



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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DRAFT MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, April 6, 2011 9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Douglas D. Lee, M.D., Chair
Paul M. Petelin Sr., M.D., Vice Chair
Amy J. Schneider, M.D., F.A.C.O.G., Secretary
Patricia R. J. Griffen, Member-at-Large
Andrea E. Ibáñez
Jody L. Jenkins, M.D.
Gordi S. Khera, M.D.
Ram R. Krishna, M.D.
Germaine Proulx
William J. Thrift, M.D.

CALL TO ORDER

Dr. Lee called the meeting to order at 8:00 a.m.

ROLL CALL

The following Board members were present: Ms. Ibáñez, Dr. Jenkins, Dr. Krishna, Dr. Lee, Dr. Petelin, Dr. Schneider, and Dr. Thrift. The following Board members were absent: Ms. Griffen, Dr. Khera, and Ms. Proulx.

CALL TO THE PUBLIC

SP spoke during the call to the public regarding a case that was not on the agenda. All other individuals who spoke during the call to the public appear beneath the matters referenced.

EXECUTIVE DIRECTOR'S REPORT

Lisa S. Wynn, Executive Director, thanked Dr. Krishna for hosting the Board's guests from the Federation of State Medical Boards (FSMB). Ms. Wynn informed the Board that the Agency has implemented online complaint filing. Ms. Wynn thanked the Board for allowing her the opportunity to attend the Harvard School of Government, where she participated in the Executive Education Program. She reported that there were 56 participants from different areas of government leadership. Ms. Wynn thanked William Wolf, M.D., Chief Medical Consultant, for speaking to the medical students at the Veteran's Hospital, the Good Samaritan Hospital, as well as the University of Arizona's Phoenix and Tucson campuses. She stated that Dr. Wolf has done a great job in engaging the students, and providing them with information regarding the Board's processes and the Arizona Medical Practice Act.

Ms. Wynn recognized Assistant Attorney Generals Anne Froedge and Camila Alarcon for their work under the leadership of Jennifer Boucek, Assistant Attorney General. She reported that the Board's Formal Hearing cases are moving along, and that there is no longer a delay in scheduling a Formal Hearing when cases are referred to the Office of Administrative Hearings. Ms. Wynn also recognized Suzann Grabe, Licensing Office Manager, and her staff including Brenda Diaz, Christina Cassetta, Linda Scorzo, Susan McClellan, and Tenley Oberhaus. She stated that the Licensing Office has done an excellent job in decreasing the amount of days it takes to process a license application to 21 days. Ms. Wynn read comments that were submitted on the Board's website regarding the licensing process that included several compliments of the Licensing Office staff's courtesy, professionalism, and prompt responses.

CHAIR'S REPORT

Dr. Lee informed the Board that the FSMB's annual meeting will be held on April 28-30, 2011 in Seattle, Washington. Dr. Lee welcomed the medical students who were present to observe the Board Meeting and also commended Dr. Wolf for speaking with the students. Dr. Lee also thanked the Senior Management Team for their hard work.

LEGAL ADVISOR'S REPORT

Ms. Boucek informed the Board that the Court of Appeals considered and dismissed the appeal of an Advisory Letter issued by the Board. She stated that the Court rejected arguments that the court should reverse its holding in *Murphy v. Board of Medical Examiners* case because of several changes that have occurred since the opinion was issued. Ms. Boucek stated that the decision was issued as a Memorandum Decision, which limits the ability of the Board to cite it as precedent. However, she reported that there were two additional appeals of Advisory Letters pending at the same time that the decision was published, and that the Superior Court almost immediately dismissed one, and the other was withdrawn by the appellant party. Ms. Boucek further stated that not one of the three appellant parties had evidence to demonstrate that the licensee's legal rights, privileges or duties were adversely affected by the Board's issuance of an Advisory Letter to the physician. Ms. Boucek noted that physicians complain that patients may see the Advisory Letter on the public profile of the physician and choose not to see the physician. However, she stated that the Board cannot control how the public interprets the issuance of an Advisory Letter. Dr. Lee stated that he plans to discuss the issue with his colleagues at the FSMB annual meeting to get a consensus of how an Advisory Letter is viewed by the public. Dr. Krishna pointed out that Advisory Letters are issued for the purposes of trending the physician's conduct.

