Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258
Home Page: http://www.azmd.gov
Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, August 6, 2014 9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members
Gordi S. Khera, M.D., F.A.C.C., Chair
Richard T. Perry, M.D., Vice-Chair
Ram R. Krishna, M.D., Secretary
Jodi A. Bain, Esq.
Marc D. Berg, M.D.
Donna S. Brister
R. Screven Farmer, M.D.
Robert Fromm, M.D.
Paul S. Gerding, Esq.
James M. Gillard, M.S., M.D., F.A.C.E.P., F.A.A.E.M.
Edward Paul, M.D.
Wanda J. Salter, RN

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Khera called the meeting to order at 8:01 a.m.

B. ROLL CALL

The following Board members were present: Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was absent: Dr. Fromm.

ALSO PRESENT

C. Lloyd Vest, II, Executive Director, Pat McSorley, Deputy Director, Christopher Munns, Assistant Attorney General (AAG), Solicitor General's Office, Marc Harris, AAG, Legal Advisor, Anne Froedge, AAG, Carrie Smith, AAG, William Wolf, M.D., Chief Medical Consultant, Anita Shepherd, Investigations Office Manager, Celina Shepherd, Licensing Office Manager, Evangeline Webster, Support Services Office Manager, Mary Bober, Board Operations Manager, and Andrea Cisneros, Staff Investigational Review Committee (SIRC) Coordinator.

C. CALL TO THE PUBLIC

Dr. Gordon Goldsmith addressed the Board during the call to the public and requested that the Board grant him an Arizona medical license pursuant to A.R.S. § 32-1424. Attorneys Bob Milligan and Stephen Myers spoke during the call to the public concerning Dr. Marc Bauder and the information listed on the physician's public profile on the Board's website regarding a prior Board Order.

All other individuals that addressed the Board during the call to the public appear beneath the matter(s) referenced.

D. EXECUTIVE DIRECTOR'S REPORT

- Arizona Department of Administration (ADOA) Strategy to Support Full Agency Staffing

Board members discussed the formation of a Subcommittee for Board member involvement in the administration process relating to hiring additional staff. The Board established the Administration Subcommittee with members including Ms. Bain, Ms. Brister, and Dr. Gillard.

- Presentation Regarding the Board's Costs Associated with Conducting Formal Hearings

E. DEPUTY DIRECTOR'S REPORT

- Ms. McSorley presented to the Board proposed fingerprinting policies that were drafted to assist the Board in implementing its statutory obligation to obtain criminal justice information and criminal history record information. Ms. McSorely advised the Board that law mandating the Board collect this information takes effect on September 2, 2014.

MOTION: Dr. Khera moved to approve the fingerprinting policies as proposed by staff.
SECOND: Mr. Gerding
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

F. CHAIR'S REPORT

- Dr. Khera discussed the importance of the Board operating at full staff and offered the Board's assistance to staff on achieving this goal.

G. LEGAL ADVISOR'S REPORT

- No Report

H. REVIEW, DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF 2015 MEETING DATES

MOTION: Dr. Khera moved to approve the 2015 meeting dates.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

I. REVIEW, DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF FY 2013-2014 ANNUAL REPORT

Board members discussed approval of the Agency's Annual Report as well as the cover letter. The Board noted that the deadline for submission of the report is August 31, 2014. The Board members considered having a special teleconference for further discussion once modifications have been made to the cover letter. Board members also discussed the progress of the Board's legislative package and Mr. Vest reported that staff is working towards meeting the November 2014 deadline for submission.

J. REVIEW, DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF FY 2015-2019 STRATEGIC PLAN

Mr. Vest informed the Board that the Strategic Plan is submitted to the Governor's Office as part of the Annual Report. He stated that given his short time with the Agency, the categories and goals included in the current Plan are a continuation until next year, by which time he plans to perform a more in-depth review of the categories and goals.

Dr. Krishna questioned whether the information pertaining to the Arizona Regulatory Board of Physician Assistants should be included in the report since the AMB does not have jurisdiction over PAs. Mr. Vest stated that the functions are combined because the Agency staffs both regulatory boards. The Board noted that historically, information regarding both boards was combined in the reports submitted to the Governor's Office with a cover letter signed by the Executive Director on behalf of both boards. Board members spoke in favor of combining the

information of both boards and authorized the Executive Director to submit the information on behalf of the boards to the Governor's Office.

MOTION: Dr. Khera moved to approve the FY 2013-2014 Annual Report.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

K. REVIEW, DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF FY 2015 BUDGET

Mr. Vest and Ms. Webster presented the Board with the FY 2015 Budget. The Board instructed staff provide the previous budgets from 2013 and 2014 to compare to the FY 2015 Budget.

