind referral to Formal Hearing and accept proposed consent agreement for surrender of an active license.
5.	MD-05-1052A	AMB LEWIS M. SATLOFF, M.D.	17470	Rescind referral to Formal Hearing and accept proposed consent agreement for a Letter of Reprimand for violating a Board Order.
6.	MD-04-1339A	AMB ROBERT S. CHARLAP, M.D.	31256	Rescind referral to Formal Hearing and accept proposed consent agreement for surrender of an active license.
7.	MD-07-0621A	AMB MAZEN H. KHAYATA, M.D.	20382	Rescind referral to Formal Hearing and issue an Advisory Letter for failing to diagnose the vascular injury or consult the vascular surgeon about the patient's vascular injury in a timely manner, despite being notified by nursing staff about a numb leg with a cold foot.

Emma Mamaluy, Assistant Attorney General, presented this matter to the Board. She stated that this case should be viewed in conjunction with Dr. Khayata's previous case in which he signed a practice limitation that prohibits him from returning to practice until he demonstrates to the Board that he is fit to return to practice. She said the reason for the Advisory Letter was to provide notice to the public. Ms. Mamaluy informed the Board that Dr. Khayata has no plans of returning to practice due to a medical condition.

MOTION: Dr. Martin moved to go into executive session to review confidential material.
SECONDED: Dr. Krishna
Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

The Board went into Executive Session for legal advice at 2:22 p.m.
The Board returned to Open Session at 2:25 p.m.
No deliberations or discussions were made during Executive Session.

MOTION: Dr. Krishna moved to rescind the referral to Formal Hearing and issue an Advisory Letter for failing to diagnose the vascular injury or consult the vascular surgeon about the patient's vascular injury in a timely manner, despite being notified by nursing staff about a numb leg with a cold foot.
SECONDED: Ms. Proulx

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
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8.	MD-06-0322A MD-06-0680A	T.B. S.B.	STEVEN M. GITT, M.D.	17134	Rescind referral to Formal Hearing and accept proposed consent agreement for a Letter of Reprimand for failure to provide adequate post-operative patient care, for failure to adequately supervise a physician assistant, for failure to timely diagnose and properly treat an operative complication and for improper billing.
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CALL TO THE PUBLIC

There was no one present to speak during the call to the public.

FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
1.	MD-07-0729A	D.S.	ELIZABETH A. SUTHERLAND, M.D.	28165	Dismiss.

Dr. Sutherland was present with legal counsel, Ms. Rosemary Cook.

MOTION: Dr. Mackstaller moved to accept the Motion for Good Cause for late submission of material.

SECONDED: Dr. Lee

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

Bhupendra Bhatheja, M.D., Medical Consultant, summarized the case for the Board. Dr. Sutherland diagnosed patient DS with pharyngitis without supporting clinical evidence; prescribed antibiotics without clear evidence of pharyngitis; and prescribed first generation cephalosporins in a patient with a history of a penicillin allergy. Dr. Sutherland stated she did not understand why a conventional cardiologist reviewed her case when the issue involved primary care. She stated that she met the standard of care and posed no danger to DS. Dr. Lefkowitz questioned why Dr. Sutherland instructed DS to start an antibiotic prior to obtaining strep throat test results. Dr. Sutherland stated she had a strong suspicion for strep throat and that her follow up plan was to call and advise DS to stop the antibiotic if the results had come back negative. She said the risk to DS was minimal. A pharmacist had contacted Dr. Sutherland to inform her that DS had a documented history of a penicillin allergy and Dr. Sutherland failed to document that conversation in the medical chart.

Dr. Sutherland stated that she was involved in the care of another patient when she spoke to the pharmacist and did not document the conversation, since it did not change her treatment plan. Dr. Sutherland attempted to reach DS telephonically for six consecutive days after receiving the negative test result, and then a letter was sent to DS; however, Dr. Sutherland had no confirmation for receipt of the letter. Dr. Krishna opined that Dr. Sutherland is compromising patient care by giving antibiotics to patients prior to obtaining their test results. Dr. Schneider opined that Dr. Sutherland seemed to treat patients based on clinical suspicion rather than based on lab reports and questioned why she ordered lab tests at all. Dr. Sutherland stated that her practice has not changed since this incident occurred. Dr. Martin was concerned that Dr. Sutherland had not learned from this experience. In closing, Ms. Cook referred Board members to material in the case that indicated Dr. Sutherland met the standard of care and that Dr. Sutherland's actions were appropriate.