LEGISLATIVE UPDATE

Ms. Wynn provided the Board with a legislative update regarding Senate Bill (SB) 1175, which is the Board's Omnibus Bill. She stated that this Bill is currently going through the House process, and that if it is passed, felony convictions and malpractice information will only appear on a physician's profile if it resulted in disciplinary action by the Board. She further reported that this Bill also broadens a physician's ability to do immunizations for household members of patients, and modifies the Board's language regarding its Monitored Aftercare Program. House Bill (HB) 2545 was passed in 2010, and requests that the Board no longer post Advisory Letters on a physician's profile. Ms. Wynn reported that while the Advisory Letters will no longer be available on the Board's website, they will be available to the public through a public records request. Ms. Wynn informed the Board that SB 1032 is in process and if it is passed, it would remove the Board's authority to approve a physician to read mammograms. Ms. Wynn also informed the Board regarding SB 1030 that was proposed by the Arizona State Association of Physician Assistants, which will expand a PA's ability to prescribe controlled substances to 30 days, if passed.

MEDICAL MARIJUANA UPDATE

Dr. Petelin reported that the final governing rules and regulations on medical marijuana were published by the Arizona Department of Health Services on March 28, 2011. He stated that the certification form that is to be used by physicians is a one page document consisting of check boxes, and that it is not to be considered a prescription. Dr. Lee noted that the certifying physician will be required to establish a physician-patient relationship with the patient prior to certifying that the patient qualifies for the use of medical marijuana.

FSMB PRESENTATION

Dr. Lee welcomed Bruce McIntyre, JD, Liaison Director, and Sandra Waters, Chief Operating Officer, of the FSMB. Mr. McIntyre and Ms. Waters provided a review of the organization's major initiatives and changes, as well as the products and services offered by the FSMB. The FSMB is a non-profit association that was founded in 1912 and is located in Euless, Texas. Recently, the FSMB has also established an advocacy office located in Washington, DC. Mr. McIntyre stated that the FSMB is the leader in medical regulation, serving as an innovative catalyst for effective policy and standards, and that the FSMB leads by promoting excellence in medical practice, licensure, and regulation as the national resource and voice on behalf of state medical boards in their protection of the public. Mr. McIntyre explained that the FSMB's structure is broken down into committees that report directly to the FSMB's House of Delegates and Board of Directors. Products and services provided by the FSMB include license portability, which Mr. McIntyre stated has been a major discussion at the FSMB for the past twenty years, a uniform application for physician state licensure, and the Federation Credentials Verification Service (FCVS). He explained that the FCVS features primary source verification of the applicant's identity, medical education, training, exam history, board action history, and board certification. Mr. McIntyre stated that he and Ms. Waters have been instrumental in driving the needed improvements to FCVS, and he congratulated Ms. Waters in perfecting the product over the past year. Mr. McIntyre informed the Board that the maintenance of licensure was adopted as policy in April 2010. He stated that three major components of effective lifelong learning include reflective self-assessment, assessment of knowledge and skills, and performance in practice. Mr. McIntyre stated that also in 2010, a special committee on re-entry to practice was established by the FSMB, and is charged with recommending guidelines to be utilized by boards in determining clinical competence of physicians who have been out of clinical practice for a significant period of time. Mr. McIntyre further reported that the FSMB's advocacy network involves multiple channels that include an annual FSMB handbook, the Journal of Medical Regulation, eNews, and the FSMB's website. Mr. McIntyre informed the Board that the FSMB's annual meeting will be held on April 28-30, 2011 in Seattle, Washington. He also stated that the FSMB will be celebrating its 100th anniversary on April 26-28, 2012 in Fort Worth, Texas.

Dr. Lee questioned whether there are competitors with the FCVS service provided by the FSMB. Ms. Waters stated that 63 of the 69 state medical boards currently accept FCVS in the licensing process. She stated that there are small and regional competitors who provide a concierge-like service for applicants, and that the physician has the option of gathering the information him/herself and have it be directly submitted to the licensing agency. Dr. Lee also questioned whether hospitals, facilities or large institutes utilize the FCVS product during the credentialing process. Ms. Waters stated that they currently do not, but that the FSMB views it as an opportunity to support the privileging process. Dr. Lee and Dr. Jenkins questioned whether the FSMB evaluates the assessment facilities and programs used by the many state medical boards to determine a physician's ability to practice medicine safely. Mr. McIntyre stated that they do not and that the boards rely upon the reputation of the schools and programs to determine

whether to refer physicians for their services. Ms. Waters stated that they will take note of the Board's concern regarding evaluation of the assessment programs in anticipation of the FSMB's annual meeting discussions. Dr. Lee thanked Mr. McIntyre and Ms. Waters for presenting to the Board. Mr. McIntyre commented that Arizona has a reputation of an excellent medical board and that the personal experiences and practices of individual Board members have proven to be invaluable.