MOTION: Dr. Khera moved to approve the FY 2015 Budget.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

L. THIS ITEM WAS REMOVED FROM THE AGENDA.

M. APPROVAL OF MINUTES

MOTION: Dr. Khera moved to approve the June 11, 2014 Regular Session Meeting, including Executive Session; June 26, 2014 Emergency Summary Action Meeting; June 26, 2014 Summary Action Teleconference Meeting; and the July 24, 2014 Special Teleconference Meeting.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recusal (Ms. Bain and Dr. Berg were recused from the vote for the June 11, 2014 Regular Session Meeting, and Dr. Gillard was recused from the vote for the July 24, 2014 Special Teleconference Meeting), 1-absent.
MOTION PASSED.

LEGAL MATTERS

N. MOTION FOR REHEARING/REVIEW

1. MD-12-0771A, ROBERT CLARK OSBORNE MD, LIC. #9796

Dr. Farmer was recused from this case. DM and SW spoke during the call to the public on behalf of Dr. Osborne.

MOTION: Dr. Khera moved to enter into Executive Session for legal advice.
SECOND: Dr. Krishna
VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

The Board entered into Executive Session at 8:02 a.m.
The Board returned to Open Session at 8:06 a.m.
No legal action was taken by the Board during Executive Session.

AAG Munns advised the Board to consider this matter prior to hearing the call to public speakers who may potentially provide new evidence that was not considered by the ALJ at the time of the Formal Hearing. Mr. Munns clarified that the Board is prohibited from considering new evidence that was not considered by the ALJ and should only consider items in the record that was made at the Formal Hearing.

Dr. Osborne was present with Attorney James Stuehringer. AAG Froedge was present on behalf of the State. Mr. Stuehringer, on behalf of Dr. Osborne, requested that a rehearing or review be granted on the basis that there was no finding of patient harm specifically found to be unreasonable under the circumstances, and on the basis of newly discovered evidence regarding patient SM that was rejected by the ALJ at the Formal Hearing. AAG Froedge stated that there is no statutory basis for granting a rehearing or review in this matter as the motion does not meet the criteria set out in statute for the Board to grant a rehearing or

review. She stated that there is substantial evidence to support the Board's findings of fact, conclusions of law and order, and that the experts testified at the Formal Hearing that as a result of Dr. Osborne's conduct, both patients were rendered extremely opioid dependent and were placed at risk of overdose and death.

MOTION: Dr. Khera moved to enter into Executive Session for legal advice.
SECOND: Ms. Bain
VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

The Board entered into Executive Session at 8:24 a.m.
The Board returned to Executive Session at 8:35 a.m.
No legal action was taken by the Board during Executive Session.

Dr. Krishna stated that he appreciated the physician and attorney's request for rehearing or review and the AAG's opinion on the matter. Dr. Krishna stated that the ALJ has the advantage of conducting a full evidentiary hearing at the Formal Hearing, and that the physician and his attorney had the opportunity to submit evidence during that process prior to the ALJ making a recommendation. Dr. Krishna added that he did not find new evidence to support a rehearing on the matter and spoke in favor of denying the request for rehearing or review.

MOTION: Dr. Krishna moved to deny the motion for rehearing or review.
SECOND: Dr. Paul

Dr. Krishna stated that the physician has had the opportunity to change his prescribing practices but has not done so.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Dr. Khera, Dr. Krishna, and Dr. Paul. The following Board members voted against the motion: Ms. Brister, Mr. Gerding, Dr. Gillard, Dr. Perry, and Ms. Salter. The following Board member was abstained from the vote: Ms. Bain. The following Board member was recused from this case: Dr. Farmer. The following Board member was absent: Dr. Fromm.
VOTE: 4-yay, 5-nay, 1-abstain, 1-recuse, 1-absent.
MOTION FAILED.

MOTION: Dr. Gillard moved to grant a rehearing on the basis of the new evidence that was not accepted at the Formal Hearing and based on possible errors of law regarding appropriate standard of care under the circumstances in which Respondent practices.
SECOND: Dr. Perry

Dr. Khera spoke against the motion and expressed concern regarding Dr. Osborne's prescribing practices. Dr. Khera added that there is clear and convincing evidence that the practice of pain management conducted by Dr. Osborne is a danger to the public and to his patients. Mr. Gerding questioned whether the Board had the ability to restrict the physician's ability to prescribe controlled substances in the event that a rehearing is granted by the Board. AAG Munns stated that the Board did not have that authority at this juncture, and stated that if a rehearing is granted, the staff can present the matter to the Board for consideration of summary action. Dr. Krishna also spoke against the motion. He stated that the standard of care requires appropriate care to be rendered to the patient, which he stated was not done in this case.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Bain, Dr. Gillard, and Dr. Perry. The following Board members voted against the motion: Dr. Berg, Ms. Brister, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul and Ms. Salter. The following Board member was recused: Dr. Farmer. The following Board member was absent: Dr. Fromm.
VOTE: 3-yay, 7-nay, 0-abstain, 1-recuse, 1-absent.
MOTION FAILED.

