



## Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258  
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### FINAL MINUTES FOR REGULAR SESSION MEETING Held on Friday, April 18, 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., 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.  
Ram R. Krishna, M.D.  
Edward G. Paul, M.D.  
Wanda J. Salter, R.N.

#### **CALL TO ORDER**

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

#### **NEW BOARD MEMBER INTRODUCTIONS**

Dr. Khera welcomed Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Fromm, and Dr. Paul.

#### **ROLL CALL**

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

#### **ALSO PRESENT**

Christopher Munns, Assistant Attorney General, Solicitor General's Office; Marc Harris, Assistant Attorney General, Board Legal Advisor; C. Lloyd Vest, II, Executive Director; Patricia McSorley, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Anita Shepherd, Investigations Assistant Manager; Celina Shepherd, Licensing Office Manager; Mary Bober, Board Operations Manager; and Andrea Cisneros, SIRC Coordinator.

#### **FORMAL HEARING MATTERS**

#### **CONSIDERATION OF AND VOTE ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE (ALJ) RECOMMENDED DECISION**

1. MD-10-1419A, MD-12-0543A, and MD-12-0824A, SHAKEEL A. KAHN, M.D., LIC. #37896

Mr. Munns informed the Board that the parties had reached an alternate resolution in this matter in the form of a Consent Agreement.

Anne Froedge, Assistant Attorney General, was present on behalf of the State. She summarized for the Board that the ALJ did not find clear and convincing evidence that Dr. Kahn deviated from the standard of care in any of the three cases, but did identify charting issues in case MD-12-0543A, for which Probation and chart reviews were recommended. The ALJ recommended dismissal of cases MD-10-1419A and MD-12-0824A. Ms. Froedge explained to the Board that the parties involved felt that the recommended decision was disproportionate given the relatively minor medical records violation and actions taken by the Board in the past for cases where a physician was found to have committed a similar violation.

Dr. Kahn was present with Attorney Scott Hergenroether. Mr. Hergenroether stated that they believe the proposed Consent Agreement for an Advisory Letter is consistent with the findings, and pointed out that this was Dr. Kahn's first time before the Board on a matter involving a minor charting error.

Dr. Krishna spoke in favor of the Advisory Letter and questioned whether it would be appropriate for the Board to adopt the ALJ's recommended Findings of Fact and Conclusions of Law. Mr. Munns explained that the Board could approve the Consent Agreement as requested by the parties, or in the alternative could adopt the ALJ's recommended decision. He stated that if the Board proceeded with the latter, it would need to modify the recommendation as it relates to a finding of a violation that merits discipline.

**MOTION: Dr. Krishna moved to reject the ALJ's recommended decision and accept the proposed Consent Agreement for an Advisory Letter for failing to document a discussion about the use, side effects, and safety monitoring of a controlled substance with regard to patient TH in case MD-12-0543A. The violation was a minor technical violation that does not rise to the level of discipline. Cases MD-10-1419A and MD-12-0824A are dismissed.**

**SECOND: Dr. Perry**

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

**MOTION PASSED.**

## **LEGAL MATTERS**

### **RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT PROPOSED CONSENT AGREEMENT**

#### **1. MD-13-0504A and MD-13-0617A, RICK J. GOMEZ, M.D., LIC. #33677**

Dr. Gomez was not present during the Board's consideration of this matter. Ms. Froedge was present on behalf of the State. She explained to the Board that after the Formal Hearing began, a call was received by Dr. Gomez's legal counsel indicating that it was the physician's desire to surrender his license. She requested that the Board approve the proposed Consent Agreement for surrender of Dr. Gomez's medical license.

Mr. Munns informed the Board that there had not been a recommended decision made by an ALJ in this matter, and that the cases have been brought before the Board for consideration of the proposed Consent Agreement.

**MOTION: Dr. Krishna moved to rescind the referral to Formal Hearing and approve the proposed Consent Agreement for surrender of license.**

**SECOND: Dr. Gillard**

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

### **RESCIND REFERRAL TO FORMAL HEARING AND REQUEST FURTHER BOARD ACTION**

#### **1. MD-12-1238A, MARVIN L. GIBBS, M.D., LIC. #N/A**

Dr. Gibbs was present with Attorney Dan Jantsch. Mr. Vest presented this matter to the Board. He explained that the State's Attorney identified a technical issue involving the deficiency notice sent to the physician in that additional deficiencies were identified after further review of the license application. Mr. Vest requested that the Board rescind the referral to Formal Hearing and allow staff the ability to administratively complete the application, send the deficiency notice to the physician, and then place the case back on track for a Hearing.

