



## 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, October 1, 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 E. 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 G. Paul, M.D.

Wanda J. Salter, R.N.

#### **GENERAL BUSINESS**

##### **A. CALL TO ORDER**

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

##### **B. ROLL CALL**

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

##### **ALSO PRESENT**

Christopher Munns, Assistant Attorney General (AAG), Solicitor General's Office; Marc Harris, AAG; Carrie Smith, AAG; Patricia E. McSorley, Interim Acting Executive Director; William Wolf, M.D., Chief Medical Consultant; Anita Shepherd, Investigations Office Manager; Celina Shepherd, Licensing Office Manager; Mary Bober, Board Operations Manager; and Andrea Cisneros, Staff Investigational Review Committee (SIRC) Coordinator.

##### **C. CALL TO THE PUBLIC**

Individuals who addressed the Board during the call to the public appear beneath the matter(s) referenced.

##### **D. EXECUTIVE DIRECTOR'S REPORT**

Ms. McSorley presented a report to the Board and discussed the following items:

- Licensing Update
- Investigations Update
- Early License Application by Residents for Full License

##### **E. CHAIR'S REPORT**

Dr. Khera presented a report and discussed the following items:

- Administration Subcommittee
- Staff Relations Committee

- Review, Discussion and Possible Action Regarding Communication with the Governor's Office and Legislators

## **F. LEGAL ADVISOR'S REPORT**

AAG Smith presented a report to the Board and discussed the following items:

- Board Member Training Regarding Recusal Process
- Review, Discussion and Possible Action Regarding Physician Health Program (PHP) Process
- Review, Discussion and Possible Action Regarding of Lead Board Member Review Process
- Update on CV2013-054862

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

Michael Liburdi and Dr. Elizabeth Smith spoke during the call to the public.

**MOTION:** Dr. Khera moved to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(2).

**SECOND:** Dr. Krishna

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

The Board entered into Executive Session at 1:41 p.m.

The Board returned to Open Session at 2:43 p.m.

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

Board members discussed the issues surrounding the new fingerprinting requirement, and the effect that the new law has had on its licensees and applicants.

**MOTION:** Dr. Farmer moved for the Board to resume issuing licenses, collect fingerprinting cards, and make the best effort moving forward.

**SECOND:** Dr. Berg

Board members expressed concerns regarding the implementation of an ambiguous statute that does not allow the Board to fulfil its duty in issuing medical licenses. Dr. Krishna stated that the Governor and Legislature are aware of the issues. Dr. Khera spoke against the motion, stating that it is the Board's duty to follow the law, and that passing such a motion would cause the Board to be non-compliant.

**ROLL CALL VOTE:** Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, and Dr. Farmer. The following Board members voted against the motion: Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board members were absent: Ms. Bain and Dr. Gillard.

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

**MOTION FAILED.**

Dr. Khera instructed Board staff and legal counsel to continue working with the Governor's office to resolve this matter expeditiously.

## **H. APPROVAL OF MINUTES**

**MOTION:** Dr. Khera moved to approve the June 26, 2014 Summary Action Teleconference Meeting Executive Session; July 26, 2014 Offsite Planning Meeting; August 6, 2014 Regular Session Meeting, including Executive Session; and August 22, 2014 Special Teleconference Meeting.

**SECOND:** Dr. Farmer

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

## LEGAL MATTERS

### I. CONSIDERATION OF AND VOTE ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

1. MD-13-0885A, PHILLIP T. RAJADAS, M.D., LIC. #43411

Dr. Rajadas was not present during the Board's consideration of this case.

**MOTION:** Dr. Khera moved to adopt the ALJ's recommended Findings of Fact, Conclusions of Law and Order upholding the license suspension and revoking Dr. Rajadas' Arizona medical license.

**SECOND:** Dr. Krishna

**ROLL CALL VOTE:** Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board members were absent: Ms. Bain, Mr. Gerding, and Dr. Gillard.

