



## Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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### FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Thursday, April 30, 2015

9545 E. Doubletree Ranch Road • Scottsdale, Arizona

#### *Board Members*

Richard T. Perry, M.D., Chair  
James M. Gillard, M.S., M.D., F.A.C.E.P., F.A.A.E.M., Vice-Chair  
Jodi A. Bain, Esq., Secretary  
Marc D. Berg, M.D.  
Donna S. Brister  
R. Screven Farmer, M.D.  
Gary R. Figge, M.D.  
Robert Fromm, M.D.  
Paul S. Gerding, Esq.  
Lois E. Krahn, M.D.  
Edward Paul, M.D.  
Wanda J. Salter, RN

#### GENERAL BUSINESS

##### A. CALL TO ORDER

Dr. Perry called the meeting to order at 6:04 p.m.

##### B. ROLL CALL

The following Board members participated telephonically: Mr. Gerding<sup>1</sup>, Dr. Gillard, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, Dr. Perry, and Ms. Salter. The following Board members were absent: Ms. Bain, Dr. Berg, Ms. Brister, and Mr. Gerding.

##### ALSO PRESENT

Barbara Corella, State Procurement Administrator, participated telephonically. Present among Board staff include: Carrie Smith, Assistant Attorney General ("AAG"); Patricia E. McSorley, Executive Director; Alicia Cauthon, Assistant to the Executive Director; Evangeline Webster, Support Services Manager; Twana Fairbourn, Licensing Office Manager; William Wolf, M.D., Chief Medical Consultant; Kathleen Coffey, M.D., Internal Medical Consultant; James Gentile, Chief Information Officer; Anita Shepherd, Investigations Department Manager; Raquel Rivera, Investigations Department Assistant Manager; Rachel Shepherd, Licensing Investigator; Kathleen Muller, Physician Health Program ("PHP"); Danielle Steger, PHP; Mary Bober, Board Operations Manager; Amanda Schwabe, Board Coordinator; and Andrea Cisneros, Staff Investigational Review Committee Coordinator.

##### C. CALL TO THE PUBLIC

Individuals who addressed the Board appear beneath the matter(s) referenced.

##### D. LEGAL ADVISOR'S REPORT

AAG Smith presented her report to the Board regarding the following items:

- Legal Advice Regarding use of Juvenile Convictions
- Legal Advice Regarding Physician Health Questions and Renewal Applications

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<sup>1</sup> Mr. Gerding participated telephonically, joining the meeting after the roll call.

- *North Carolina State Board of Dental Examiners v. FTC*, 135 S.Ct. 1101 (2015)
- Review of Disciplinary Options

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

**SECOND: Dr. Krahn**

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

**MOTION PASSED.**

The Board entered into Executive Session at 7:14 p.m.

The Board returned to Open Session at 7:32 p.m.

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

**MOTION: Dr. Fromm moved for the Board to request that the Executive Director look into drafting a policy of if necessary regulation, that would allow the Board to create some sort of process for dealing with individuals who have limited or single health events that are reported on their license application that would not delay them through the normal process.**

**SECOND: Ms. Salter**

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

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

**MOTION PASSED.**

## **E. UPDATE, DISCUSSION AND POSSIBLE ACTION REGARDING THE LICENSING LOOK BACK BEING CONDUCTED BY THE GREATER ARIZONA CENTRAL CREDENTIALING PROGRAM (“GACCP”)**

GACCP was employed by the Board to look through approximately 3,100 licenses during the timeframe of six months by obtaining additional documentation and forwarding the names of individuals to the Board who were not cooperating with the look back process. A letter was submitted to the State Procurement Office in April of 2015 by Ms. McSorley on behalf of the Board, reporting that billings have come in incomplete, records were not appearing as the GACCP had indicated in the database, and that there has been a delay in the timeframe for completion. Board members recognized that the contract is due to expire in July of 2015.

Ms. Corella informed the Board that remedies available to the State when a contractor is noncompliant include submitting correspondence to the contractor outlining any concerns, requesting an action plan from the contractor to assure compliance with the contract; issuance of a stop work order until the contractor can provide appropriate information as requested; and/or cancelation of the contract for default, which would require the contractor to turn everything back over to the Board. Ms. Corella explained that the State has the right to charge the contractor for any overage compared to what would have been paid had they performed appropriately and per the contract.

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

**SECOND: Ms. Salter**

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

**MOTION PASSED.**

The Board entered into Executive Session at 6:17 p.m.

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

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

## **F. LICENSE APPLICATIONS**

### **i. APPROVE OR DENY LICENSE APPLICATION**

**MOTION: Dr. Gillard moved to approve the license application in item numbers 1 and 3.**

**SECOND: Dr. Fromm**

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

**MOTION PASSED.**

1. MD-15-0249A, JOSEPH A. MURRAY, M.D., LIC. #N/A

**RESOLUTION: Approve the License Application.**

2. MD-15-0485A, PETER C. WITT, M.D., LIC. #N/A

Dr. Gillard observed that Dr. Witt allowed his license to expire, and continued to practice for a short while without a valid license. He noted that the Board, historically, has issued Advisory Letters to licensees for practicing without a license upon relicensing the physician. Dr. Gillard recognized that pursuant to R4-16-204, Dr. Witt qualified for licensure by endorsement as he is currently certified by the American Board of Medical Specialties.

**MOTION: Dr. Gillard moved to grant the license and issue an Advisory Letter for practicing medicine for a short while without a license.**

**SECOND: Dr. Farmer**

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

**MOTION PASSED.**

Dr. Gillard requested that the Board staff include in their investigative findings for future cases, to include whether the physician holds current certification with the American Board of Medical Specialties, and the time of their completion of their medical licensing exams.