MOTION: Dr. Lefkowitz moved to issue an Advisory Letter for diagnosing pharyngitis without supporting clinical evidence, prescribing antibiotics without evidence of bacterial pharyngitis, for prescribing a first generation cephalosporin to a patient with a history of penicillin allergy which includes angioedema, and for inadequate medical records.

SECONDED: Ms. Ibáñez

Dr. Mackstaller spoke against the motion and recommended dismissal. Dr. Lee opined that the standard of care was met and spoke in favor of dismissal. Dr. Martin noted Dr. Sutherland's prior Board history that involved a similar records violation. Dr. Krishna spoke in favor of the motion stating that an Advisory Letter should be issued to track Dr. Sutherland's practice. Dr. Schneider spoke against the motion and stated that dismissal would be more appropriate. However, Dr. Schneider found it aggravating that Dr. Sutherland was critical of the medical consultant who reviewed this case when she herself is a board certified anesthesiologist. Dr. Schneider also stated that she found it aggravating that Dr. Sutherland had not learned from this incident.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Drs. Krishna and Pardo. The following Board members voted against the motion: Ms. Ibáñez, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 2-yay, 7-nay, 0-abstain, 0-recuse, 3-absent.

MOTION FAILED.

MOTION: Dr. Mackstaller moved for dismissal.

SECONDED: Ms. Proulx

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Ms. Proulx, and Dr. Schneider. The following Board members voted against the motion: Drs. Krishna and Pardo. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 7-yay, 2-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	MD-07-0810A	AMB JOHN C. RACY, M.D.	10742	Issue an Advisory Letter for inadequate recordkeeping. This is a minor technical violation.

Dr. Mackstaller was recused from this case. Dr. Racy was present with legal counsel, Mr. Philip Grant. Kathleen Coffey, M.D., Medical Consultant, summarized the case for the Board. Board staff found that Dr. Racy failed to appropriately obtain an adequate history and physical exam prior to diagnosing and treating patient GR; failed to document a diagnosis for which psycho-stimulants were prescribed; and failed to document long term psychiatric care. Dr. Racy said he has been in the psychiatry field for nearly a decade and was employed by the University of Arizona and served as an advisor to the medical students. He was treating GR for depression and attention deficit disorder (ADD) without hyperactivity, while GR was a medical student there. Dr. Racy said GR benefited from the treatment he provided.

Dr. Lee noted that Dr. Racy's documentation of the care provided to GR was very limited and the records did not convey his thought process. Dr. Lee also noted that Dr. Racy placed treatment records for GR's wife in GR's medical file. Dr. Racy informed the Board that it is a typical practice at the University to treat the medical students more discreetly and informal. He admitted that his records could have been more complete, but stated that he met the standard of care with regard to GR's treatment. In closing, Mr. Grant stated that the treatment system at the University of Arizona has been recognized to have great benefit to the medical students. Dr. Lee stated that if this is typical practice at the University, then he did not want to hold Dr. Racy accountable if other physicians at the University were practicing in the same way. Board members opined that Dr. Racy seemed very forthright and very honest in his testimony during the interview. The Board did not find that Dr. Racy committed unprofessional conduct and concluded that this matter does not rise to the level of discipline.

MOTION: Dr. Krishna moved to issue an Advisory Letter for inadequate recordkeeping. This is a minor technical violation.

SECONDED: Dr. Lefkowitz

Ms. Ibáñez was concerned that there may be a conflict of interest with Dr. Racy providing treatment for his students.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board member was recused: Dr. Mackstaller. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

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

MOTION PASSED.