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

**MOTION PASSED.**

### J. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT PROPOSED CONSENT AGREEMENT

1. MD-12-1493A, MD-14-0229A, MD-14-0247A, ALAAELDIN A. BABIKER, M.D., LIC. #28043

Dr. Krishna was recused from this matter. Dr. Babiker was present with Attorney Robert Chelle. Ms. Froedge was present on behalf of the State. Ms. Froedge stated that she believed the proposed Consent Agreement protects the public and affords the physician the opportunity to resume practice under stringent conditions and while being monitored by PHP. She recommended that the Board accept the proposed Consent Agreement. Mr. Chelle addressed the Board, stating that there are safeguards in place to satisfy the Board's concerns to ensure that Dr. Babiker's prescribing practices are also monitored. He requested that the Board accept the proposed Consent Agreement.

**MOTION:** Dr. Fromm moved to rescind the referral to Formal Hearing and accept the proposed Consent Agreement for a Decree of Censure and Five Year Probation to participate in PHP. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course for medical recordkeeping, and no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course for opioid prescribing. The CME hours shall be in addition to the hours required for license renewal. Dr. Babiker shall be restricted from prescribing controlled substances and the issuance of marijuana certifications. Upon successful completion of the CME, he may petition the Board to lift the Practice Restriction. Dr. Babiker shall be subject to chart reviews every six months for a period of two years, to commence after completion of the CME courses. Dr. Babiker is responsible for all costs associated with the chart reviews. Dr. Babiker's Interim Order for Summary Suspension dated December 18, 2013 is vacated.

**SECOND:** Ms. Brister

**ROLL CALL VOTE:** Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board members were absent: Ms. Bain, Mr. Gerding, and Dr. Gillard.

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

**MOTION PASSED.**

### K. FORMAL INTERVIEWS

1. MD-13-0687A, ANDREW J. KAPLAN, M.D., LIC. #23012

Mr. Gerding was recused from this case. Complainant CK spoke during the call to the public along with JK. Dr. Kaplan was present with Attorney William Jones. Dr. Kaplan provided the Board with a brief summary of the case and stated that he believes he met the standard of care. The Board discussed whether the patient's anticoagulation status may have altered the outcome of the patient's procedure. One Board member commented that the patient experienced an extremely unusual complication that would have occurred

regardless of whether the patient was anticoagulated at the time of the procedure. One Board member pointed out that the anticoagulant would have worn off by the time of the patient's procedure. In closing, Dr. Kaplan and his attorney noted that the MC had expressed concerns regarding the staging of the patient's surgeries. Dr. Kaplan explained that the arterial bleed stemmed from the arterial branch having been severed during the procedure, but that he did not believe the patient was no longer anticoagulated by that time.

Dr. Khera expressed concern regarding the events that occurred, and pointed out that the MC had mentioned that the indication for the procedure was questionable. Dr. Khera questioned the indications for the ablation procedure having been performed prior to the general exchange procedure, and stated that the patient was placed at unnecessary risk that could have been avoided.

**MOTION: Dr. Khera 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**

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Farmer, Dr. Khera, Dr. Krishna, and Ms. Salter. The following Board members voted against the motion: Dr. Berg, Ms. Brister, Dr. Fromm, Dr. Paul and Dr. Perry. The following Board member was recused: Mr. Gerding. The following Board members were absent: Ms. Bain and Dr. Gillard.**

**VOTE: 4-yay, 5-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION FAILED.**

Dr. Khera stated that he thinks the Board would be setting a terrible example for the community going forward in terms of protecting the public, if this case were to be dismissed. Several Board members commented that the hematoma would have occurred regardless of the anticoagulation therapy.

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

**SECOND: Dr. Khera**

Dr. Krishna stated that the bleeding was not the primary issue in this case. He expressed concern regarding the ablation therapy having been performed prior to the device exchange. Dr. Khera stated that the procedures should have been performed in the opposite order than which they were; the ablation should have been performed after the device exchange.

**VOTE: 2-yay, 7-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION FAILED.**

**MOTION: Dr. Farmer moved to issue an Advisory Letter concerning the order of which the generator exchange and atrial fibrillation ablation were performed. This was a technical issue and there is insufficient evidence to support discipline.**

**SECOND: Dr. Krishna**

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Khera, Dr. Krishna, and Ms. Salter. The following Board members voted against the motion: Dr. Fromm, Dr. Paul, and Dr. Perry. The following Board member was recused: Mr. Gerding. The following Board members were absent: Ms. Bain and Dr. Gillard.**

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

**MOTION PASSED.**

2. MD-13-0787A, TONG LI, M.D., LIC. #27967

Dr. Li was present without legal counsel. Dr. Li explained to the Board that she was not an owner or member of the spa, and that she did not administer the injection to the patient involved in this case. The Board expressed concern regarding the non-FDA filler used. Dr.