AUDIT UPDATE

Drs. Jane Orient and Scott Forrer spoke during the call to the public regarding the Audit Update. Dr. Orient stated that a review of the Board should include input from its licensees and the public. Dr. Forrer requested that the Board consider a mechanism for practicing physicians and members of the public to participate and engage in the audit process.

MOTION: Dr. Jenkins moved to enter into Executive Session to receive the Audit Update.

SECONDED: Dr. Krishna

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

MOTION PASSED.

The Board entered into Executive Session to receive the Audit Update at 10:15 a.m.

The Board returned to Open Session at 10:47 a.m.

No deliberations or discussions were made during Executive Session.

Dr. Lee commented that the audit is a routine process that all state agencies undergo, pursuant to statute.

APPROVAL OF MINUTES

MOTION: Dr. Krishna moved to approve the February 9, 2011 Regular Session Meeting Minutes, including Executive Session.

SECONDED: Dr. Petelin

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

MOTION PASSED.

ADVISORY LETTERS

MOTION: Dr. Schneider moved to issue an Advisory Letter in item numbers 1, 3, 4, 5, 7, 9, 10, 11, 13, 14, and 15.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-10-1142A	JAMES T. COOPER, M.D.	28358	Issue an Advisory Letter for failing to notify the patient and arrange follow up of a hypodense hepatic mass found on CT scan. This matter does not rise to the level of discipline.

BE spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-10-1034A	JOSEPH B. FARES, M.D.	35164	Dismiss.

Dr. Fares spoke during the call to the public with attorney Andrew Rosenzweig. Dr. Thrift recalled that Dr. Fares stated during call to the public that the patient's platelet count was problematic, making it difficult to do an EGD. Kathleen Coffey, M.D., Medical Consultant, stated that the medical consultant opined that the EGD should have been obtained in a timelier fashion, and that Dr. Fares failed to address the patient's abdominal pain, which was felt to be out of proportion to the cirrhosis diagnosis. Dr. Krishna noted that the outcome would not have changed had Dr. Fares done things differently. Dr. Jenkins pointed out that the patient was referred for an EGD in December 2009, and noted that the patient began to complain of abdominal pain one year later and she was evaluated at that time. Dr. Jenkins commented that she did not believe Dr. Fares could have done anything differently to have changed the outcome. Dr. Schneider noted that the medical consultant was critical of the fact that regular ultrasounds were not obtained in a patient with cirrhosis. Dr. Jenkins observed that the standard of care requires a physician to obtain ultrasounds in a patient with cirrhosis every six to twelve months. She noted that an ultrasound was obtained and that the patient was instructed to undergo an ultrasound in twelve months.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
3.	MD-10-1196A	ARNOLD H. MEYEROWITZ, M.D.	13263	Issue an Advisory Letter for inappropriate simultaneous prescription of Luvox CR and Tizanidine. This matter does not rise to the level of discipline.
4.	MD-10-0709A	RAY A. SILAO, M.D.	22582	Issue an Advisory Letter for failure to refer a patient with complete

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				atrioventricular block with bradycardia for evaluation for pacemaker placement. This matter does not rise to the level of discipline.
5.	MD-10-1231A	RONNEY L. FERGUSON, M.D.	28951	Issue an Advisory Letter for inserting a malpositioned tibial component during total knee replacement. The violation was a one-time technical error that does not rise to the level of discipline.
6.	MD-10-1107A	GHEBRU W. WOLDEMICHAEL, M.D.	31647	Issue an Advisory Letter for occluding the aorta with a suture ligature while attempting to control bleeding during a nephrectomy. The violation was a one-time technical error that does not rise to the level of discipline.

Dr. Krishna stated that he knows Dr. Woldemichael, but that it would not affect his ability to adjudicate the case. Dr. Thrift recognized that this was a difficult case and noted that the patient was referred to a specialist for surgery, but that the patient did not comply with the recommendation due to insurance difficulties. The patient later returned to the hospital at which time Dr. Woldemichael undertook the surgery. Dr. Thrift recognized that Dr. Woldemichael's resources are limited in the area where he practices. Dr. Krishna observed that during the surgery, Dr. Woldemichael occluded the aorta with a suture ligature. He noted that the Board's Staff Investigation Review Committee (SIRC) recommended an Advisory Letter as the violation was a one-time technical error. Dr. Petelin noted that the complication is rare and that it is considered a major technical error. Dr. Jenkins found that the case involved a judgment error on the part of Dr. Woldemichael, and stated that there is always a way for a physician to get their patient the care that is needed. She found that the issuance of an Advisory Letter is appropriate in this case.