Dr. Martin instructed Board staff to add the issue of physicians being treated in university settings to the Board's Offsite Meeting Agenda.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
3.	MD-07-0811A	AMB ROBERT K. UEDA, M.D.	25182	Issue an Advisory Letter for failing to identify and report the finding of an epidural abscess compressing the cervical spinal cord. The Physician has demonstrated substantial compliance through rehabilitation and remediation.

Dr. Ueda was present with legal counsel, Mr. Dan Cavett. Gerald Moczynski, M.D., Medical Consultant, summarized the case for the Board. Board staff found that Dr. Ueda failed to identify and report the finding of a large epidural abscess compressing the cervical spinal cord on a non-enhanced MRI study. Dr. Ueda stated that he currently resides in Washington and works for a large tele-radiology group that reviews images from various states. He stated that this case occurred in 2005 and admitted that he should have seen the abscess. Dr. Ueda stated he is a better physician and has learned from this experience.

MOTION: Dr. Martin moved to enter into executive session.

SECONDED: Dr. Lee

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 4:48 p.m.

The Board returned to Open Session at 4:52 p.m.

No deliberations or discussions were made during Executive Session.

MOTION: Dr. Lee moved to enter into executive session to review confidential material.

SECONDED: Dr. Krishna

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.
MOTION PASSED.

The Board went into Executive Session for legal advice at 4:53 p.m.
The Board returned to Open Session at 5:00 p.m.
No deliberations or discussions were made during Executive Session.

Dr. Ueda agreed that the standard of care was not met in this case. He stated that the clinical information that was relayed to him when he reviewed the MRI was disjointed. Board members noted that in his response to the complaint, Dr. Ueda stated that the clinical status was not adequately described to facilitate a more focused review of the imaging study. Dr. Ueda stated that in retrospect, he should have imaged the whole spine. In closing, Mr. Cavett pointed out that Dr. Ueda did not order this test; it was ordered four hours before he came on shift. He stated that this was a malpractice case that involved four physicians and two hospitals. Mr. Cavett stated the Washington Board investigated this case and dismissed their case and that there was no evidence that the patient was harmed by the delay in reporting the MRI. He informed the Board that Dr. Ueda had undergone several hours of CME and recommended the Board issue an Advisory Letter. Dr. Martin found it mitigating that Dr. Ueda admitted his mistakes during his testimony, that he had learned from this experience and that he has since changed his practice.

MOTION: Dr. Martin moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-1401 (27)(q) – Any conduct that is or might be harmful or dangerous to the health of the patient or the public.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

Dr. Martin stated that this case does not rise to the level of discipline due to several mitigating factors and that Dr. Ueda has shown substantial compliance through rehabilitation and remediation.

MOTION: Dr. Martin moved to Issue an Advisory Letter for failing to identify and report the finding of an epidural abscess compressing the cervical spinal cord. The Physician has demonstrated substantial compliance through rehabilitation and remediation.

SECONDED: Dr. Krishna

Dr. Pardo spoke against the motion stating that based on Dr. Ueda's prior Board history, this case rises to the level of discipline.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Ms. Proulx, and Dr. Schneider. The following Board members voted against the motion: Ms. Ibáñez and Dr. Pardo. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 7-yay, 2-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
4.	MD-05-0866A	AMB	TIMOTHY GELETY, M.D.	21851	Issue an Advisory Letter for not being available in a timely fashion to evaluate a postoperative patient with potential complications. This matter is a technical violation.

Drs. Lefkowitz and Schneider were recused from this case. Dr. Gelety was present with legal counsel, Mr. Paul Giancola. Ingrid Haas, M.D., Medical Consultant, summarized the case for the Board. Postoperatively, patient YS complained of leg numbness. The anesthesia and nursing staff attempted to contact Dr. Gelety, but to no avail. YS was admitted for overnight hospitalization by the anesthesiologist, her problems resolved, and she was discharged home the following morning. Board staff found that Dr. Gelety was not immediately available to YS for postoperative complications. Dr. Gelety explained that he thought YS's numbness was due to nerve compression from the stirrups used during the operative procedure. Dr. Gelety said the anesthesiologist and the hospital staff did not call the correct number to reach him; therefore, he did not present to the hospital to see YS as he was confident that she was receiving adequate care by hospital staff.