Li reported that she had used the same type of filler on at least twenty other patients without complication. She stated that she did not believe the patient's dry eye problems were a direct result from the injection. Board members noted that a nurse who did not hold an Arizona nursing license had administered the injection for the patient in Dr. Li's absence.

**MOTION: Mr. Gerding moved to enter into Executive Session pursuant to A.R.S. § 38-431.02.**

**SECOND: Dr. Krishna**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

The Board entered into Executive Session at 12:24 p.m.

The Board returned to Open Session at 12:39 p.m.

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

Dr. Li further explained that she worked parallel to the nurse at the spa, and that she did not supervise the nurse. She stated that she was not afforded the opportunity to obtain informed consent from the patient and proceed with the injection procedure due to her scheduled vacation, which caused the treatment to be provided by the nurse in her absence.

**MOTION: Dr. Farmer moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(q) – Any conduct that is or might be harmful or dangerous to the health of the patient or the public; and A.R.S. § 32-1401(27)(cc) – Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.**

**SECOND: Dr. Krishna**

Dr. Farmer noted that there was no documentation of a detailed discussion with the patient regarding the injection filler, but stated that this was a minor issue. Board members discussed whether the physician's conduct is potentially harmful to the public. Dr. Farmer expressed concern that the source and quality of the filler is unknown as it is non-FDA approved. He added that the evidence supports that there was some knowledge in this case of the nurse practicing without an Arizona license. Dr. Farmer stated that the evidence does not support that the patient's dry eye syndrome is related to the physician's involvement in this case. Dr. Fromm stated that he struggled with this case because the physician did not administer the injection, and the physician did not employ the nurse at the spa.

Drs. Farmer and Krishna withdrew the motion. Dr. Farmer spoke in favor of sustaining a violation of A.R.S. § 32-1401(27)(q) in that the physician advocated the use of a non-FDA approved injection filler from an unknown source, in violation of the standard of care. He stated that there was the potential for patient harm for patients receiving medications from an unknown source without proper regulatory approval or oversight.

**MOTION: Dr. Farmer 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. Berg**

Dr. Berg spoke in favor of the motion, noting that Dr. Li testified that she knows the filler medication came from a private source and that it is non-FDA approved. Several Board members spoke against the motion, recognizing that Dr. Li did not administer the injection for the patient in this case. The Board noted that Dr. Li indicated that she has used the non-FDA filler medication on several patients at the spa in the past. The Board was advised that it could return the case for further investigation into the other patients that had received injections administered by Dr. Li using the non-FDA approved filler medication.

Drs. Farmer and Berg withdrew the motion. The Board discussed returning the case for further investigation in order to properly notice the physician regarding the concerns of her use of non-FDA approved medication in addition to the initial statutory notification violation.

**MOTION: Dr. Krishna moved to continue the Formal Interview for a later date pending further investigation.**

**SECOND: Dr. Farmer**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **L. FORMAL INTERVIEWS**

1. MD-13-1410A, MANKANWAL S. SACHDEV, M.D., LIC. #31863

Dr. Khera was recused from this case. Dr. Sachdev was present with Attorney Scott King.

**MOTION: Dr. Fromm moved to accept the physician's Motion for Good Cause to submit supplemental material to the Board.**

**SECOND: Dr. Krishna**

**VOTE: 9-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION PASSED.**

The Board's medical consultant had determined that Dr. Sachdev deviated from the standard of care in this case by failing to obtain a cardiology consult and by biopsying a lesion that was well-established to be of a benign character. Dr. Sachdev stated that in hindsight, he would have consulted cardiology before proceeding with what he assumed to be a relatively routine procedure. Dr. Sachdev acknowledged that a cardiology consult was appropriate in the setting of a patient on aspirin and Plavix.

Board members discussed whether it would have been appropriate for Plavix and aspirin cessation prior to Dr. Sachdev's performance of the fine needle aspiration for the patient. Dr. Fromm stated that he was more concerned with whether it was appropriate for the fine needle aspiration to have been performed. He spoke in favor of issuing the physician an Advisory Letter.