MOTION: Dr. Krishna moved to deny the motion for a rehearing or review.
SECOND: Dr. Khera
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Bain, Dr. Berg, Ms. Brister, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul and Ms. Salter. The following Board member voted against the motion: Dr. Gillard and Dr. Perry. The following Board member was recused: Dr. Farmer. The following Board member was absent: Dr. Fromm.
VOTE: 8-yay, 2-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

O. FORMAL INTERVIEWS

1. MD-13-1087A, MANI TEHRANCHI MD, LIC. #21210

Dr. Perry was recused from this case. Ms. Bain stated that she is involved with the Tucson Medical Center, but that she does not personally know the physician and that her association with the facility will not affect her ability to adjudicate the case.

Dr. Tehranchi was present with Attorney Andrew Plattner. Kathleen Coffer, M.D., Medical Consultant, summarized that Dr. Tehranchi was found to have deviated from the standard of care by failing to consider tocolysis in a patient presenting with contractions at 23-24 weeks gestation, and by failing to evaluate the patient prior to performing an elective cesarean section. Dr. Tehranchi stated that he is deeply saddened by the events surrounding the patient's care and the outcome. Dr. Tehranchi explained that at the time, the physicians had relied heavily on the information presented by the nurses. Dr. Tehranchi informed the Board that he assisted in revising hospital policies that now require physicians to personally examine patients prior to proceeding to cesarean section, and that he has changed his own practice to prevent a future occurrence.

The Board noted that there had been some confusion regarding the patient's due date, and Board members expressed concern regarding Dr. Tehranchi's failure to personally examine the patient prior to proceeding to the performance of a cesarean section, which resulted in the delivery of a non-viable infant. Dr. Tehranchi stated that he believed had he or the nurse examined the patient, or had he received correct information from the patient and her mother regarding the due date, it would have been discovered that the patient was at 23-24 weeks gestation rather than the 36½ weeks which is what was reported to the nurse.

Board members commended Dr. Tehranchi for his efforts in implementing new prolicies on how these types of patients are managed. Dr. Gillard found that Dr. Tehranchi engaged in unprofessional conduct by failing to examine the patient, and noted identified several mitigating factors.

MOTION: Dr. Gillard 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.
SECOND: Dr. Khera

Dr. Farmer spoke in favor of the motion, noting that the obstetric unit's heavy reliance on interaction between the nurses and physicians. He stated, however, that the standard of care is clear in that a physical examination should have been performed prior to proceeding to cesarean section. Ms. Salter echoed Dr. Farmer's statements, and stated that the physician is ultimately responsible for the patient's care, recognizing that this matter had been referred to the Arizona Board of Nursing for the nurse's involvement.

VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

MOTION: Dr. Gillard moved for a draft Findings of Fact to include the mitigating factors identified including a series of errors by other individuals involved as well as the efforts made by the physician to change the culture at the hospital, Conclusions of Law and Order for a Letter of Reprimand.
SECOND: Dr. Krishna

Dr. Gillard stated he found that this matter rises to the level of discipline and stated that he agreed with SIRC's recommendation for a Letter of Reprimand. Dr. Berg proposed elevating the degree of discipline to a Decree of Censure due to the outcome in this case. Dr. Berg spoke against the motion, acknowledging that a series of unfortunate events occurred, he stated that he believes a patient's death is the ultimate form of serious harm. Several Board members spoke for the motion, noting the corrective measures that Dr. Tehranchi indicated have occurred to prevent a future occurrence as well as the multiple mitigating factors identified.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Bain, Ms. Brister, Dr. Farmer, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Ms. Salter. The following Board member voted against the motion: Dr. Berg. The following Board member was recused from this case: Dr. Perry. The following Board member was absent: Dr. Fromm.
VOTE: 9-yay, 1-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

2. MD-13-1211A, TIMOTHY WALLACE JORDAN MD, LIC. #26988

Dr. Jordan was present with Attorney Scott King. Jennifer Sosnowski, M.D., Medical Consultant, summarized that Dr. Jordan was found to have deviated from the standard of care by recommending a thirty-minute time-out period for a two year, nine month-old child, even though the standard time-out period is one minute per year. The Board's reviewer also opined that Dr. Jordan's medical recordkeeping was inadequate in that his documentation is incomplete and sparse. Dr. Jordan disagreed with the alleged conduct and stated that he recognizes that his recommendations are more firm than most practitioners in his field of practice. Dr. Jordan added that the published medical literature is not clear as to the practice standard for recommending a time-out, and that there is an amazing amount of discretion involved with what is recommended versus what works.

Board members questioned Dr. Jordan's training and background in behavioral management of pediatric patients. Dr. Jordan explained that he completed two years of residency training in behavioral developmental pediatrics, and that he practiced as a general pediatrician for three years. The Board noted that Dr. Jordan's documentation regarding the office visit in question was limited and only involved a letter to the referring physician. Dr. Jordan acknowledged the lack of documentation in this case, and indicated that he plans to change his medical recordkeeping methods to include more documentation. Dr. Jordan pointed out to the Board that the complainant is a competitor of his and that this matter did not stem from a complaint from a patient's parent. In closing, Mr. King stated that there is a lack of clear guidelines in the medical literature regarding recommending time-out. He stated that Dr. Jordan met the standard of care in this case and that there was no harm done to the patient.