MOTION: Dr. Thrift moved to issue an Advisory Letter for occluding the aorta with a suture ligature while attempting to control bleeding during a nephrectomy. The violation was a one-time technical error that does not rise to the level of discipline.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-10-1163A	BRIAN G. HAWKINS, M.D.	31076	Issue an Advisory Letter for failing to obtain interpretable EKG tracings during the performance of a treadmill test and providing inconsistent results, and for inadequate medical records. There is insufficient evidence to support disciplinary action.

Dr. Hawkins spoke during the call to the public along with attorney Judith Berman.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
8.	MD-10-0894A	MICHAEL HOGAN, M.D.	18722	Dismiss.

Dr. Hogan spoke during the call to the public. Dr. Thrift noted that this case involved a lack of dynamic testing of the patient's hormonal function. He also noted that the medical consultant admitted that the family's insistence at searching for another diagnosis may have distracted Dr. Hogan from making the diagnosis. Dr. Thrift recognized that Dr. Hogan made recommendations for patient follow up, but the patient was noncompliant. Dr. Thrift commented that the patient's failure to comply with the follow up recommendations did not allow Dr. Hogan to follow through with his planned diagnostic course. Ms. Ibáñez found that the patient's noncompliance was a significant factor in this case. Dr. Jenkins noted that Dr. Hogan stated during the call to the public that he had intended to perform additional testing at the patient's next visit, but that the patient did not return to see him. Dr. Jenkins stated that she did not find documentation to that affect in the patient's medical record. Board members recognized that the patient was appropriately diagnosed three days later by another physician.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Thrift

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
9.	MD-10-1033A	STEPHEN Y. HU, M.D.	28116	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.
10.	MD-10-1167A	ROBERT K. JOHNSON, M.D.	22407	Issue an Advisory Letter for inadequate medical records. The violation was a one-time occurrence that does not rise to the level of discipline.
11.	MD-10-0897A	LINDA E. LEECH, M.D.	27207	Issue an Advisory Letter for failing to promptly notify the patient of an abnormal chest x-ray and need for further diagnostic testing. The violation was a one-time occurrence that does not rise to the level of discipline.
12.	MD-10-1311A	MONICA ABRANTE, M.D.	22263	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.

Dr. Petelin found that Dr. Abrante did not deviate from the standard of care in this case, and that her failure to write "APAP" on the prescription was an oversight and a medical records violation. He spoke in favor of issuing an Advisory Letter for inadequate medical records. Dr. Krishna agreed with Dr. Petelin's comments and he noted that there was no harm to the patient in this case.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
13.	MD-10-1349A	JOHN CARSON, M.D.	15263	Issue an Advisory Letter for failure to adequately supervise a Physician Assistant. The violation was a one-time occurrence that does not rise to the level of discipline.
14.	MD-10-1350A	MIKHAIL A. BARGAN, M.D.	32864	Issue an Advisory Letter for failure to address tachycardia in a young female patient with shortness of breath. The violation was a one-time occurrence that does not rise to the level of discipline.
15.	MD-10-0742A	MARK BRYNIARSKI, M.D.	42063	Issue an Advisory Letter for inadequate or incomplete removal of a brain tumor. The violation was a one-time technical error that does not rise to the level of discipline.
16.	MD-10-1526A	DAMON C. SACCO, M.D.	35314	Issue an Advisory Letter for action taken by the State of Colorado. This matter does not rise to the level of discipline.

Dr. Petelin noted that this case involved a radiologist who failed to identify a subtle femoral neck fracture while practicing in Colorado. Dr. Petelin recognized that the hospital committee reviewed Dr. Sacco's performance and that after reviewing the x-ray determined that he met the standard of care. Dr. Krishna pointed out that radiologists do not have the advantage of clinically examining patients and that subtle femoral neck fractures are commonly missed. Dr. Lee noted that the Colorado Medical Board took action against Dr. Sacco's Colorado medical license, and that the Arizona Medical Board did not investigate the underlying quality of care issue. Ms. Boucek informed the Board that a violation of A.R.S. §32-1401(27)(o) allows the Board to track what other jurisdictions have done so that Arizona citizens can be aware of actions taken by other states. She stated that the Board is not bound by the action taken by the other state, but that the Board could consider how the Board would adjudicate the case had the incident occurred in Arizona. Dr. Krishna spoke in favor of issuing an Advisory Letter to track the occurrence.