**MOTION: Dr. Fromm moved for the Board to not make a finding of unprofessional conduct.**

**SECOND: Dr. Krishna**

**VOTE: 9-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION PASSED.**

**MOTION: Dr. Fromm moved to issue an Advisory Letter for providing insufficient informed consent to the patient prior to the performance of the procedure. There is insufficient evidence to support discipline.**

**SECOND: Dr. Krishna**

Dr. Farmer spoke against the motion. He questioned the risk associated with subjecting the patient to a second anesthetic after waking up the patient to discuss a change in the procedure. Dr. Paul spoke against the motion as well, stating he believed that the physician was acting in the best interest of the patient. Dr. Perry commented that when surgeons perform procedures, the level of risk should always be taken into consideration in terms of whether the risk is high or low. Dr. Perry stated he observed that Dr. Sachdev made a judgment call and unfortunately had a complication that was not life-threatening. Dr. Krishna stated he was concerned with the indications for the procedure. He noted that the patient was anticoagulated, and stated that there was no rush to perform the procedure. Dr. Krishna spoke in favor of the motion and stated that the issuance of an Advisory Letter is appropriate for tracking purposes.

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Fromm, Dr. Krishna, and Ms. Salter. The following Board members voted against the motion: Dr. Farmer, Mr. Gerding, Dr.**

Paul, and Dr. Perry. The following Board member was recused: Dr. Khera. The following Board members were absent: Ms. Bain and Dr. Gillard.  
VOTE: 5-yay, 4-nay, 0-abstain, 1-recuse, 2-absent.  
MOTION PASSED.

## CONSENT AGENDA

### M. CASES RECOMMENDED FOR DISMISSAL

**MOTION:** Dr. Khera moved for dismissal in item numbers 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.

**SECOND:** Dr. Krishna

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

1. MD-13-1326A, MARTIN J. BENOIT, M.D., LIC. #40505

Attorney Libby Petersen spoke during the call to the public on behalf of Dr. Benoit.

**RESOLUTION:** Dismiss.

2. MD-14-0130A, RICHARD NEVILLE, M.D., LIC. #22767

**RESOLUTION:** Dismiss.

3. MD-14-0829A, SATYAPRIYA CHAUDHARY, M.D., LIC. #42796

**RESOLUTION:** Dismiss.

4. MD-13-0528A, MARK A. BURNS, M.D., LIC. #29591

Dr. Coffey summarized that Dr. Burns was the cardiologist who consulted on the patient's care after presenting to the ER complaining of chest pain with exertion associated with shortness of breath. Dr. Coffey added that the medical consultant commented that there are no guidelines available regarding the urgency of performing cardiac catheterization in patients with cardiac arrest occurring in the hospital setting like this case with stable hemodynamics without ST elevation.

Board members questioned whether the one day delay in performing the cardiac catheter was appropriate in this case where there was no ST elevation. Dr. Khera stated that the fact that the patient had ventricular fibrillation was significant. Dr. Krishna commented that there was no contraindication to take the patient to the catheter lab, noting that the mild necrosis may have minimized had the patient been sent back.

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

**SECOND:** Dr. Krishna

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

5. MD-13-1317A, FRED D. HOLMES, M.D., LIC. #28917

**RESOLUTION:** Dismiss.

6. MD-13-1107B, ROBERT T. BAILEY, M.D., LIC. #27721

Complainant AB spoke during the call to the public.

**RESOLUTION:** Dismiss.

7. MD-14-0252A, TODD LESSIE, M.D., LIC. #29177

**RESOLUTION:** Dismiss.

8. MD-14-0580A, PADMAVATHY TUMMALA, M.D., LIC. #21393

**RESOLUTION:** Dismiss.

9. MD-14-0555A, MUHAMMAD M. ALAM, M.D., LIC. #29511

**RESOLUTION:** Dismiss.

10. MD-13-1477A, KARL R. MARKU, M.D., LIC. #42607

**RESOLUTION: Dismiss.**

11. MD-14-0760A, DERYL R. LAMB, M.D., LIC. #21010

**RESOLUTION: Dismiss.**

12. MD-14-0196A, ABEDON A. SAIZ, M.D., LIC. #24387

**RESOLUTION: Dismiss.**

13. MD-14-0144A, JILL A. MEHLHAF, M.D., LIC. #29715

**RESOLUTION: Dismiss.**

14. MD-14-0367A, DUANE C. WHITAKER, M.D., LIC. #12532

**RESOLUTION: Dismiss.**

15. MD-13-1256A, WILLIAM D. LEIGHTON, M.D., LIC. #12814

Complainant DK spoke during the call to the public along with BK and AA. Attorney Ian Neale addressed the Board during the call to public as well and spoke on behalf of Dr. Leighton.