Dr. Paul commented that given the lack of evidence regarding time-outs, he cannot find that the physician engaged in unprofessional conduct in violation of A.R.S. § 32-1401(27)(q). Dr. Paul stated that he found Dr. Jordan to have committed unprofessional conduct with regard to his medical recordkeeping.

MOTION: Dr. Paul 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.
SECOND: Ms. Bain

Dr. Farmer spoke in favor of the motion and stated that there is sufficient evidence to support a violation of A.R.S. § 32-1401(27)(e). Dr. Khera spoke against the motion and noted that potential harm was identified by the Board's reviewer. Dr. Khera expressed concern regarding exposing a child to such therapy where there is no real supporting evidence, and proposed requiring the physician to complete CME.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

MOTION: Ms. Bain 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.
SECOND: Dr. Krishna

Dr. Berg expressed concern regarding the alleged phrases used during the patient's office visit. He spoke for the motion, noting that supplemental material submitted regarding comments from experts in the community indicating that this is not the first instance in which they have seen patients who were seen by Dr. Jordan with other non-substantiated care approaches.

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

Dr. Paul stated that he found there is insufficient evidence to support disciplinary action and spoke in favor of issuing an Advisory Letter as well as an Order for Non-Disciplinary CME.

MOTION: Dr. Paul moved to issue an Advisory Letter for inadequate medical records and behavioral health advice that might be harmful or dangerous to the health of the public. There is insufficient evidence to support discipline.
SECOND: Dr. Gillard
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

Board members discussed requiring Dr. Jordan to complete CME in pediatric behavioral modifications techniques as well as medical recordkeeping.

MOTION: Dr. Paul moved to issue an Order for Non-Disciplinary CME. Within six months, the physician shall complete a minimum of 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding pediatric behavioral modification techniques and an additional minimum of 10 hours of CME in medical recordkeeping. The CME hours shall be in addition to the hours required for licensure.
SECOND: Dr. Gillard
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

P. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-14-0974A, JOSEPH FRANCIS PIAZZA MD, LIC. #35035

Dr. Piazza was not present during the Board's consideration of this matter. RaeAnne Blaski, Investigator, summarized that on July 15, 2014, the Board received a Disciplinary Alert Report indicating that Dr. Piazza's Alabama medical license had been revoked, and that he entered into an Agreement with the Florida Board for relinquishment of licensure. Among other things, these state board actions were based upon Dr. Piazza's diversion of narcotics. Ms. Blaski added that the Virginia Medical Board suspended Dr. Piazza's license as a result of the action taken by the other state boards. Ms. Blaski reported to the Board that Dr. Piazza is currently serving a five year sentence in a federal penitentiary for conspiracy to commit an offence against the U.S.

MOTION: Dr. Khera moved to summarily suspend Dr. Piazza's Arizona medical license based on violations of A.R.S. § 32-1401(27)(d) and (o), and the finding that the public health, safety, or welfare imperatively requires emergency action by the Board. A.R.S. § 32-1451(D).
SECOND: Dr. Farmer
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was absent: Dr. Fromm.
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-13-0386A and MD-13-1108A, ROBERT CLARK OSBORNE MD, LIC. #9796

Dr. Farmer was recused from this case. Carol Peairs, M.D., Medical Consultant, summarized that this matter involved two cases in which multiple reviewers identified several deviations from the standard of care relating to Dr. Osborne's prescribing of controlled substances as well as medical recordkeeping concerns. The deviations from the standard of care included, but were not limited to, the physician's failure to monitor the patients for medication compliance and aberrant drug seeking behavior, failure to coordinate care with other treating physicians, and rapid escalation to what is best described as ultra-high dose prescribing.

MOTION: Dr. Krishna moved to enter into Executive Session for legal advice.
SECOND: Dr. Khera
VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

The Board entered into Executive Session at 1:26 p.m.
The Board returned to Open Session at 1:43 p.m.
No legal action was taken by the Board during Executive Session.

MOTION: Dr. Krishna moved to take no action at this time; however, the Board reserves the right to take action in the future.
SECOND: Dr. Perry
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member voted against the motion: Ms. Bain. The following Board member was recused from this matter: Dr. Farmer. The following Board member was absent: Dr. Fromm.
VOTE: 9-yay, 1-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

Q. FORMAL INTERVIEWS

1. MD-13-0821A, DOUGLAS GLENTON LOWELL MD, LIC. #19871

Drs. Berg and Farmer stated that they know Dr. Lowell professionally, but that it would not affect their ability to adjudicate the case. Ms. Bain stated that she is involved with the Tucson Medical Center, but that she does not personally know the physician and that her association with the facility will not affect her ability to adjudicate the case.