MOTION: Dr. Krishna moved to issue an Advisory Letter for action taken by the State of Colorado. This matter does not rise to the level of discipline.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
17.	MD-10-1137A	DONOVAN J. ANDERSON, M.D.	13491	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.

Dr. Petelin noted that this matter regarded Dr. Anderson's failure to maintain adequate documentation of the ongoing narcotic treatment of a patient with COPD. Dr. Petelin found that Dr. Anderson met the standard of care in this case and noted that there was no harm to the patient. Dr. Petelin spoke in favor of issuing an Advisory Letter for inadequate medical records.

MOTION: Dr. Krishna moved to issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.

SECONDED: Dr. Petelin

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

MOTION PASSED.

REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Schneider moved to uphold the dismissal in item numbers 3, 4, 5, 6, 8, 9, and 10.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-10-1104A	ARASH G. VISHTEH, M.D.	24746	Uphold the Dismissal.

PF spoke during the call to the public. Dr. Krishna observed that the nursing documentation of the patient's blood pressure was inadequate and instructed Board staff to refer the matter to the Arizona Board of Nursing.

MOTION: Dr. Krishna moved to uphold the dismissal.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
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NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-10-0711A	MICHAEL C. MAXWELL, M.D.	31814	Return the case for further investigation to clarify whether Dr. Maxwell received and/or reviewed the CT angiogram report that suggested additional testing be performed with a different protocol to determine whether the findings were artifactual or a true dissection.

SK spoke during the call to the public. Dr. Wolf summarized that the medical consultant did not identify a deviation from the standard of care in this case. Dr. Jenkins noted that the history and physical examination was dictated with erroneous information regarding the patient's blood pressure. Dr. Jenkins expressed concern with the fact that the physician may not have had all of his information correct prior to electing to proceed with surgery. Dr. Jenkins also noted that there was an addendum made to the patient's CT angiogram, which included recommendations to repeat the test with a different protocol to determine whether the findings were artifactual or a true dissection. Board members recognized that this was a difficult case and discussed obtaining clarification as to whether Dr. Maxwell received and/or reviewed the CT angiogram addendum report that suggested additional testing. Dr. Krishna spoke in favor of issuing an Advisory Letter for lack of communication as he found that patient harm has occurred in this case. Dr. Petelin stated that Dr. Maxwell's notation that the patient had hypertension requiring high dose beta-blockers was bothersome as the notation is not supported by the medical record. Board members further discussed the fact that there was an obvious breakdown of communication in this case, and questioned where the breakdown occurred. Dr. Lee spoke in favor of returning the case for further investigation.

MOTION: Dr. Thrift moved to return the case for further investigation to clarify whether Dr. Maxwell received and/or reviewed the CT angiogram report that suggested additional testing be performed with a different protocol to determine whether the findings were artifactual or a true dissection.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
3.	MD-10-1285A	VICTOR TSENG, M.D.	11655	Uphold the Dismissal.
4.	MD-10-1063A	ERIC D. SONDERER, M.D.	16721	Uphold the Dismissal.

SM spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
5.	MD-10-1220A	NISAR AHMED, M.D.	22549	Uphold the Dismissal.
6.	MD-10-1183A	ROBERT F. MANCUSO, M.D.	28884	Uphold the Dismissal.

KB spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-10-1109A	JACK O. SIPPERLEY, M.D.	16167	Return the case to Investigations for Board staff to notify the physician of the Board's recommendation for an Advisory Letter for improper lens implantation as the violation was a technical error.

Dr. Jenkins observed that the medical consultant found that Dr. Sipperley selected his lens power based upon the presence of silicone oil in the patient's eye, and did not adjust for the fact that he planned removal of the silicone oil at the same time as the lens implantation. Dr. Jenkins questioned whether Dr. Sipperley should bear some responsibility for the error resulting in the placement of an intraocular lens of incorrect power. Dr. Petelin noted that the medical consultant initially criticized Dr. Sipperley's failure to adjust for the planned removal of the silicone oil when implanting the lens. Dr. Petelin pointed out that the medical consultant's supplemental report, he altered his opinion and ultimately found that Dr. Sipperley met the standard of care in this case. Dr. Jenkins noted that the lens was selected based on measurements done by an outside entity. She expressed concern with the fact that Dr. Sipperley utilizes an outside entity to provide information to his office, but claimed to not know how the service works. Dr. Jenkins commented that if the outside entity is being use to provide information to the physician, then the physician should know what the information is that he/she is receiving and how to work with it. Dr. Jenkins spoke in favor of issuing Dr. Sipperley an Advisory Letter for a technical error of improper lens implantation; Dr. Krishna agreed.