Dr. Wolf summarized that the two medical consultants who reviewed Dr. Leighton's care in this case determined that he met the standard of care in his treatment of patient DK. The Board observed that the second medical consultant mentioned issues regarding Dr. Leighton's wound healing documentation. Specifically, the second medical consultant stated that follow up notes, including Dr. Leighton's description of how the left nipple was healing, seemed overly optimistic if not overly inaccurate.

Dr. Khera expressed concern regarding the treatment provided in this case, and questioned whether it was appropriate to proceed with mastopexy and implant exchange given that the lengthy consent form signed by the patient may not have been fully understood by the patient at the time. Dr. Krishna stated that the outcome of the case is unfortunate, but not uncommon in these types of cases. Dr. Krishna stated that the care was appropriate, as per the two medical consultant report findings. Board members expressed concern regarding the physician's medical recordkeeping, and suggested that he appear for a Formal Interview before the Board.

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

**SECOND: Ms. Salter**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

## **N. CASES RECOMMENDED FOR ADVISORY LETTERS**

**MOTION: Dr. Khera moved to issue an Advisory Letter in item numbers 1, 2, 4, 5, 6, 7, 9, 10, 11, and 12.**

**SECOND: Dr. Farmer**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

1. MD-13-1465A, MARVIN C. SCHNEIDER, M.D., LIC. #4036

**RESOLUTION: Issue an Advisory Letter for failure to complete the required CME hours or to request Board extension to complete the required CME prior to renewal of licensure. There is insufficient evidence to support discipline.**

2. MD-14-0033B, MONICA N. SIMBA, M.D., LIC. #33287

**RESOLUTION: Issue an Advisory Letter for failing to stop treatment dose Lovenox when the patient no longer had indication for this level of anticoagulation, and for inadequate documentation of reasoning to not discontinue aspirin in the setting of acute GI bleeding. The licensee has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for discipline.**

3. MD-14-0132A, SATINDER S. PUREWAL, M.D., LIC. #26854

Dr. Khera was recused from this case. Dr. Purewal addressed the Board during the call to the public along with Attorney Steve Myers.

Dr. Farmer stated that the physician's comments are compelling in that he has been very responsible and has addressed the issues in his education. Dr. Farmer added that he did not find that the issuance of an Advisory Letter was necessary.

**MOTION: Dr. Farmer moved for dismissal.**

**SECOND: Dr. Berg**

Several Board members spoke against the motion, noting that the physician provided his login information to the PA allowing him to gain access to the hospital's system where the PA did not hold credentials. Board members noted that the PA was referred to the Arizona Regulatory Board of Physician Assistants for review.

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Farmer. The following Board members voted against the motion: Dr. Berg, Ms. Brister, Dr. Fromm, Mr. Gerding, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was recused: Dr. Khera. The following Board members were absent: Ms. Bain and Dr. Gillard.**

**VOTE: 1-yay, 8-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION FAILED.**

**MOTION: Dr. Krishna moved to issue an Advisory Letter for sharing login and password information with a PA and for having an uncredentialed PA enter an order under the physician's name. There is insufficient evidence to support discipline.**

**SECOND: Dr. Fromm**

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was recused: Dr. Khera. The following Board members were absent: Ms. Bain and Dr. Gillard.**