Dr. Gibbs addressed the Board and requested that he be permitted to take the assembly exams in order to meet the basic requirements for initial licensure. Dr. Krishna noted that the physician submitted correspondence to the Board regarding his request which indicated that the USMLE Secretary's Office will permit him to perform the exams at the approval of the Board. Mr. Vest stated that the letter and request is not relevant at this juncture.

Mr. Munns explained to the Board that if the matter is rescinded, a number of formal administrative deficiencies will be submitted to the physician in the form of a deficiency notice letter and that the physician will be given the opportunity to work with staff on remedying the issues identified. Mr. Vest stated that rescinding the case will not restart the application process as the Board had previously considered the application and denied the license based on the physician's disciplinary history.

**MOTION: Dr. Krishna moved to rescind the referral to Formal Hearing and return the matter to the Board staff to issue the physician the deficiency notice and proceed accordingly.**

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

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

**MOTION PASSED.**

## **CALL TO THE PUBLIC**

Shirley Brener addressed the Board during the call to the public regarding a non-agendized matter. Attorney Chris McCarthy also addressed the Board during the call to the public on behalf of Dr. Nooranbakt regarding a non-agendized matter.

## **REVIEW OF DEFICIENCY NOTICE**

### **1. KATHLEEN E. WILLARD, M.D.**

Dr. Willard was present with Attorney Paul Giancola. Dr. Krishna stated that he knows Mr. Giancola and that it would not affect his ability to adjudicate the case. Mr. Giancola explained that this matter stemmed from Dr. Willard inadvertently allowing her license to lapse, and that upon discovering the error two weeks later she reapplied for licensure. Mr. Giancola stated that statute indicates that the SPEX exam may be required for applicants who have practiced for a considerable period of time in another state or jurisdiction and is under investigation by another state licensing board. He stated that Dr. Willard is neither under investigation nor has she been practicing in another jurisdiction, and therefore the requirement is not applicable under the circumstances.

Dr. Willard stated that it has been approximately one year since she inadvertently allowed her license to lapse, and that she has been actively working with Board staff to have her license reinstated. She requested that the Board waive the SPEX exam requirement as she believes her record demonstrates her competency without the need for further testing.

**MOTION: Dr. Krishna moved for the Board to enter into Executive Session to receive legal advice.**

**SECOND: Ms. Bain**

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

**MOTION PASSED.**

The Board entered into Executive Session at 10:27 a.m.

The Board returned to Open Session at 10:34 a.m.

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

Board members determined that the deficiency does exist and noted that pursuant to statute, the Board does not have the discretion to waive the licensing requirement and issue a license in this matter.

**MOTION: Dr. Krishna moved for the Board to confirm that the deficiency does exist.**

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

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

**MOTION PASSED.**

### **2. MARSHALL G. KATZ, M.D.**

Dr. Perry was recused from this matter. Dr. Katz spoke during the call to the public. Dr. Andre Abbate also addressed the Board during the call to the public on behalf of Dr. Katz. Ms. C. Shepherd presented this matter and summarized that Dr. Katz is a licensure by endorsement applicant. She stated that he is not

currently Board certified and that he has not passed a written competency exam within the past ten years and therefore he is not eligible for licensure at this time.

**MOTION: Dr. Krishna moved for the Board to confirm that the deficiency does exist based on statutory and rule construct.**

**SECOND: Ms. Bain**

Dr. Berg requested that Board staff bring this issue before the legislature in a reasonable manner to demonstrate that the licensing requirements may potentially need re-examination.

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, and Dr. Paul. The following Board member was recused from this case: Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

## **FEDERATION OF STATE MEDICAL BOARDS (FSMB) MODEL POLICY FOR THE USE OF OPIOID ANALGESICS IN THE TREATMENT OF CHRONIC PAIN**

Carol Peairs, M.D., Medical Consultant, presented this matter to the Board. She stated that the Board's current guidelines are outdated and provide little practical guidance to physicians. She noted that the Board's guidelines were last updated in 2005, which adopted the then current FSMB policy, but clarified some ambiguities and removed redundancies. Dr. Peairs stated it is her experience that Arizona physicians have a desire and expectation of the Board to provide updated guidance on the issue.