SW addressed the Board during the Call to the Public. Dr. Lowell was present with Attorney Dan Cavett. Daniel Caruso, M.D., Medical Consultant summarized that Dr. Lowell was found to have deviated from the standard of care by failing to properly treat a deep abdominal abscess, failing to review the patient's ultrasound, failing to properly manage the patient's pain, and by failing to obtain an operative permit.

Dr. Lowell reiterated his involvement with the patient, and stated that the abdominal abscess was already well treated by the time he saw the patient. Dr. Lowell explained that he performed a bedside wound exploration and that he regrets that the patient had such a bad reaction to the procedure. Board members questioned the physician regarding management of the patient's pain, and the lack of recognition of the patient's anxiety level. Dr. Lowell indicated that the exploration was performed within less than one minute, and that he believes the procedure improved the wound drainage. Dr. Lowell stated that he obtained verbal consent for the procedure, and acknowledged that he failed to obtain the patient's written consent for the bedside procedure. In closing, Mr. Cavett stated that the medical management in this case was appropriate and stated that it is unfortunate that the consent did not end up in the patient's chart.

Dr. Perry noted that Dr. Lowell assumed that the nursing staff obtained written consent from the patient. Dr. Perry opined that Dr. Lowell performed an appropriate procedure, but underestimated the patient's anxiety and pain tolerance. He questioned whether this matter rises to the level of advisement as the physician's testimony indicates that he is aware of the

appropriate care required under such circumstances. Dr. Perry found that Dr. Lowell did not commit unprofessional conduct in this case.

MOTION: Dr. Krishna moved to dismiss the case.
SECOND: Ms. Bain

Dr. Khera stated that it was the physician's responsibility to assess the patient's pain tolerance and level of anxiety, and that he is hopeful that Dr. Lowell has learned from this experience. Dr. Khera spoke against the motion and stated that the pain threshold varies for different patients, and that relief of pain should be provided regardless of how minor the surgery may be. Dr. Krishna spoke in favor of the motion, noting that Dr. Lowell explored the wound in such a manner that is common place in the community. Dr. Krishna stated he found it mitigating that the physician indicated that he has put systems in place to prevent a similar occurrence.

VOTE: 10-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

CONSENT AGENDA

R. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Khera moved to dismiss the cases in item numbers 1, 2, and 3.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

1. MD-13-1131A, AMNA SABEEN YAQOOB MD, LIC. #40970
RESOLUTION: Dismiss.

2. MD-14-0103A, RAJEESH SUKUMARAN PUNNAKKATTU MD, LIC. #31787
RESOLUTION: Dismiss.

3. MD-13-0292A, RICHARD JOSEPH ORBON, M.D., LIC. #41029
RESOLUTION: Dismiss.

S. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Krishna moved to issue an Advisory Letter in item numbers 3 and 6.
SECOND: Dr. Khera
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

1. MD-13-0951A, JOHN A. SORTEBERG MD, LIC. #29032

Kathleen Coffer, M.D., Medical Consultant, summarized that Dr. Sorteberg was found to have deviated from the standard of care by failing to admit a patient presenting with unstable angina symptoms. Board members discussed the patient's presenting symptoms and known medical history which included coronary artery disease. The Board noted that the patient suffered a small myocardial infarction thirty days after being seen by Dr. Sorteberg, and after having been seen by his family physician as well as a cardiologist in the interim. Dr. Gillard recognized the multiple mitigating factors identified in this case and recommended dismissal.

MOTION: Dr. Gillard moved to dismiss the case.
SECOND: Dr. Perry

Dr. Krishna spoke against the motion and stated that the issuance of an Advisory Letter would be appropriate to track the occurrence. Dr. Khera agreed and stated that he would have admitted this patient presenting with unstable angina. Dr. Gillard echoed Dr. Khera's comments and stated that he would have also treated this patient differently. Dr. Gillard and Dr. Perry withdrew the motion.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failing to admit a patient presenting with unstable angina symptoms. This matter does not rise to the level of discipline.
SECOND: Dr. Khera

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

2. MD-13-0996A, HILLEL BALDWIN MD, LIC. #19605
Angelo Mattalino, M.D., Medical Consultant, summarized that Dr. Baldwin was found to have met the standard of care in this case, but failed to document his reasoning for not performing the exact procedures identified in the signed patient consent form for surgery. Dr. Perry noted that the patient was consented for surgery at L1-L5 and stated that it is not unusual for a surgeon to not perform at all of the levels if it is considered unnecessary. Dr. Perry recognized that the consent form reported all complications that could occur as a result of surgery, and he spoke in favor of dismissal.

MOTION: Dr. Perry moved for dismissal.
SECOND: Dr. Krishna

Dr. Krishna agreed that not everything in the consent is performed if deemed unnecessary, and that he does not question the quality of care provided in this case.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

3. MD-13-1361A, JOILO CESAR BARBOSA MD, LIC. #41938
RESOLUTION: Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.

4. MD-13-1092A, SHUBH PREET KAUR MD, LIC. #45119
Dr. Coffer summarized that Dr. Kaur was found to have deviated from the standard of care by failing to respond to notification of a refill need for ten days, resulting in a five-day treatment disruption.