When Dr. Gelety was reached by the nurse that works at his office, he was informed of the situation and immediately contacted the anesthesiologist. Dr. Gelety gave orders to continue to evaluate YS to see if the issue would resolve on its own, which it did, and then discharge her home. However, this conversation was not documented in YS's medical records by Dr. Gelety or the anesthesiologist. Dr. Gelety did not come in to see YS prior to her discharge the next morning. Dr. Gelety stated that he was contacted early in the morning and informed that YS was well and anxious to go home; therefore, he gave the okay for her discharge.

MOTION: Dr. Pardo moved to enter into executive session.

SECONDED: Dr. Mackstaller

Vote: 7-yay, 0-nay, 0-abstain, 2-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 6:13 p.m.
The Board returned to Open Session at 6:18 p.m.
No deliberations or discussions were made during Executive Session.

In closing, Mr. Giancola reiterated that had the correct phone number been called, Dr. Gelety could have responded in a timelier fashion. He stated the Board was in the position to determine whether the two hour and fifteen minute period of unavailability warranted discipline. He said the appropriate action would be an Advisory Letter if the case is not dismissed. Dr. Lee stated Dr. Gelety deviated from the standard of care by not being available to a postoperative patient with potential complications. He stated that had YS developed more severe problems and he was not available, significant complications could have ensued.

MOTION: Dr. Lee moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-1401 (27)(q) – Any conduct that is or might be harmful or dangerous to the health of the patient or the public.

SECONDED: Dr. Krishna

VOTE: 6-yay, 0-nay, 1-abstain, 2-recuse, 3-absent.

MOTION PASSED.

Board members noted that YS’s postoperative complication was minor and resolved on its own. The Board noted that Dr. Gelety has no prior Board history and concluded that this was a minor technical violation that should be tracked with an Advisory Letter.

MOTION: Dr. Martin moved to issue an Advisory Letter for not being available in a timely fashion to evaluate a postoperative patient with potential complications. This matter is a technical violation.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Mackstaller, Dr. Martin, and Ms. Proulx. The following Board member was abstained: Dr. Pardo. The following Board members were recused: Drs. Lefkowitz and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

MOTION PASSED.

THURSDAY, AUGUST 7, 2008

CALL TO ORDER

The meeting was called to order at 8:00 a.m.

ROLL CALL

The following Board members were present: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

CALL TO THE PUBLIC

There was no one present to speak during the call to the public.

FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC.#	RESOLUTION
1.	MD-02-0093A	AMB	STEPHEN E. LINDSTROM, M.D.	7585	Accept the proposed consent agreement for a Letter of Reprimand for failing to appropriately manage a high risk pregnancy by failing to timely refer a diabetic patient to specialized care in the presence of macrosomia and fetal intolerance of labor.

Ms. Ibáñez stated that she knows a physician involved in this case, but it would not affect her ability to adjudicate the case. Dr. Lindstrom was present with legal counsel, Mr. James Kaucher. Ingrid Haas, M.D., Medical Consultant, summarized the case for the Board. This case stemmed from a medical malpractice case involving Dr. Lindstrom that came to the Board’s attention in 2002. Dr. Lindstrom was invited for a Formal Interview in 2003, but opted for a Formal Hearing. In September 2007, a consent agreement for a Letter of Reprimand was negotiated and signed by Dr. Lindstrom. In February 2008, the Board requested modification of the agreement to include a restriction from practicing obstetrics. Dr. Lindstrom declined to sign the modified consent agreement. Dr. Lindstrom stated that he currently practices pediatrics at a federal clinic and that he has no intention of returning to the practice of obstetrics. The Board questioned why Dr. Lindstrom declined the modified consent agreement with the practice restriction if he no longer practices obstetrics. Dr. Lindstrom stated that he declined the modified agreement because not only would it place a restriction on his practice, but he would also lose other privileges including his ability to supervise physician assistants. Board members discussed offering Dr. Lindstrom the opportunity to sign a consent agreement.