Dr. Krishna questioned whether the Board could reproduce the FSMB's policy. Dr. Peairs pointed out an inconsistency in the FSMB's policy in that one portion refers to a physician taking firm and prompt action in cases where aberrant drug seeking behavior has been identified. She stated that another section of the policy recommends that physicians provide a structured tapering of the opioids if they are electing to continue to prescribe medication to the patient. Dr. Peairs added that the way the FSMB's policy is currently written can be construed by physicians and patients that no matter what the aberrant behavior, there is a mandate to taper the medication. Dr. Peairs suggested that it be an option rather than a requirement.

Dr. Gillard suggested incorporating the work produced by the joint workshop involving the Department of Health Services and the College of Emergency Physicians. Dr. Paul pointed out that the Governor's Office initiated a taskforce to address the same issue. Dr. Peairs stated that she participated in the panel for prescription drug abuse and that it is their desire for licensing boards to set up and make clear what the expectations are for best clinical practice.

## **FORMAL INTERVIEWS**

### **1. MD-13-0025A, YOON M. HONG, M.D., LIC. #41210**

Dr. Hong was present with Attorney William Jones. Daniel Caruso, M.D., Medical Consultant, summarized the case for the Board and stated that a deviation from the standard of care was identified involving the inadvertent stapling and dividing of the aorta and renal artery during a left nephrectomy. Dr. Hong stated that in reflection, he finds it inconceivable that a mistake of this magnitude can be made. He assured the Board that he has taken steps to systemically reduce the risk of a recurrence. Dr. Perry found that this matter rises to the level of a very serious intraoperative complication, though clearly unintended. Dr. Krishna stated that the physician's knowledge and skills were not questionable, but that patient harm was identified in this case.

**MOTION: Dr. Perry 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**

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

**MOTION PASSED.**

**MOTION: Dr. Krishna moved to issue an Advisory Letter for stapling and dividing the right renal artery and aorta during a left nephrectomy. This matter does not rise to the level of discipline.**

**SECOND: Dr. Perry**  
**VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

**2. MD-13-1116A, MICHAEL J. FITZMAURICE, M.D., LIC. #36511**

Board members were informed that Dr. Fitzmaurice agreed to the proposed Consent Agreement in lieu of appearing before the Board for a Formal Interview.

**MOTION: Dr. Khera moved to accept the proposed Consent Agreement for a Letter of Reprimand.**

**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, Dr. Fromm, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

**3. MD-13-0279A, JOSEPH J. FRANZETTI, M.D., LIC. #26738**

Dr. Franzetti was present with Attorney Michael Bradford. Kathleen Coffey, M.D., Medical Consultant, summarized the case for the Board. She stated that Dr. Franzetti was found to have deviated from the standard of care in this case by engaging in sexual conduct with a current or former patient. Dr. Franzetti stated that he is guilty of unethical conduct and that he regrets having been involved with his former patient, LM. Ms. Bain noted multiple misrepresentations on the part of Dr. Franzetti, including his recollection as to how many times he saw the patient in the correctional facility for treatment and statements regarding when the two reconnected outside of the prison. Dr. Franzetti maintained that he did not see LM for at least six months after the last date that he saw her as a patient.

In his closing statements, Mr. Bradford requested that the Board consider issuing the physician a censure order with the requirement to complete 100 psychotherapy hours as well as a boundaries course with the provision that the Board may consider early termination and that the physician be allowed to see patients without a required chaperone. Mr. Bradford stated he believed that this would be an adequate disposition to satisfy the Board's concerns regarding protecting the public. Ms. Bain stated she found that there was a finding of unprofessional conduct in this case and agreed with the allegations sustained according to the SIRC Committee.

**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; and A.R.S. § 32-1401(27)(z) - Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee.**

**SECOND: Dr. Krishna**

Dr. Gillard stated that he was not convinced that there was contact between Dr. Franzetti and LM within the six months following her last treatment date. Ms. Bain noted discrepancies in the statements made by both individuals regarding when they reconnected outside of the correctional facility.