MOTION: Dr. Gillard moved for dismissal.
SECOND: Dr. Khera

Board members were in agreement with dismissing the case and noted that the issue identified in this case was a result of the electronic medical record.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

5. MD-13-1143A, MICHAEL JAMES FITZMAURICE MD, LIC. #36511
Dr. Mattalino summarized that Dr. Fitzmaurice was found to have deviated from the standard of care by ordering an unnecessary MRI. Dr. Gillard noted that the medical consultant who reviewed this case did not take issue with the surgery or treatment rendered to the patient. Drs. Gillard and Krishna agreed with the physician's decision to obtain an MRI.

MOTION: Dr. Gillard moved for dismissal.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

6. MD-13-1398A, MARK DONALD LOPEZ MD, LIC. #29284
RESOLUTION: Issue an Advisory Letter for prescribing Bactrim to a pregnant patient when a reasonable alternative was available. This matter does not rise to the level of discipline.

7. MD-14-0243A, DOUGLAS GROVER HARRISON, M.D., LIC. #41204
Dr. Caruso summarized that Dr. Harrison was found to have had a patient that sustained multiple bowel perforations resulting from laparoscopic surgery. Dr. Gillard stated that this case involved an unfortunate surgical complication and that he did not see where Dr. Harrison failed in following up with the patient postoperatively. He spoke in favor of dismissing the case.

MOTION: Dr. Gillard moved for dismissal.
SECOND: Dr. Khera

Board members discussed the delay in addressing the complication that occurred from the patient's surgery. Drs. Krishna and Perry spoke against the motion, noting the length of time it took the surgeon to return the patient to the operating room to address the complication identified. Dr. Gillard agreed that there was a delay in care and withdrew his motion.

MOTION: Dr. Krishna moved to issue an Advisory Letter for multiple bowel perforations and delay in treatment. There is insufficient evidence to support discipline.
SECOND: Dr. Khera
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

8. MD-13-1084A, EMMETT TERRANCE MCELENEY, M.D., LIC. #36268

Dr. Mattalino summarized that Dr. McEleney was found to have deviated from the standard of care by failing to adequately identify and properly treat an acutely infected total knee replacement in the early postoperative period. The Board noted that the cultures obtained were negative for infection, and that Dr. McEleney was treating the patient for inflammation based on the lab results. Dr. Krishna stated he did not find fault with the physician's treatment of the patient.

MOTION: Dr. Gillard moved for dismissal.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

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

1. MD-13-1195A, MICHAEL NICHOLAS DESVIGNE, LIC. #35062

MOTION: Dr. Khera moved to issue an Advisory Letter for inadequate medical records and an Order for Non-Disciplinary CME. Within six months, complete no less than 8 hours of Board staff pre-approved Category I CME at an intensive, in-person course in medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal. This matter does not rise to the level of discipline.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

U. PROPOSED CONSENT AGREEMENTS

MOTION: Dr. Khera moved to accept the proposed Consent Agreement in item numbers 1, 2, 3, 4, 5, and 6.
SECOND: Dr. Krishna
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was absent: Dr. Fromm.
VOTE: 11-yay, 0-nay, 0-abstain, 0-recused (2 recusals noted in items 5 and 6), 1-absent.
MOTION PASSED.

1. MD-13-1026A, GERALD LANE SCHNEIDER MD, LIC. #14974

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation to run concurrently with the California Medical Board Order.

2. MD-13-1115A, DAVID GERALD LAWSON MD, LIC. #23145

RESOLUTION: Accept the proposed Consent Agreement for a Decree of Censure and Three Year Probation to include the requirement that the physician complete 15-20 hours of Board staff pre-approved Category I CME in an intensive, in-person prescribing course. The CME hours shall be in addition to the hours required for

license renewal. Within thirty days, the physician shall contract with a Board approved monitoring company to provide all monitoring services. After the completion of the CME, the monitoring company shall commence quarterly chart reviews.

3. MD-13-1083A, DONALD FRANK STONEFELD MD, LIC. #14712
RESOLUTION: Accept the proposed Consent Agreement for Surrender of licensure.

4. MD-13-0320A, MARTHA MARGARET GROUT MD, LIC. #24896
RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand.

5. MD-14-0936A, COLIN CAVENAILE, M.D., LIC. #31936
Dr. Farmer was recused from this case.

RESOLUTION: Accept the proposed Consent Agreement for license inactivation with cause. Prior to requesting license activation, Dr. Cavenaile shall successfully complete a long-term residential or inpatient hospital treatment program and shall meet the requirements of A.R.S. § 32-1431(d).