MOTION: Dr. Krishna to enter into executive session.

SECONDED: Dr. Schneider

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 8:30 a.m.
The Board returned to Open Session at 8:42 a.m.
No deliberations or discussions were made during Executive Session.

MOTION: Dr. Schneider moved to table the matter to allow legal counsel the opportunity to negotiate a consent agreement with opposing counsel.

SECONDED: Dr. Krishna

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

Upon returning to this matter, Board members reviewed the eight-page consent agreement and noted that it paralleled the Consent previously offered to Dr. Lindstrom, without the Practice Restriction.

MOTION: Dr. Schneider moved to accept the proposed consent agreement for a Letter of Reprimand for failing to appropriately manage a high risk pregnancy by failing to timely refer a diabetic patient to specialized care in the presence of macrosomia and fetal tolerance of labor.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC.#	RESOLUTION
2.	MD-07-0985A	AMB WILLIAM M. COCHRAN, M.D.	15469	Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure and Ten Years Probation for overprescribing acetaminophen without adequate rationale or appropriate monitoring, and for prescribing opioid and multiple psychoactive medications in an elderly patient resulting in medication induced hypersomnolence and for violation of his Board Order. Probation to include quarterly chart reviews and a Ten Year Practice Restriction from practicing chronic pain management that includes prescribing controlled substance medications for any ongoing chronic pain condition. Allowed controlled substance prescribing is limited to management of acute pain to include not more than a 30 day prescription of opioids with no refills or renewals. After five years, Dr. Cochran may apply to the Board to request the practice restriction be lifted.

Dr. Cochran was present with legal counsel, Mr. Cal Raup. Carol Peairs, M.D., Medical Consultant, summarized the case for the Board. Dr. Cochran was under a Practice Restriction, prohibiting him from practicing pain management, effective June 2003. Board staff found that Dr. Cochran was practicing pain management while under the Practice Restriction and; therefore, determined that he violated his Board Order. Dr. Cochran stated that the Board's Monitored Aftercare Program (MAP) saved his life and thanked the Board for assisting in his rehabilitation. Dr. Cochran stated he currently works in a solo general medical practice and serves as Medical Director of a substance abuse program. Dr. Cochran further stated that he did not understand the terms and conditions of the consent agreement that he signed in June 2003.

In March 2005, Dr. Cochran requested the Board modify his Order to lift the requirement of a practice monitor. The Board conducted a review of Dr. Cochran's practice and the review was satisfactory. The Board conducted a second review shortly thereafter of all patients within a particular timeframe. Deviations from the standard of care were identified and Board staff determined that Dr. Cochran had violated his Order by practicing pain management in his care of three patients. The Board determined not to modify his Order at that time. Dr. Cochran stated he has instituted changes in his practice since these incidents occurred and that the Board had yet to review his current practice. In closing, Mr. Raup stated that the practice monitoring aspect of the Order was removed in January 2005 when Dr. Cochran complied with that condition. He stated that Dr. Cochran has been compliant with the Board's requirements. Dr. Peairs pointed out that in accordance with his June 2003 consent agreement, Dr. Cochran was not to practice pain management until he applied and received approval from the Board. Dr. Krishna stated it was unfortunate that Dr. Cochran did not fully understand the consent agreement when he signed it.

MOTION: Dr. Krishna moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-1401 (27)(q) - Any conduct that is or might be harmful or dangerous to the health of the patient or the public; and A.R.S. §32-1401 (27)(r) - Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under the provisions of this chapter.

SECONDED: Ms. Ibáñez

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

MOTION: Dr. Krishna moved for a draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure and Ten Years Probation for over prescribing acetaminophen without adequate rationale or appropriate monitoring, and for prescribing opioid and multiple psychoactive medications in an elderly patient resulting in medication induced hypersomnolence and for violation of his Board Order. Probation to include quarterly chart reviews and a Ten Year Practice Restriction from practicing chronic pain management that includes prescribing controlled substance medications for any ongoing chronic pain condition. Allowed controlled substance prescribing is limited to management of acute pain to include not more than a 30 day prescription of opioids with no refills or renewals. After five years, Dr. Cochran may apply to the Board to request the practice restriction be lifted.