MOTION: Dr. Jenkins moved to issue an Advisory Letter for improper lens implantation. The violation was a technical error.

SECONDED: Dr. Krishna

Ms. Boucek advised the Board to return the case as Dr. Sipperley was not notified that he was subject to the issuance of an Advisory Letter. Dr. Jenkins and Dr. Krishna withdrew their previous motion.

MOTION: Dr. Jenkins moved to return the case to Investigations for Board staff to notify the physician of the Board's recommendation for an Advisory Letter for improper lens implantation as the violation was a technical error.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
8.	MD-10-0298E	ROBERT L. SCOTT, M.D.	34503	Uphold the Dismissal.
9.	MD-10-1523A	LILA AMMOURI, M.D.	41007	Uphold the Dismissal.
10.	MD-10-1168A	BRYAN K. MATANKY, M.D.	22110	Uphold the Dismissal.

SW spoke during the call to the public.

OTHER BUSINESS

MOTION: Dr. Jenkins moved to accept the proposed Consent Agreement in item numbers 1, 2, and 4.

SECONDED: Dr. Petelin

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-10-1455A	HERSCHEL D. ROSENZWEIG, M.D.	13366	Accept the proposed Consent Agreement for a Letter of Reprimand.
2.	MD-10-1111A	ERIK G. MATTISON, M.D.	31843	Accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation to participate in the Physician Health Program (PHP). Dr. Mattison's PHP participation is retroactive to December 21, 2010. Dr. Mattison shall immediately obtain a treating psychotherapist. After twelve months, Dr. Mattison may submit a written request to the PHP Monitor requesting termination of the psychotherapy requirement.
3.	MD-11-0135A	CRAIG R. WOLFF, M.D.	40317	Accept the proposed Consent Agreement for Surrender of license.

Dr. Thrift questioned whether Dr. Wolff would have the ability to reapply for an Arizona medical license if the Board were to accept the proposed Consent Agreement for surrender of his license. Ms. Wynn informed the Board that Dr. Wolff would be eligible to reapply after five years of the effective date of the Order.

MOTION: Dr. Thrift moved to accept the proposed Consent Agreement for Surrender of license.

SECONDED: Dr. Jenkins

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-10-0706A	FRANK H. SNIPES, M.D.	20832	Accept the proposed Consent Agreement for Surrender of license.
5.	MD-10-0662A	ROBERT F. SMYTHE, M.D.	34362	Dismiss.

MOTION: Dr. Schneider moved for dismissal.

SECONDED: Dr. Jenkins

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
6.	MD-10-1368A	JOHN K. WENHAM, M.D.	6737	Dismiss.

MOTION: Dr. Petelin moved for dismissal.

SECONDED: Dr. Schneider

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-10-0900A	TERRY L. SIMPSON, M.D.	21784	Dismiss.

MOTION: Dr. Jenkins moved for dismissal.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
8.	MD-08-0739A	MARK J. TRENTALANGE, M.D.	29601	Grant the request to terminate the Practice Restriction and allow the physician to return to the practice of anesthesiology, and terminate the 40 hour work week restriction.

Kathleen Muller, Physician Health Program, summarized that in June 2009, Dr. Trentalange entered into a Consent Agreement that prohibited him from practicing anesthesiology and restricted him from working no more than 40 hours per week. Pursuant to the Agreement, Dr. Trentalange could petition the Board for termination of the Practice Restriction after participating in the Monitored Aftercare Program (MAP) for a period of two years. Ms. Muller informed the Board that Dr. Trentalange's MAP participation is retroactive to October 2008 when he entered MAP under an Interim Order. Ms. Muller further reported that Dr. Trentalange underwent an assessment by the Board's PHP Contractor, who found that Dr. Trentalange was safe to practice anesthesiology and recommended terminating both the Practice Restriction and the 40 hour work week restriction. Dr. Krishna commended Dr. Trentalange for his MAP participation and spoke in favor of granting the request for termination.

MOTION: Dr. Krishna moved to terminate the Practice Restriction and allow Dr. Trentalange to return to the practice of anesthesiology, and to terminate the 40 hour work week restriction.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
9.	MD-06-0318A	LARRY P. PUTNAM, M.D.	9233	Grant the request to terminate the Amended Interim Consent Agreement for Practice Restriction of February 2007 as well as the February 2007 Board Order for MAP participation.