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

**MOTION PASSED.**

**MOTION: Dr. Krishna moved for a draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure with Ten Year Probation. Dr. Franzetti shall have a female licensed healthcare provider to chaperone all visits with female patients during the probationary period. The Probation shall also require that within six months, Dr. Franzetti complete an intensive course of professional sexual misconduct-specific treatment, to be provided at Dr. Franzetti's expense, by a Board approved psychiatric treatment center. Within thirty days, Dr. Franzetti shall enter into a contract with a Board approved monitoring company to provide all monitoring services, at Dr. Franzetti's expense. After five years, Dr. Franzetti may petition the Board to terminate the Probation.**

**SECOND: Ms. Bain**

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.  
**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
**MOTION PASSED.**

**MOTION:** Dr. Khera moved for the Board to enter into Executive Session to receive legal advice.  
**SECOND:** Ms. Bain  
**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
**MOTION PASSED.**

The Board entered into Executive Session at 2:15 p.m.  
The Board returned to Open Session at 2:23 p.m.  
No legal action was taken by the Board during Executive Session.

The Board revisited the issue of unprofessional conduct, and Dr. Krishna proposed modification of the Board's previous motion regarding the finding of unprofessional conduct by removing the violation of A.R.S. § 32-1401(27)(z). Board members clarified that the only statutory violation sustained in this matter is A.R.S. § 32-1401(27)(q).

**MOTION:** Dr. Krishna moved to modify the Board's previous finding of unprofessional conduct by clarifying that there has only been a violation of A.R.S. § 32-1401(27)(q) identified in this matter.  
**SECOND:** Ms. Bain  
**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.  
**VOTE:** 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
**MOTION PASSED.**

#### **NON-TIME SPECIFIC ITEMS (The Board may choose to discuss these items at any time.)**

##### **EXECUTIVE DIRECTOR'S REPORT**

The Board welcomed Mr. Vest to the Agency. Mr. Vest stated that the Agency has an excellent staff, and that he has been impressed with their professionalism, skill and commitment. He stated, however, that the Agency is currently understaffed and that additional appropriation is required for the positions to be filled. Mr. Vest stated that he intends to formulate a comprehensive plan to present to the Department of Administration for supplemental approval as it was not anticipated in the Agency's operating budget for the current fiscal year. Dr. Khera stated that the Board unanimously agrees to hire additional staff needed within the Agency's budget in order for the Agency to operate efficiently.

Mr. Vest informed the Board that new Resource Handbooks were prepared for 2014, and thanked Amanda Schwabe, Public Records/Board Coordinator, for her assistance in creating the books.

- **Licensing Progress**

Mr. Vest provided the Board with an update regarding the progress of the Licensing Department. He stated that the Agency will continue to function with between 650-750 pending applications that are at difference stages of the licensing process. Mr. Vest stated that approximately 500 applications that are currently pending are in deficient status where the applicant has been notified of the deficiencies and are working with staff to remedy the issues identified in the application. Mr. Vest added that the Agency has received input from the Legislature regarding the licensing process, and that in coordination with increasing the staff and the implementation of online initial licensure applications will aide in making physician licensure a timelier process. Mr. Vest stated that the Deputy Director is conducting a national survey of all states to review other statutory licensing requirements, that the Agency will reach out to its stakeholders regarding problem rules and/or statutes in relation to the licensing process, and that it would be helpful for a Board member to participate on a steering committee to help in putting together a legislative package to present for the next Legislative Session.

Mr. Vest requested the Board's approval of two verification services commonly used by applicants, the FCVS offered through the FSMB and VeriDoc. He stated that statute allows the Board to approve the services to streamline that stage of the licensing process. Dr. Krishna spoke in favor of approving the two services, and suggested adding the ECFMG verification service for International Medical Graduate (IMG) applicants.

**MOTION: Dr. Krishna moved to approve the FCVS, VeriDoc, and ECFMG verification services.**

**SECOND: Dr. Khera**

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

**MOTION PASSED.**

- Proposal of Rule Enactment

Mr. Vest explained to the Board that the passing of Senate Bill 1380 will enable the Board to grant a waiver for applicants that cannot obtain primary source verification in such cases where the applicant demonstrates a good faith effort was undertaken in order to obtain primary source verification, but was unsuccessful in doing so. Mr. Vest requested the Board's approval of the proposed rule enactment as the Agency has been granted a rule making exemption in order to implement the act.