SECONDED: Ms. Ibáñez

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC.#	RESOLUTION
3.	MD-07-0825A	B.P. PAUL M. MAGTIBAY, M.D.	23052	Issue an Advisory Letter for failure to maintain adequate medical records. This was a technical violation.

BP was present and spoke during the call to the public. She stated that she underwent a cholecystectomy, but woke up with her ovaries removed. She said her husband was not afforded the opportunity to give informed consent on her behalf intraoperatively. Dr. Magtibay was present with legal counsel, Mr. Barry Halpern. Ingrid Haas, M.D., Medical Consultant, summarized the case for the Board. Board staff found that Dr. Magtibay deviated from the standard of care by performing a bilateral salpingo-oophorectomy (BSO) when it was not indicated and by failing to obtain proper consent intraoperatively. Board staff found that Dr. Magtibay also failed to maintain adequate medical records. Dr. Magtibay said he provided quality care to BP and she received treatment that was clearly within the standard of subspecialty surgical and oncologic medical care. BP designated her husband as her authorized representative to make healthcare decisions on her behalf if she became unable to do so.

Dr. Schneider led the questioning and noted that the surgeon who performed the cholecystectomy called Dr. Magtibay for consultation intraoperatively. Dr. Magtibay found masses on BP's ovaries and recommended removing them. The other surgeon consulted with BP's husband and received permission for Dr. Magtibay to proceed with the procedure. Dr. Magtibay did not speak with BP's husband until after the procedure. Dr. Magtibay failed to document abnormal findings other than a cyst in BP's medical record and did not document a description of her ovaries. In closing, Mr. Halpern stated that it was appropriate for Dr. Magtibay to rely upon the other surgeon to secure consent in the intraoperative setting. He stated that leaving the ovaries and waiting could have been a death sentence for BP. Mr. Halpern concluded that Dr. Magtibay's actions were appropriate and in the best interest of the patient.

MOTION: Dr. Schneider moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-1401 (27)(e)- Failing or refusing to maintain adequate records on a patient; and A.R.S. §32-1401 (27)(q) - Any conduct that is or might be harmful or dangerous to the health of the patient or the public.

SECONDED: Ms. Proulx

Dr. Martin noted that the cholecystectomy was an elected procedure. Dr. Mackstaller opined that Dr. Magtibay clearly had permission to operate on BP.

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

MOTION FAILED.

MOTION: Dr. Schneider moved to issue an Advisory Letter for failure to maintain adequate medical records. This was a technical violation.

SECONDED: Dr. Lefkowitz

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Martin, Dr. Pardo, and Dr. Schneider. The following Board members voted against the motion: Dr. Mackstaller and Ms. Proulx. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 7-yay, 2-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC.#	RESOLUTION
4.	MD-08-0070A	AMB MAHEEP K. GOYAL, M.D.	31357	Dismiss.

Dr. Lefkowitz was recused from this case. Dr. Goyal was present with legal counsel, Mr. Paul Giancola. Danielle Steger, Case Manager, summarized the case for the Board. The North Carolina Medical Board issued Dr. Goyal a Public Letter of Concern that he signed in January 2008 in lieu of more formal disciplinary proceedings. The North Carolina Medical Board found that Dr. Goyal misinterpreted an ultrasound study as within normal limits without correlating the interpretation with a prior computerized

tomography scan and failed to properly communicate with a patient's primary care physician regarding the need to pursue further diagnostic studies. Dr. Goyal interpreted an ultrasound as unremarkable and documented that the study was poor and limited.