Dr. Lee stated that he knows Dr. Putnam, but that it would not affect his ability to adjudicate the case. Dr. Putnam spoke during the call to the public. Ms. Muller summarized that Dr. Putnam has requested termination of the Amended Interim Consent Agreement for Practice Restriction of February 2007, and termination of his February 2007 Board Order for MAP participation, which was retroactive to June 2006. Ms. Muller explained that Dr. Putnam indicated that the Practice Restriction was put in place when he intended to practice anesthesia; however, he stated that he does not intend to return to that field of medicine. Ms. Muller informed the Board that the PHP Contractor is in agreement with terminating the Amended Interim Practice Restriction, but recommended that Dr. Putnam continue his MAP participation, which is scheduled to terminate by operation of law in June 2011. Dr. Krishna noted that there were no reported issues regarding Dr. Putnam's compliance during the course of his MAP participation, and spoke in favor of terminating both Board Orders. Dr. Schneider agreed and spoke in favor of termination. Dr. Lee noted that Dr. Putnam has been deemed safe to practice anesthesiology.

MOTION: Dr. Krishna moved to grant the request to terminate the Amended Interim Consent Agreement for Practice Restriction of February 2007 as well as the February 2007 Board Order for MAP participation.

SECONDED: Dr. Petelin

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

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
1.	MD-10-0658A	JOHN L. COUVARAS, M.D.	20957	Dismiss.

Dr. Couvaras was present with legal counsel, Mr. Gordon Lewis. Ingrid Haas, M.D., Medical Consultant, summarized that this case stemmed from an FDA inspection of Dr. Couvaras' office. Dr. Couvaras was found by the Board's medical consultant to have failed to follow proper procedures when patient VE's STD testing proved positive, failed to determine that patient PK was ineligible with a specimen that tested reactive on a screening test for a communicable disease agent, and performed an egg retrieval on patient KN without further evaluation documented after she indicated that she did not know if she had used human growth hormone. Dr. Couvaras stated that the checking off boxes and labeling patients as eligible versus ineligible is the compounding issue in this case. He admitted that he perpetuated the mistake by not labeling the patients as ineligible. Dr. Couvaras reported that after having undergone the FDA's inspection, he personally read the FDA's regulations from cover to cover.

Dr. Petelin questioned whether Dr. Couvaras believed he jeopardized the safety of the patients involved in this case. Dr. Couvaras stated that no patients were harmed, and that he believed there was no potential for harm or he would not have proceeded. Dr. Couvaras expressed that he believes he met the standard of care in this case. In closing, Mr. Lewis stated that this is primarily a case of regulatory interpretation. He stated that in each circumstance, Dr. Couvaras proceeded in a manner that he believed was consistent and under regulation as well as safe and appropriate for his patients. Dr. Haas agreed that the regulations published by the FDA are confusing and vague at times for reproductive endocrinologists. Dr. Schneider expressed appreciation for Dr. Couvaras having been forthcoming with the Board and taking it upon himself to become more familiar with the FDA's regulations. Dr. Schneider found that this case involved several mitigating factors, and she noted that there was no patient harm.

MOTION: Dr. Schneider moved for dismissal.

SECONDED: Dr. Krishna

Dr. Lee spoke in favor of dismissal, but stated that there are areas that require improvement in Dr. Couvaras' medical recordkeeping.

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
2.	MD-10-1539A	SARAH R. BRICKEY, M.D.	43380	Issue an Advisory Letter for being under the influence of alcohol while on call. The physician has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for discipline.

Dr. Brickey was present without legal counsel. Kathleen Coffey, M.D., Medical Consultant, summarized that on December 11, 2010 Dr. Brickey was intoxicated with alcohol while on call. Dr. Brickey was assessed by the Board's PHP contractor, who indicated that this was an isolated incident and found that Dr. Brickey was safe to practice. Dr. Brickey told the Board that she takes full responsibility for her actions, and pointed out that no medical decisions were made from the time that she was pulled over by the police through the time that she arrived home and contacted her attending physician. Dr. Brickey explained that she attended a charity black-tie event on the evening of December 11, 2010, and consumed only two alcoholic beverages. She stated that she was pulled over later that night for speeding and making a left turn into the wrong lane, and that she was found to be over the legal limit of alcohol intoxication. Dr. Brickey informed the Board that the matter is currently pending, and that she has not been formally charged with a DUI. Dr. Petelin found that Dr. Brickey made a judgment error by consuming any alcohol while on call with the hospital. Dr. Brickey stated that she acknowledges that she had a lapse in judgment, and stated that she has learned significantly from the incident.