**MOTION: Dr. Khera moved to approve the proposed rule enactment.**

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

#### **DEPUTY DIRECTOR'S REPORT**

Patricia E. McSorley, Deputy Director

- Scope of Work

**MOTION: Ms. Bain moved for the Board to enter into Executive Session to discuss or consider records exempt by law from public inspection and to receive legal advice.**

**SECOND: Dr. Khera**

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

**MOTION PASSED.**

The Board entered into Executive Session at 3:46 p.m.

The Board returned to Open Session at 4:01 p.m.

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

**MOTION: Dr. Khera moved to approve the Scope of Work and directed staff to move forward with the licensing look back.**

**SECOND: Dr. Perry**

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

**MOTION PASSED.**

Dr. Khera commended Ms. McSorley and Board staff for their tireless commitment and hard work in relation to this project.

#### **CHAIR'S REPORT**

- Offsite Meeting

Dr. Khera instructed Board members to inform Board staff of their ability in an effort to determine when the Board will hold its annual Offsite Planning Meeting. Board members discussed holding the Offsite after a Regular Session Meeting to accommodate the members traveling from out of town.

#### **LEGAL ADVISOR'S REPORT**

Marc Harris, Assistant Attorney General (AAG), stated that everyday staff is working towards ensuring that every aspect of the Agency is running smoothly and in accordance with statute and rule.

#### **JOINT LEGISLATION AND RULES COMMITTEE UPDATE**

Ms. Bain provided the Board with a brief summary of several key bills that are of interest to the Agency. Specifically, Senate Bill 1380, which involves the main functions of the Agency including licensing procedures; Senate Bill 1381, which appropriates funds of the Agency's own reserved funds to address the licensing look back; Senate Bill 1345, which involves the Arizona Regulatory Board of Physician Assistants and joint coordination between the two Boards; and House Bill 2087 regarding Board member training. In addition, Ms. Bain informed the Board that Article 5 of the rules is due for potential revisions. She added that a position has become available on the Board's Joint Legislation and Rules Committee, and stated that Board members interested in participating on that Committee are to inform the Chair.

### **SPECIAL ELECTION OF BOARD OFFICERS**

Dr. Khera informed the Board that due to new Board member appointments, two of the Executive Member positions became available. He stated that he will continue to serve as Board Chair, and he nominated Drs. Perry and Krishna for the Vice Chair and Secretary positions.

**MOTION: Dr. Khera moved to nominate Dr. Perry for Vice Chair and Dr. Krishna for Secretary.**

**SECOND: Ms. Bain**

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

**MOTION PASSED.**

### **REQUEST FROM RACHEL SCHACHT, M.D. FOR BOARD SUPPORT FOR HER TO TAKE USMLE**

Dr. Schacht and Attorney Dan Cavett addressed the Board during the call to the public. Mr. Vest informed the Board that the testing organization is requiring that Dr. Schacht obtain written authorization from the Board's Executive Director to re-take the USMLE. He requested that the Board grant him the authority to do so in this matter and to issue such letters on behalf of the Board for physicians as this issue presents itself in the future.

**MOTION: Dr. Farmer moved to authorize the Executive Director to write a letter on the physician's behalf to the USMLE so that she may re-take Step I of the USMLE.**

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

**MOTION: Dr. Farmer moved to grant the Executive Director the authority to provide such letters to the USMLE when an applicant's specific circumstance requires such a letter to enable them to become legally qualified for licensing by this Board.**

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

### **APPROVAL OF MINUTES**

Board members discussed the approval of the previous meeting minutes, and noted that a quorum did not exist for the Board to do so due to new Board member appointments. Mr. Harris informed the Board that it may invoke the rule of impossibility in such situations where a gathering of a quorum of Board members is no longer legally possible.