Dr. Goyal said he currently practices tele-radiology and holds an active medical license in 27 different states. He stated that no other state medical board took action against his license based upon this incident. Dr. Goyal stated he has learned from this experience and now recommends more evaluation when a study is poor or limited. Mr. Giancola stated that there was no claim that the ultrasound was a misdiagnosis or inadequate. He stated that this incident was a result of miscommunication that Dr. Goyal has corrected. The Board noted that when the Board investigates a licensee due to action taken by another state medical board, there is no investigation of the underlying case. Dr. Martin suggested adding this topic to the Board's Offsite Meeting Agenda to form a policy that will provide consistency in these types of cases. The Board concluded that this matter did not warrant discipline.

MOTION: Dr. Lee moved for dismissal.

SECONDED: Dr. Mackstaller

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board member was recused: Dr. Lefkowitz. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

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

MOTION PASSED.

CALL TO THE PUBLIC

Robin Fleck, M.D., was present and spoke during the call to the public. Dr. Fleck stated she is a board certified dermatologist and owns a Medspa in Prescott, Arizona. She said the Arizona Cosmetology Board recently cited her for having an unlicensed facility. Dr. Fleck stated that Medspas run by licensed physicians should not be regulated by the Cosmetology Board and urged the Board to issue a Policy Statement to prevent the Cosmetology Board from citing licensed physicians for unlicensed facilities. All other statements issued during the call to the public appear beneath the case referenced.

FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC.#	RESOLUTION
5.	MD-07-0817A	R.S. BELAL M. SHARAF, M.D.	33197	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for altering medical records, falsifying medical records sent to the Board, for failing to order a timely follow up Dilantin level after a dosage change, for failing to timely address abnormal lab review in the records and for inadequate medical records. One Year Probation with 20 hours CME in medical recordkeeping, to be completed within six months.

Dr. Sharaf was present with legal counsel, Dominique Barrett. Bhupendra Bhatheja, M.D., Medical Consultant, summarized the case for the Board. Board staff found that Dr. Sharaf failed to order a follow up Dilantin level appropriately for a patient with an elevated Dilantin level, failed to timely address the patient's abnormal labs, and falsified the patient's medical records that he provided to the Board during the course of the investigation. Dr. Sharaf realized and understood that he should have checked the Dilantin levels timelier. Dr. Sharaf denied altering the patient's medical records and stated that he added the correct date to assist the Board in its investigation of this matter. He reiterated that he did not alter the patient's original medical record. Board members noted that the patient did not recall being seen or examined by Dr. Sharaf on August 3, 2007. Dr. Sharaf stated that he dictated that visit on August 6, 2007, but went back and corrected the date in the record. The Board found that Dr. Sharaf deviated from the standard of care by failing to order the follow up Dilantin level for two days and noted deviations in Dr. Sharaf's recordkeeping. The Board also found that Dr. Sharaf altered medical records provided to the Board during the course of the investigation.

MOTION: Dr. Pardo moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-1401 (27)(e)- Failing or refusing to maintain adequate records on a patient; A.R.S. §32-1401 (27)(q) - Any conduct that is or might be harmful or dangerous to the health of the patient or the public; and A.R.S. §32-1401 (27)(t)- Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.

SECONDED: Dr. Krishna

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

MOTION: Dr. Pardo moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for altering medical records, falsifying medical records sent to the board, for failing to order a timely follow up Dilantin level after a dosage change, for failing to timely address abnormal lab review in the records and for inadequate medical records. One Year Probation with 20 hours CME in medical recordkeeping, to be completed within six months.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC.#	RESOLUTION
6.	MD-07-0716A	J.R. ARLO B. BRAKEL, M.D.	32307	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for habitual intemperance and for diverting controlled substances. Five Years Probation to include participation in MAP. Dr. Brakel shall be given credit for the time he has participated in MAP under an Interim Consent Agreement, effective October 2, 2007.

Dr. Brakel was present with legal counsel, Mr. Christopher Smith. Anita Shepherd, Case Manager, summarized the case for the Board. During an interview with Board staff, Dr. Brakel admitted to using controlled substances without a physician's prescription. Dr. Brakel completed a 30-day residential treatment for chemical dependency. Dr. Brakel enrolled in the Board's Monitored Aftercare Program and has been in compliance. Dr. Brakel expressed his gratitude to the Board for the MAP program stating it has and continues to change his life.

