



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING Held on Tuesday, September 16, 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 6:00 p.m.

B. ROLL CALL

The following Board members participated telephonically: Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter.

ALSO PRESENT

John Tellier, Assistant Attorney General (AAG); Carrie Smith, AAG; Patricia E. McSorley, Interim Acting Executive Director; Celina Shepherd, Licensing Office Manager; Marlene Young, Investigator; Mary Bober, Board Operations Manager; and Andrea Cisneros, SIRC Coordinator.

C. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING IMPLEMENTATION OF FINGERPRINTING REQUIREMENTS PURSUANT TO A.R.S. §§ 32-1422(A)(12) AND 32-1430(E).

MOTION: Dr. Khera moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Dr. Farmer

VOTE: 12-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 6:02 p.m.

The Board returned to Open Session at 6:29 p.m.

No legal action was taken by the Board during Executive Session.

AAG Tellier stated that it is the opinion of the Board's legal counsel that based on the language in statute; it would be improper at this time for the Board to issue licenses absent receiving and reviewing background information from the federal database. AAG Tellier stated that he believes the intent and spirit of the law is for the Board to not only obtain the fingerprinting cards, but that

they be processed both at the federal and state levels. AAG Tellier added that to simply obtain the cards in and of themselves does not provide the background information the legislature intended of the Board to act upon and have in their possession.

Board members were referred to correspondence submitted by legal counsel, in which several options were proposed for the Board's consideration regarding moving forward with the fingerprinting process. Several Board members spoke in favor of the second and third options proposed, which would involve promulgating an emergency rule change as well as a statutory change. It was noted that the emergency rule change would take approximately thirty days.

MOTION: Dr. Krishna moved to propose a rule and statutory change concurrently with one another, with the rule language being both a rule as stated in the letter provided by legal counsel and discussions made by AAG Tellier regarding clarifying sources utilized for A.R.S. § 32-1403.01(A)(1) and (2).

SECOND: Dr. Farmer

The Board discussed including clarifying language regarding limiting the of sources of information for the statutorily required posting of felony background information to self-reporting and original source documentation, and to specifically exclude information obtained from the federal database. AAG Tellier stated that the statute, as it currently exists, is silent as to the source of that information.

Board members recognized that the Agency has exhausted its efforts to assist further in obtaining FBI approval regarding the fingerprinting process. AAG Smith informed the Board that the different branches of state government had been very responsive to the Agency's efforts to move the fingerprinting process along. AAG Smith reported that the proposed rule change had been submitted to the FBI for their consideration, but no response had been received. The Board determined that if the FBI does not accept the proposal, the Board would reconvene for further discussion.

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, Dr. Fromm, Mr. Gerding, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter.

VOTE: 12-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Khera clarified that renewal applications that are currently pending will still be considered complete while the fingerprinting process is being addressed, as long as the licensee has filed a timely application and all information requested has been received. AAG Smith added that, regarding new applicants, until the fingerprinting issue is resolved, the Board should not issue new licenses. However, AAG Smith stated that the applications will remain pending with the Board and will continue to progress through the licensing process until all the necessary documentation is obtained.

The meeting adjourned at 6:52 p.m.



A handwritten signature in black ink that reads "Patricia E. McSorley".

Patricia E. McSorley
Interim Acting Executive Director