**VOTE: 9-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION PASSED.**

4. MD-13-0861A, ARUN D. SHERMA, M.D., LIC. #33509  
**RESOLUTION: Issue an Advisory Letter for inadequate documentation. There is insufficient evidence to support discipline.**
5. MD-14-0183A, MELISSA A. KYRIMIS, M.D., LIC. #25314  
**RESOLUTION: Issue an Advisory Letter for failure to report test results in a timely manner and for inadequate medical records. There is insufficient evidence to support discipline.**
6. MD-14-0223A, WOLFREDO A. ZARRAGA, M.D., LIC. #40929  
**RESOLUTION: Issue an Advisory Letter for delay in instituting an antibiotic. There is insufficient evidence to support discipline.**
7. MD-14-0289A, JAMES W. MCCARVER, M.D., LIC. #8652  
**RESOLUTION: Issue an Advisory Letter for inadequate documentation and for inadequate supervision of a PA. While the licensee has demonstrated substantial compliance through remediation that mitigates the need for discipline, the Board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.**
8. MD-13-0528B, PATRICK S. PASULKA, M.D., LIC. #12782  
Dr. Perry was recused from this case. The Board discussed the medical consultant's findings, which included a minor recordkeeping issue. The medical consultant had commented that the physician should have documented more detail regarding his discussion with the cardiologist. Dr. Fromm stated it seemed as though the medical

consultant was requiring Dr. Pasulka, a hospitalist, to make a cardiovascular decision about the urgency of catheterization. Dr. Fromm spoke in favor of dismissing the case.

**MOTION: Dr. Fromm moved for dismissal.**

**SECOND: Dr. Krishna**

**VOTE: 9-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.**

**MOTION PASSED.**

9. MD-12-1075A, KENNETH J. BIEHL, M.D., LIC. #42105

**RESOLUTION: Issue an Advisory Letter for failing to respond to an abnormal CT finding. There is insufficient evidence to support discipline.**

10. MD-13-0718A, BRUCE E. FREEDMAN, M.D., LIC. #17665

**RESOLUTION: Issue an Advisory Letter for failing to obtain a postoperative esophagram in a sufficiently timely manner. There is insufficient evidence to support discipline.**

11. MD-13-0392A, JOSEPH D. PEGGS, M.D., LIC. #40814

**RESOLUTION: Issue an Advisory Letter for improper management of an open fracture and inadequate medical records. While the licensee has demonstrated substantial compliance through remediation that mitigates the need for discipline, the Board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.**

12. MD-13-1368A, VINCENT M. BOURNIQUE, M.D., LIC. #44734

**RESOLUTION: Issue an Advisory Letter for prescribing a scheduled IV controlled substance, Modafinil, to himself and his wife. While the licensee has demonstrated substantial compliance through remediation that mitigates the need for discipline, the Board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.**

#### **O. PROPOSED CONSENT AGREEMENTS (Disciplinary)**

**MOTION: Dr. Farmer moved to accept the proposed Consent Agreement in item numbers 1 and 2.**

**SECOND: Dr. Berg**

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, and Ms. Salter. The following Board members were absent: Ms. Bain, Dr. Gillard, and Dr. Perry.**

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

**MOTION PASSED.**

1. MD-13-0787B, JOSE L. ROBLEDO, M.D., LIC. #13386

**RESOLUTION: Accept the proposed Consent Agreement for a Decree of Censure and Probation. Within thirty days, Dr. Robledo shall pay a Civil Penalty in the amount of \$10,000. If it is not paid timely, Dr. Robledo's Arizona medical license shall be suspended for a period of two weeks during which he is prohibited from engaging in the practice of medicine.**

2. MD-13-1101A, PETER C. LIANG, M.D., LIC. #34107

**RESOLUTION: Accept the proposed Consent Agreement for a License Reactivation, Letter of Reprimand, and Five Year Probation to participate in PHP. Dr. Liang's Probation shall be retroactive to and run concurrently with his participation in HPSP, which is currently set to expire on June 13, 2017.**

#### **P. REVIEW DISCUSSION AND POSSIBLE ACTION REGARDING APPEALS OF EXECUTIVE DIRECTOR (ED) DISMISSALS**

**MOTION: Dr. Krishna moved to uphold the dismissal in item numbers 1-5.**

**SECOND: Dr. Paul**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

1. MD-14-0032A, MARK B. DEKUTOSKI, M.D., LIC. #47104  
**RESOLUTION: Uphold the dismissal.**
2. MD-14-0012A, RAJ K. BOSE, M.D., LIC. #27633  
**RESOLUTION: Uphold the dismissal.**
3. MD-13-1080A, BRIAN H. PERLMUTTER, M.D., LIC. #27305  
**RESOLUTION: Uphold the dismissal.**
4. MD-14-0056A, GREGORY T. ALTEMOSE, M.D., LIC. #31406  
Complainant SB spoke during the call to the public.  
  