Dr. Brakel stated that when he was first approached by the Board, he did not accept that he was diverting medication from his patients. He assured the Board that he no longer takes narcotics and that his pain management now consists of Tylenol, ibuprofen, and regular exercise among other things. In closing, Mr. Smith pointed out that although this case originated from a patient, it was ultimately reported to the Board by another physician. Therefore, Mr. Smith requested the Board allow Dr. Brakel the opportunity to enter into a confidential Order with the Board.

MOTION: Dr. Pardo moved to enter into executive session.

SECONDED: Dr. Lee

Vote: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 2:34 p.m.

The Board returned to Open Session at 2:42 p.m.

No deliberations or discussions were made during Executive Session.

Dr. Krishna was concerned that Dr. Brakel was taking medication from his patients without their knowledge and stated that Dr. Brakel committed unprofessional conduct.

MOTION: Dr. Krishna moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-1401 (27)(f) – Habitual intemperance in the use of alcohol or habitual substance abuse; and A.R.S. §32-1401 (27)(g) - Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.

SECONDED: Ms. Ibáñez

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

Dr. Krishna commented that although Dr. Brakel has and remains compliant with MAP, the Board would be doing a disservice to him if he was not placed on probation. Dr. Krishna clarified that the Order cannot be confidential due to the finding of unprofessional conduct.

MOTION: Dr. Krishna moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for habitual intemperance and for diverting controlled substances. Five Years Probation to include participation in MAP. Dr. Brakel shall be given credit for the time he has participated in MAP under an Interim Consent Agreement, effective October 2, 2007.

SECONDED: Dr. Martin

Board staff clarified that the MAP Probation would be a disciplinary action. Dr. Mackstaller stated that the Board should weigh the consequences of its decisions based on someone's professional life, especially when that person has been clean and sober. Dr. Martin stated that the Board must always strive for consistency and noted that in similar cases, the Board has taken the same course of action for discipline.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

OTHER BUSINESS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	MD-03-1046A MD-05-0086A MD-06-0925A MD-06-0937A MD-07-0139A	R.L. AMB J.J. AMB R.P.	JOHN V. DOMMISSE, M.D. 22164	Accept the proposed Order for Revocation, as amended.

MOTION: Dr. Lee moved to accept the proposed Order for Revocation, as amended.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	MD-05-1180A MD-07-0195A	C.S. AMB	JOHN C. MORGAN, M.D. 25871	Accept the proposed Order for a Decree of Censure in case number MD-05-1180A and a Letter of Reprimand in case number MD-07-0195A.

MOTION: Dr. Lee moved to accept the proposed Order for a Decree of Censure in case number MD-05-1180A and a Letter of Reprimand in case number MD-07-0195A.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
3.	MD-06-0323A	A.M.	KENNETH M. FISHER, M.D. 12762	Accept the proposed Order for a Letter of Reprimand.

MOTION: Ms. Proulx moved to accept the proposed Order for a Letter of Reprimand.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
4.	MD-07-0728A MD-07-0763A MD-07-0885A MD-07-0762A MD-07-0738A MD-07-0768A MD-07-0936A MD-07-0857A	AMB A.Z. D.C. W.W. D.C. R.J. S.N. C.D.	DAVID L. GREENE, M.D. 32747	Accept the proposed Order for Revocation, as written.

Dr. Lefkowitz was recused from this case. Dean Brekke, Assistant Attorney General, asked the Board, in its motion, to clarify whether the formal hearing costs would be capped at a certain amount or whether the Board wished to accept the proposed Order as it is written.

MOTION: Dr. Krishna moved to accept the proposed Order for Revocation, as written.

SECONDED: Dr. Pardo

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board member was recused: Dr. Lefkowitz. The following Board members were absent: Dr. Goldfarb, Ms. Griffen and Dr. Petelin.

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

MOTION PASSED.



The meeting adjourned at 4:55 p.m.

Lisa S. Wynn, Executive Director