**MOTION: Dr. Krishna moved to invoke the rule of impossibility for the purposes of approving the Board meeting minutes for which it is legally impossible to obtain a quorum. Dr. Krishna also moved to approve the February 5, 2014 Regular Session Meeting, including Executive Session; the February 5, 2014 Special Meeting; the February 5, 2014 Special Meeting, including Executive Session; and the February 26, 2014 Special Teleconference Meeting, including Executive Session.**

**SECOND: Dr. Gillard**

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

**MOTION PASSED.**

### **ADVISORY LETTERS (Non-Disciplinary)**

**MOTION: Dr. Khera moved to issue an Advisory Letter in item numbers 1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 18, 19, 20, 21, 23, 24, 25, and 26.**

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

**1. MD-13-1121A, GREGORY S. ALLEN, M.D., LIC. #36540**

**RESOLUTION: Issue an Advisory Letter for allowing an unlicensed PA to practice in his office for approximately one month. This matter does not rise to the level of discipline.**

**2. MD-13-1064A, PERMINDER D. VAID, M.D., LIC. #28603**

**RESOLUTION: Issue an Advisory Letter admonishing the physician that practicing medicine without a license will result in further Board action. This matter does not rise to the level of discipline.**

3. MD-13-0927A, PAUL T. SUTERA, M.D., LIC. #21975

**RESOLUTION: Issue an Advisory Letter for inadequate supervision of a PA. This matter does not rise to the level of discipline.**

4. MD-13-0916A, LE ROI A. BAEZ, M.D., LIC. #30154

**RESOLUTION: Issue an Advisory Letter for failing to take sufficient time with a patient to address her problem. This matter does not rise to the level of discipline.**

5. MD-13-1012A, CAROL L. HENRICKS, M.D., LIC. #25445

Dr. Henricks spoke during the call to the public. Dr. Jane Orient addressed the Board during the call to public as well on behalf of Dr. Henricks. Complainant SJ also spoke during the call to public.

**RESOLUTION: Issue an Advisory Letter for providing an expensive unproven treatment to a patient with Alzheimer's Disease without adequate informed consent. This matter does not rise to the level of discipline.**

6. MD-13-0688A, CARLOS E. JUSTINIANO, M.D., LIC. #37846

Attorney Steve Myers spoke during the call to the public on behalf of Dr. Justiniano. Dr. Caruso provided the Board with a brief summary of the case. He stated that the Medical Consultant who reviewed the care provided by Dr. Justiniano found that the physician failed to follow appropriate procedures regarding termination of a physician-patient relationship and that his documentation was inadequate. Dr. Gillard pulled this case for discussion and stated that in light of the circumstances surrounding this case, the medical record itself is clear in that it would not affect another provider from assuming care of the patient in the future. Board members found that the decision for the primary care provider to be solely responsible for pain therapy was appropriate care and did not constitute patient abandonment.

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

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

7. MD-13-0593A, ASHFORD S. MCALLISTER, M.D., LIC. #35519

Attorney Heather Neal spoke during the call to the public. Dr. Gillard pulled this matter for Board discussion and noted that the investigation stemmed from a malpractice payment involving the interpretation of radiological imaging of which two radiologists did not identify the patient's subarachnoid bleed. Dr. Gillard felt that this was a difficult case and spoke in favor of dismissal.

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

**SECOND: Dr. Khera**

Dr. Krishna noted that there was patient harm identified in this case and spoke against dismissal.

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

**MOTION PASSED.**

8. MD-13-0454A, RUSSELL W. WALKER, M.D., LIC. #21699

Complainant RL and Mrs. RL spoke during the call to the public. Dr. Walker and Attorney Christina Chait also addressed the Board during the call to the public. Dr. Khera pulled this case for discussion and questioned whether the physician should have monitored the patient's Dilantin level sooner than two weeks after discharge from the hospital. Board members noted that Dilantin levels were monitored and the medication was adjusted accordingly during the patient's hospitalization under the care of Dr. Walker. Dr. Gillard stated that he found the choice of medication was appropriate, and that the levels monitored in the hospital were adequate for this patient's presentation. He spoke in favor of dismissing the case. Board members further noted that subsequent to discharge, the patient was administered the medication by staff at the group home, and was later seen by his primary care physician who noted an elevated Dilantin level and held the medication at that time.