6. MD-14-0167A, RIEMKE MADELEINE BRAKEMA, M.D., LIC. #18508
Dr. Gillard was recused from this case. Dr. Brakema addressed the Board during the call to the public.

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation to participate in the Board's Physician Health Program (PHP). While on Probation, Dr. Brakema shall be prohibited from practicing Emergency Medicine and from working more than 40 hours per week. The Probation shall also include psychiatric monitoring.

V. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

MOTION: Dr. Krishna moved to grant the license in item numbers 1, 2, 4, 5, 6, 8, 10, and 12.
SECOND: Dr. Khera
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

1. MD-14-0277A, CHARLES MORI ARAKAKI, LIC. #N/A
RESOLUTION: Grant the license.

2. MD-14-0464A, RITA MARIE HADLEY, LIC. #N/A
RESOLUTION: Grant the license.

3. MD-14-0795A, DIVYA JOT SINGH, LIC. #N/A
Dr. Gillard pulled this case for discussion and noted that the PHP Contractor determined that Dr. Singh is safe to practice medicine.

MOTION: Dr. Gillard moved to grant the license.
SECOND: Dr. Khera
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

4. MD-14-0673A, ANDRI GAUKUR OLAFSSON, LIC. #N/A
RESOLUTION: Grant the license.

5. MD-14-0612A, SANDRA INES RUBIO, LIC. #N/A
RESOLUTION: Grant the license.

6. MD-13-1418A, JOSEPH WILLIAM MEYN, LIC. #N/A
RESOLUTION: Grant the license.

7. MD-14-0297A, RAJEEV KUMAR KALRA, LIC. #N/A

Dr. Kalra spoke during the call to the public. Marlene Young, Investigator, summarized that Dr. Kalra previously participated in an 18-month probation and was required to attend a 72-hour residential evaluation as a result of a DUI charge. Ms. Young informed the Board that it was determined at the time that Dr. Kalra's screening revealed a low probability of an alcohol use problem. Dr. Gillard noted that Dr. Kalra currently holds an unrestricted medical license in Michigan. He spoke in favor of granting the license.

MOTION: Dr. Gillard moved to grant the license.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

8. MD-14-0687A, DALE THOMAS LANDRY, LIC. #N/A
RESOLUTION: Grant the license.

9. MD-14-0794A, CAROL ANNE NEWMAN, LIC. #N/A
Danielle Steger, Investigator, summarized for the Board that Dr. Newman provided affirmative answers to two questions on her license application. Board staff requested that the Board order the physician to complete a PHP assessment based upon the fact that Dr. Newman is currently enrolled in the Texas Medical Board's PHP with over a year of sobriety.

MOTION: Dr. Gillard moved to order the physician to undergo a PHP assessment and to return the matter to the Board.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

10. MD-14-0793A, KURT REED MAYBERRY, M.D., LIC. #N/A
RESOLUTION: Grant the license.

11. MD-14-0575A, LETICIA CALDERON-MORENO, M.D., LIC. #N/A
Raquel Rivera, Investigator, summarized that Dr. Calderon-Moreno was placed on probation for substandard clinical performance, and that she disclosed on her license application she has been diagnosed with a learning disability and ADHD. Dr. Gillard proposed requiring the applicant to complete a competency evaluation prior to considering whether to the grant the license.

MOTION: Dr. Gillard moved to order the physician to undergo a competency evaluation at a Board or Board staff approved facility.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

12. MD-14-0799A, IJAZ ALI, M.D., LIC. #N/A
RESOLUTION: Grant the license.

ii. INITIAL APPLICATION - REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING OBTAINING ADDITIONAL INFORMATION

MOTION: Dr. Khera moved to grant the license in item numbers 1, 2, 4, and 5.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse (1 recusal noted in item 4), 1-absent.
MOTION PASSED.

1. MD-14-1016A, DAMANZOOPINDER KAUR SAMRAO, M.D.
RESOLUTION: Grant the license.

2. MD-14-1025A, STEVEN LYTLE CRAWSHAW, M.D.
RESOLUTION: Grant the license.

3. MD-14-1026A, NEHA BHASIN, M.D.
Dr. Berg was recused from this case. Board members recognized that Dr. Bhasin currently holds medical licenses in California and Iowa. The Board discussed ordering the applicant to complete a PHP assessment due to her history of having to complete a professionalism remediation plan during her fellowship training. Dr. Khera spoke against the matter being referred to PHP and stated that he believes the applicant has remediated the need to request an assessment.

MOTION: Dr. Krishna moved to issue the license.
SECOND: Dr. Khera
VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

4. MD-14-1027A, RAJ R. JOSHI, M.D.
Dr. Berg was recused from this case.

RESOLUTION: Grant the license.