**RESOLUTION: Uphold the dismissal.**
5. MD-13-0360A, ABDUL J. TAJIK, M.D., LIC. #34702  
Complainant SB spoke during the call to the public.  
  
**RESOLUTION: Uphold the dismissal.**

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

**MOTION:** Dr. Khera moved to not reopen any of the 209 dismissals.

**SECOND:** Dr. Farmer

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

**ACTION ON CASE(S)**

**R. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

1. MD-13-1087A, MANI TEHRANCHI, M.D., LIC. #21210  
Dr. Perry was recused from this case. Krishna moved seconded by khera.

**MOTION:** Dr. Krishna moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

**SECOND:** Dr. Khera

**ROLL CALL VOTE:** Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, and Ms. Salter. The following Board member was recused: Dr. Perry. The following Board members were absent: Ms. Bain and Dr. Gillard.

**VOTE:** 9-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.

**MOTION PASSED.**

**S. STAFF REQUEST FOR FURTHER ACTION**

1. MD-13-0426A, EDGARDO D. ZAVALA-ALARCON, M.D., LIC. #27016  
The Board observed that the patient underwent a second liposuction procedure performed by Dr. Zavala-Alarcon, and that she remained in the recovery room of his clinic for approximately 8.5 hours. Following her discharge, the patient was transported to the hospital by ambulance in ventricular fibrillation. The patient subsequently expired of multi-system organ failure.

The Board recognized that four medical consultants reviewed the case, and three out of the four determined that Dr. Zavala-Alarcon deviated from the standard of care in terms of his documentation, care in the recovery room, and patient selection.

**MOTION:** Dr. Khera moved to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(2).

**SECOND:** Dr. Krishna

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

The Board entered into Executive Session at 9:47 a.m.  
The Board returned to Open Session at 9:55 a.m.  
No legal action was taken by the Board during Executive Session.

**MOTION: Dr. Krishna moved to offer the physician a Consent Agreement to voluntarily surrender his license. If he declines, the case shall be referred to the Office of Administrative Hearings for a Formal Hearing to revoke the license.**  
**SECOND: Dr. Farmer**

Dr. Perry stated he was concerned with the anesthetic dose utilized in this case, and commented that the patient should have been transferred to a higher level of care rather than discharged. Dr. Farmer expressed concern with the patient selection, and stated that the procedure should not have been performed in the physician's office practice setting. Dr. Khera spoke in support of the motion, stating that the patient had clear ischemic changes on EKG prior to having been discharged from recovery.

**ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board members were absent: Ms. Bain and Dr. Gillard.**  
**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

## **T. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING BOARD ORDER**

1. MD-12-1050A, KULBHUSHAN K. SHARMA, M.D., LIC. #22286  
Dr. Khera was recused from this case. Attorney Steve Perlmutter spoke during the call to the public on behalf of Dr. Sharma.

**MOTION: Dr. Perry moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(2).**  
**SECOND: Dr. Krishna**  
**VOTE: 9-yay, 0-nay, 0-abstain, 1-recuse, 2-absent.**  
**MOTION PASSED.**

The Board entered into Executive Session at 10:04 a.m.  
The Board returned to Open Session at 10:10 a.m.  
No legal action was taken by the Board during Executive Session.

**MOTION: Mr. Gerding moved to modify the Board Order from a Letter of Reprimand to an Advisory Letter.**  
**SECOND: Dr. Berg**

Dr. Krishna spoke against the motion and stated that there is evidence to support the Board's Order for discipline in this case. Dr. Farmer spoke against the motion as well, stating that the merits of the case give rise to the discipline imposed.

**ROLL CALL VOTE: Roll call vote was taken and the following Board member voted in favor of the motion: Mr. Gerding. The following Board members voted against the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board member was recused from this case: Dr. Khera. The following Board members were absent: Ms. Bain and Dr. Gillard.**  
**VOTE: 1-yay, 8-nay, 0-abstain, 1-recuse, 2-absent.**  
**MOTION FAILED.**

**MOTION: Dr. Krishna moved to uphold the Board's Order in this matter.**  
**SECOND: Ms. Salter**  
**VOTE: 8-yay, 0-nay, 1-abstain, 1-recuse, 2-absent.**  
**MOTION PASSED.**