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

**SECOND: Dr. Khera**

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

**MOTION PASSED.**

9. MD-13-0826A, LESLEY A. MENG, M.D., LIC. #35043

**RESOLUTION: Issue an Advisory Letter for permitting prolonged intake of corticosteroids. This matter does not rise to the level of discipline.**

10. MD-13-0698A, JOSEPH V. MISSETT, M.D., LIC. #37879

**RESOLUTION: Issue an Advisory Letter for failure to order proper studies in a patient with leg pain and for failure to adequately supervise a PA. This matter does not rise to the level of discipline.**

11. MD-13-0891A, GHASSAN S. BACHIR, M.D., LIC. #45379

**RESOLUTION: Issue an Advisory Letter for prescribing an antibiotic to which the potential offending organism had been demonstrated to be resistant and for inadequate medical records. This matter does not rise to the level of discipline.**

12. MD-13-0545A, BOBBY A. SHAH, M.D., LIC. #41793

**RESOLUTION: Issue an Advisory Letter for incorrect interpretation of a CT scan. This matter does not rise to the level of discipline.**

13. MD-13-1067A, FRANK J. RAIA, M.D., LIC. #36916

Dr. Raia and Attorney Steve Myers spoke during the call to the public. Dr. Wolf briefly summarized this matter for the Board. He stated that the Board's Staff Investigational Review Committee (SIRC) struggled with this case and considered dismissal. He added, however, that based on the Medical Consultant's finding of inadequate documentation, the issuance of an Advisory Letter was recommended. Dr. Krishna found that the treatment provided was appropriate and spoke in favor of dismissing the case.

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

**SECOND: Dr. Gillard**

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

**MOTION PASSED.**

14. MD-13-0668A, THOMAS S. KANG, M.D., LIC. #33713

Dr. Farmer was recused from this case.

**RESOLUTION: Issue an Advisory Letter for discharging a post thyroidectomy patient on the first postoperative day with a very low calcium level. This matter does not rise to the level of discipline.**

15. MD-13-0482A, JEREMY S. CURRY, M.D., LIC. #32246

Drs. Paul and Krishna were recused from this case. Attorney Jim Goodwin spoke during the call to the public on behalf of Dr. Curry. Dr. Coffey summarized this case for the Board. She stated that Dr. Curry's care of a total of five patients were reviewed by a Medical Consultant who determined that Dr. Curry deviated from the standard of care in each case by using single dose vial steroid injection medications in multiple patients on the same day, resulting in patient harm. Dr. Farmer stated that when deviating from guidelines that recommend avoiding the use of single dose vials on multiple patients is to have thought out reasons for doing so, such as a shortage of medications, and to have established sterile procedures. Dr. Farmer expressed concern that there was no shortage of medications involved in the circumstances surrounding this case and that there was a lack of control or accountability in how it was handled by the physician.

Dr. Coffey informed the Board that Dr. Curry did not comment in response to the investigation whether he planned to change his way of practice. Dr. Gillard questioned the technique used in the patient cases that caused the injections to become contaminated with MRSA. Dr. Khera suggested inviting the physician for a Formal Interview, and referring the matter to Formal Hearing if the physician declined the invitation to appear before the Board. Board members discussed concerns regarding the physician's continuation of using single dose vials in multiple patients and questioned the Board's authority in requesting that this type of practice be discontinued until such time that the Board's concerns are satisfied.

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

**SECOND: Dr. Farmer**

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

**MOTION PASSED.**

The Board entered into Executive Session at 12:27 p.m.  
The Board returned to Open Session at 12:36 p.m.  
No legal action was taken by the Board during Executive Session.

**MOTION:** Dr. Khera moved to return the case for further investigation and direct staff to determine whether the physician is safe to practice, including but not limited to, as it relates to the use of single dose vial medications in multiple patients.

**SECOND:** Ms. Brister

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

**MOTION PASSED.**

**MOTION:** Dr. Khera moved to invite the physician for a Formal Interview. If he declines, the matter shall be referred to Formal Hearing.

**SECOND:** Dr. Perry

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

**MOTION PASSED.**

**MOTION:** Dr. Berg moved to direct staff to offer the physician an interim consent agreement for voluntary discontinuation of the use of single patient vials for multiple patients. If the physician declines, staff shall notify the Board Chair.

**SECOND:** Dr. Khera

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

**MOTION PASSED.**

**MOTION:** Dr. Perry moved to refer the utilization of single vial epidural injection medications to the Pharmacy Board for review.

**SECOND:** Dr. Khera

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

**MOTION PASSED.**

16. MD-13-1169A, AASIM KAMAL, M.D., LIC. #30886

**RESOLUTION:** Issue an Advisory Letter for failing to adjust the methodology of lens calculations when performing cataract surgery in a patient with prior Lasik procedures. This matter does not rise to the level of discipline.