Dr. Thrift noted that the standard of care requires a physician not to be under the influence while on call. Dr. Thrift opined that Dr. Brickey deviated from the standard of care by being under the influence of alcohol while on call. Therefore, Dr. Thrift found that Dr. Brickey engaged in unprofessional conduct. Dr. Thrift agreed that this seemed to have been an isolated incident, and recognized that the case involved several mitigating factors. Dr. Thrift noted that Dr. Brickey is currently undergoing a Fellowship, and that she is supervised when seeing patients. Dr. Thrift also noted that Dr. Brickey has been contrite, that she self-reported the issue to her attending physician immediately when she was released, and that she has undergone the remediation process as outlined by the hospital.

MOTION: Dr. Thrift 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. Jenkins

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

MOTION PASSED.

Dr. Thrift found that this was an isolated incident that does not rise to the level of discipline. He recognized that Dr. Brickey has taken remedial action.

MOTION: Dr. Thrift moved to issue an Advisory Letter for being under the influence of alcohol while on call. The physician has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for discipline.

SECONDED: Dr. Jenkins

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
3.	MD-10-0947A	NAVNEET N. SHARDA, M.D.	27157	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

Dr. Sharda was present without legal counsel. Anita Shepherd, Case Review Assistant Manager, summarized that action was taken against Dr. Sharda's Nevada medical license by the Nevada Medical Board in July 2010, and that Dr. Sharda failed to notify the Arizona Medical Board of the pending Nevada investigation on his October 2009 Arizona license renewal application. Dr. Sharda informed the Board that he has contested the Nevada Medical Board's action, and that the matter is currently pending judicial review. Dr. Sharda reported that his office staff filled out his license renewal application and that he signed it. Dr. Sharda stated that he understands that when signing a document, though it was filled out by someone else, he is attesting that the contents of the document are factual. Dr. Sharda admitted that he should have disclosed the pending Nevada investigation on his Arizona license renewal application.

Ms. Ibáñez pointed out that the renewal application states that failure to answer the questions properly can result in disciplinary action by the Board. In closing, Dr. Sharda apologized for his failure to disclose the information to the Board, and stated that it was an honest mistake. He stated that he now reads the forms more carefully to ensure that the information is accurate. Dr. Petelin

found that Dr. Sharda engaged in unprofessional conduct based on the action taken by the Nevada Medical Board, and his failure to disclose the pending Nevada investigation on his October 2009 application for license renewal.

MOTION: Dr. Petelin moved for a finding of unprofessional conduct in violation of A.R.S. §32-1401(27)(o) - Action that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine, the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction; and A.R.S. §32-1401(27)(jj) - Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.

SECONDED: Dr. Jenkins

MOTION: Dr. Lee moved to enter into Executive Session to receive legal advice.

SECONDED: Dr. Krishna

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

MOTION PASSED.

The Board entered into Executive Session for legal advice at 3:23 p.m.

The Board returned to Open Session at 3:28 p.m.

No deliberations or discussions were made during Executive Session.

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

MOTION PASSED.

Dr. Petelin found that this matter rises to the level of discipline based on the two statutory violations sustained by the Board. Dr. Petelin noted that Dr. Sharda admitted that he naively made a false statement on his renewal application, and Dr. Petelin commented that it is irrefutable that action was taken against Dr. Sharda's Nevada medical license.

MOTION: Dr. Petelin moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECONDED: Dr. Krishna

Dr. Jenkins spoke against the motion and stated that she found the matter does not rise to the level of discipline. Dr. Jenkins stated she did not believe that Dr. Sharda intended to mislead the Board by failing to disclose the pending investigation, and that the issue could be understandably confusing. Dr. Krishna spoke in favor of the motion and stated that the application clearly asks whether the physician has a pending investigation. Dr. Krishna noted that the Board has previously issued discipline in similar cases. Dr. Thrift spoke against the motion and stated that he did not believe that the matter 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: Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Petelin, and Dr. Schneider. The following Board members voted against the motion: Dr. Jenkins and Dr. Thrift. The following Board members were absent: Ms. Griffen, Dr. Khera, and Ms. Proulx.

VOTE: 5-yay, 2-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The meeting adjourned at 3:35 p.m.



Lisa S. Wynn, Executive Director