## OTHER BUSINESS

### U. REQUEST FOR MODIFICATION OF BOARD ORDER

1. MD-10-0395A, TERESA L. JACKSON, M.D., LIC. #32627

Board members observed that Dr. Jackson was previously disciplined by the Board, and assessed a Civil Penalty in the amount of \$10,000. Pursuant to her Board Order, Dr. Jackson is due to pay the Civil Penalty by October 6, 2014. Dr. Jackson submitted a request for the Board to grant her an extension to pay the Civil Penalty. Several Board members spoke against granting the request for an extension, noting that there is no evidence to support the reasoning as to why the extension had been requested. Dr. Krishna spoke in favor of granting an extension to pay, noting that licensees typically file requests to waive their requirement to pay the amount due. Dr. Krishna recommended granting a one year extension. The Board recognized that Dr. Jackson had been making steady payments for her PHP participation, but has reported financial hardships including a problem with employment.

**MOTION:** Dr. Krishna moved to grant the extension request of legal counsel of Dr. Jackson for extension to pay the Civil Penalty until June 21, 2015.

**SECOND:** Dr. Khera

**ROLL CALL VOTE:** Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, Mr. Gerding, Dr. Khera, Dr. Krishna, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board members were absent: Ms. Bain and Dr. Gillard.

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

### V. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-14-1047A, BRIAN F. MCCABE, M.D., LIC. #23045

Dr. Farmer stated that he knows Dr. McCabe, but that it would not affect his ability to adjudicate the case. Board staff reported that Dr. McCabe successfully completed treatment and was discharged with staff approval on August 24, 2014. The Board's PHP Contractor subsequently reassessed Dr. McCabe and determined that he was safe to practice while enrolled in PHP for five years.

Dr. McCabe entered into an Interim Consent Agreement for PHP participation. However, Dr. McCabe has refused to take Naltrexone, as recommended by the evaluation team. The Board's PHP Contractor stated that this is not a good sign early on in the recovery of an opioid addict. He explained that Naltrexone is a useful agent that helps to protect the physician from relapse. The PHP Contractor stated that he cannot make a recommendation that the physician is safe to practice at this time.

Board members expressed concerns regarding the high risk nature of operative anesthesia practice, and the high potential for patient harm as well as the high relapse rate for practitioners resuming such practice.

**MOTION:** Dr. Khera moved to deny the request to terminate the Interim Practice Restriction.

**SECOND:** Dr. Fromm

**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

**MOTION PASSED.**

2. MD-14-1339A, DAVID K. PATZER, M.D., LIC. #26950

Ms. Muller presented this matter to the Board, stating that Dr. Patzer has requested termination of his Board Order. Ms. Muller reported that Dr. Patzer has successfully completed the terms of his Tennessee Board's PHP, and that his Tennessee Board Order was terminated in May of 2014.

**MOTION:** Dr. Krishna moved to grant the request and terminate the Practice Restriction.

**SECOND:** Dr. Khera

The Board discussed the motion.

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED/FAILED.**

**W. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING CLARIFICATION OF BOARD ORDER**

1. MD-13-0279A, JOSEPH J. FRANZETTI, M.D., LIC. #26738  
Attorney Michael Bradford spoke during the call to the public on behalf of Dr. Franzetti.

**MOTION: Dr. Khera moved to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(2).**

**SECOND: Dr. Krishna**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

The Board entered into Executive Session at 4:03 p.m.

The Board returned to Open Session at 4:09 p.m.

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

**MOTION: Dr. Krishna moved for the Board Order to stand and clarified that Board staff had the ability to determine which facility shall provide the treatment services.**

**SECOND: Dr. Khera**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

**X. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING COMMITTEE RECOMMENDATION**

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

**SECOND: Dr. Berg**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

The Board entered into Executive Session at 4:10 p.m.

The Board returned to Open Session at 4:20 p.m.

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

**MOTION: Dr. Farmer moved to accept the SIRC recommendation in items 1 and 2.**

**SECOND: Dr. Khera**

**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

1. MD-14-0322A, SEAN P. MAYO, M.D., LIC. #33438
2. MD-13-1337A, MEENAKSHI BELLAPRAVALU, M.D., LIC. #14728

The meeting adjourned at 5:10 p.m.



*Patricia E. McSorley*

Patricia E. McSorley  
Interim Acting Executive Director