3. MD-15-0486A, STELLA C. RAPOSAS, M.D., LIC. #N/A

**RESOLUTION: Approve the License Application.**

## **G. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING EXECUTIVE DIRECTOR DELEGATED AUTHORITIES**

- Complaints Dismissed Pursuant to A.R.S. § 32-1405(C)(21)

Ms. McSorley stated that by the time a case is forwarded to her for review, the matter has been well vetted by staff, including review by a medical consultant that specializes in the same field of practice as the physician whom the complaint is filed against. Board staff pointed out that there is an appeal process set out in A.R.S. § 32-1405(E) for complainants after a case has been dismissed by the Executive Director, allowing the matter to be heard by the full Board.

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

**SECOND: Ms. Salter**

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

**MOTION PASSED.**

The Board entered into Executive Session at 6:58 p.m.

The Board returned to Open Session at 7:04 p.m.

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

The Board recognized that statute allows the Executive Director to dismiss cases that are found to be without merit, noting that each matter is thoroughly reviewed by staff. Dr. Gillard spoke in favor of discontinuing the Board's current practice of forwarding all cases dismissed by the Executive Director to the full Board for review, with the exception of matters in which a timely appeal is filed.

**MOTION: Dr. Gillard moved for the Board to return to the process of having the Executive Director dismiss cases without full Board review.**

**SECOND: Dr. Krahn**

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

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

**MOTION PASSED.**

- Executive Director to issue a license pursuant to A.R.S. § 32-1405(C)(5) when an applicant responds affirmatively to an application question and produces evidence that no adverse action has been taken against the applicant.

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

**SECOND:** Ms. Salter

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

**MOTION PASSED.**

The Board entered into Executive Session at 7:07 p.m.

The Board returned to Open Session at 7:10 p.m.

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

**MOTION:** Dr. Fromm moved for the Board to authorize the Executive Director to issue licenses without bringing the matters to the full Board, pursuant to A.R.S. § 32-1405(C)(5).

**SECOND:** Dr. Gillard

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

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

**MOTION PASSED.**

## **H. REQUEST FOR TERMINATION OF BOARD ORDER**

### **1. MD-14-1288A, SIMON B. ISAAC, M.D., LIC. #46865**

Ms. Steger summarized that the Board initiated this matter after receiving information indicating that Dr. Isaac was not safe to practice medicine due to a reoccurrence of a mental health issue. As a result of the concern regarding his ability to safely practice, Dr. Isaac entered into an Interim Consent Agreement for Practice Limitation on September 12, 2014. The Board noted that Dr. Isaac was a participant in the PHP Program, pursuant to his Stipulated Health Agreement, and that the Order was due to expire in July of 2015. Following an assessment by the PHP Contractor, it was recommended that Dr. Isaac is safe to practice while participating in PHP for an additional two years. Because he was deemed safe to practice while enrolled in PHP, Dr. Isaac requested that the Board terminate the Practice Limitation, and in the interim has entered into an Agreement for continued PHP participation.

The Board discussed the circumstances surrounding Dr. Isaac's recent transfer of psychiatric care to a new provider, noting that the initial psychiatrist did not report to the Board that Dr. Isaac had discontinued his medication for approximately six months. Board members expressed concern with the PHP monitoring process in that regard. Ms. Steger explained that the Board had the ability to make any necessary revisions to the monitoring agreement, and that the Board could instruct the PHP Contractors to take another look at their psychiatric monitoring process and report back to the Board. The Board's PHP Contractors were not available for questioning during the Board's deliberations. It was suggested that the consideration of lifting the Practice Limitation be tabled until additional information can be obtained from the PHP Contractors regarding the psychiatric monitoring of Dr. Isaac under his new monitoring agreement.

**MOTION:** Dr. Fromm moved for the Board to ask the PHP Contractor to re-evaluate the licensee's monitoring process and return with recommendations that he feels are appropriate, and to table any further action on this request.

**SECOND:** Dr. Krahn

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

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

**MOTION PASSED.**

**2. MD-14-1202A. MICHAEL R. JERMAN, M.D., LIC. #17678**

Dr. Figge stated that he knows Dr. Jerman professionally and that it would not affect his ability to adjudicate the case. Dr. Jerman was present during the Board's consideration of this matter and spoke during the call to the public.

Ms. Muller summarized that in September of 2014, Dr. Jerman entered into an Interim Agreement to participate in PHP following a DUI arrest that occurred while he was on call. Subsequently in March of 2015, Dr. Jerman tested positive for alcohol metabolites. He admitted to consuming alcohol and entered into an Interim Consent Agreement for a Practice Restriction. Ms. Muller added that Dr. Jerman successfully completed treatment and an assessment by the PHP Contractor deemed him safe to practice while participating in PHP for a period of five years.

**MOTION:** Dr. Gillard moved to lift the Interim Practice Restriction contingent upon obtaining a Five Year PHP Agreement from the Respondent.

**SECOND:** Dr. Fromm

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

**MOTION PASSED.**

**MOTION:** Dr. Krahn moved for adjournment.

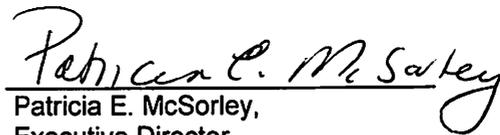
**SECOND:** Dr. Farmer

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

**MOTION PASSED.**

The meeting adjourned at 7:34 p.m.



  
Patricia E. McSorley,  
Executive Director