5. MD-14-1069A, MASSOD HASHMI, M.D.
RESOLUTION: Grant the license.

iii. CURRENT RENEWAL APPLICATIONS - REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING WHETHER OR NOT TO GRANT THE RENEWAL OF LICENSE OR TO OBTAIN ADDITIONAL INFORMATION

MOTION: Dr. Khera moved to grant the license in item numbers 1, 3, and 4.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

1. MD-14-1022A, ARI DAVID PLOSKER, M.D.
RESOLUTION: Grant the license.

2. MD-14-1030A, MARTIN RAND ROSENTHAL, M.D.
Dr. Gillard stated that he knows Dr. Rosenthal and that it would not affect his ability to adjudicate the case.

MOTION: Dr. Gillard moved to grant the license.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

3. MD-14-1031A, MICHAEL IVCHENKO, M.D.
Attorney Patrick Stanley addressed the Board during the call to the public.

RESOLUTION: Grant the license.

4. MD-14-1032A, RICHARD THOMAS ROUGEUX, M.D.
RESOLUTION: Grant the license.

5. MD-14-1040A, ALEXANDER CHARLES MCLAREN, M.D.
RESOLUTION: Grant the license.

iv. PREVIOUS RENEWAL APPLICATIONS - REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING WHETHER APPLICANT MET MINIMUM RENEWAL REQUIREMENTS

1. MD-14-1053A, ALEXANDER CHARLES MCLAREN, M.D.
Drs. Krishna and Perry stated that they know Dr. McLaren and that it would not affect their ability to adjudicate the case. Dr. McLaren addressed the Board during the call to the public. This matter was considered in conjunction with MD-14-1040A (agenda item V.iii.5.). Dr. Gillard stated that the physician appears to be aware of

his health condition, which he was noted to have reported on his license applications. Dr. Gillard spoke in favor of granting the license.

MOTION: Dr. Gillard moved to grant the license.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

v. REVIEW, CONSIDERATION AND POSSIBLE ACTION REGARDING APPLICANT'S REQUEST FOR WAIVER OF PRIMARY SOURCE REQUIREMENT

1. JOSEPH MOZA, M.D.

RESOLUTION: Grant the request for waiver of the primary source requirement.

2. MEHDI EMAM, M.D.

This matter was considered together with item number 1. Board members discussed the Board's authority to grant a waiver of primary source licensing requirements when the applicant is a foreign medical graduate and has exhausted their attempts to obtain primary source verification and were unsuccessful. The Board noted that the applicants involved in these two matters have gone through the Educational Commission for Foreign Medical Graduates (ECFMG) process for verifying their medical school information. Dr. Krishna noted that the ECFMG was previously approved by the Board for the purposes of primary source verification, and spoke in favor of granting the waiver of the primary source requirement for both applicants.

MOTION: Dr. Gillard moved to grant the request for waiver of the primary source requirement as the requirement has been met through the ECFMG, and instructed staff to process the applications.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

W. COMPLAINTS DISMISSED PURSUANT TO A.R.S. § 32-1405(C)(21)

MOTION: Dr. Khera moved to not reopen any of the 69 dismissals.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

ACTION ON CASE(S)

X. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-13-1050A, JONATHAN BRUCE MURPHY MD, LIC. #44962

Dr. Murphy addressed the Board during the Call to the Public.

RESOLUTION: Approve the draft Findings of Fact, Conclusions of Law and Order.

2. MD-13-1283A, MARK CHRISTOPHER SENESE MD, LIC. #23957

Dr. Farmer was recused from this case. This case was coupled with item number 1 for the Board's consideration.

MOTION: Dr. Krishna moved to approve the draft Findings of Fact, Conclusions of Law and Order for items 1 and 2.
SECOND: Dr. Farmer
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was absent: Dr. Fromm.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse (1 recusal noted in item number 2), 1-absent.
MOTION PASSED.

OTHER BUSINESS

Y. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-93-0780, LEE A. MOSS, M.D., LIC. #11674

Kathleen Muller, PHP, summarized that Dr. Moss has not been in active practice since 1991 pursuant to his Board Order due to some health issues. Ms. Muller stated that because Dr. Moss has not provided supporting documentation to demonstrate that he is safe to practice medicine, he was requested by Board staff to complete a competency evaluation, but has failed to do so.

MOTION: Dr. Khera moved to deny the request for Board Order termination.
SECOND: Dr. Krishna
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

2. MD-14-0853A, LANNY IAN HECKER, M.D., LIC. #22467

Dr. Perry stated that he knows Dr. Hecker, but that it would not affect his ability to adjudicate the case. Ms. Steger summarized that Dr. Hecker entered into a Practice Limitation until such time that he could be assessed to determine whether he is safe to practice medicine. Ms. Steger added that after completing an assessment with the Board's PHP, the PHP Contractor recommended that Dr. Hecker be allowed to return to active practice and that he have another comprehensive neurocognitive exam in one year's time or sooner should his mental status deteriorate.

MOTION: Dr. Gillard moved to grant the request and terminate the Practice Limitation.
SECOND: Dr. Paul
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

The meeting adjourned at 3:35 p.m.

Patricia E. McSorley
Patricia E. McSorley,
Interim Acting Executive Director