17. MD-13-0732A, KRISTINA A. BUTLER, M.D., LIC. #41953

Complainant SJ spoke during the call to the public. Dr. Butler also addressed the Board during the call to the public. Dr. Berg pulled this case for Board discussion and questioned the articulated deviation from the standard of care in this case as it relates to the medication chosen to treat the patient's headache. He found that Dr. Butler offered compelling reasons for her care in this case in her responses to the Board and during her call to the public statement. Dr. Berg further noted that nursing documentation confirmed that the patient and family indicated the use of the same combination of medications to treat severe headaches. Dr. Berg found that Dr. Butler met the standard of care in this case and spoke in favor of dismissal.

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

**SECOND:** Dr. Krishna

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

**MOTION PASSED.**

18. MD-13-0847A, ROSELYNE VUTIEN, M.D., LIC. #40498

**RESOLUTION:** Issue an Advisory Letter for failing to adequately work up or evaluate the patient's acute mental status change and for failing to diagnose the etiology of the mental status change.

19. MD-13-0527A, ALAN M. LESSELROTH, M.D., LIC. #26233

**RESOLUTION:** Issue an Advisory Letter for failing to correctly interpret a screening mammogram. This matter does not rise to the level of discipline.

20. MD-13-0461A, HAL B. WILSON, M.D., LIC. #22876

**RESOLUTION: Issue an Advisory Letter for inadequate documentation. This matter does not rise to the level of discipline.**

21. MD-13-1171A, DARYL R. PFISTER, M.D., LIC. #24384

**RESOLUTION: Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.**

22. MD-13-1284A, PARAG R. PATEL, M.D., LIC. #37468

Dr. Khera pulled this case for discussion and observed that this physician failed to perform an adequate physical exam of the patient on multiple occasions as well as documentation discrepancies in the medical record. Dr. Khera suggested that the physician complete CME. Board members discussed what type of CME course would be appropriate to satisfy the Board's concerns regarding the issue of physical exams.

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

**SECOND: Dr. Khera**

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

**MOTION PASSED.**

**MOTION: Dr. Krishna moved to issue an Order for Non-Disciplinary CME for inappropriate patient examination and communication. Within six months, the physician shall complete 10 hours of Board staff pre-approved Category I CME in accepted preventive care gynecological guidelines, within six months. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Dr. Khera**

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

**MOTION PASSED.**

23. MD-13-1297A, KURT A. KRUPNICK, M.D., LIC. #42104

**RESOLUTION: Issue an Advisory Letter for delay in ordering hip and femur x-rays. This matter does not rise to the level of discipline.**

24. MD-13-0186A, MOHAMED AHMED, M.D., LIC. #35805

Attorney Cynthia Patane spoke during the call to the public on behalf of Dr. Ahmed.

**RESOLUTION: Issue an Advisory Letter for self-prescribing controlled substances and for concerns regarding performance of interventional procedures. While there is insufficient evidence to support discipline, continuation of the activities that led to the investigation may result in further Board action.**

25. MD-13-1364A, JULIE A. SCHOURUP, M.D., LIC. #41501

**RESOLUTION: Issue an Advisory Letter for attesting to conducting CSPMP queries for marijuana certification when in fact she did not. The licensee has demonstrated substantial compliance through remediation that mitigates the need for discipline.**

26. MD-13-1095A, AJAY K. MATHUR, M.D., LIC. #36299

Attorney Jim Goodwin spoke during the call to the public on behalf of Dr. Mathur.

**RESOLUTION: Issue an Advisory Letter for inadequate documentation. This matter does not rise to the level of discipline.**

## **NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION (CME) ORDER**

1. MD-13-0854A, MICHAEL WADE, M.D., LIC. #15797

**MOTION: Dr. Gillard moved to issue an Order for Non-Disciplinary CME for inadequate medical records. Within six months, the physician shall complete 10-15 hours of Board staff pre-approved Category I CME in medical recordkeeping specifically including electronic medical records. The CME hours shall be in addition to the hours required for license renewal.**

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

## **ADVISORY LETTER WITH NON-DISCIPLINARY CME ORDER**

1. MD-13-0852A, HARSIMRAN SINGH, M.D., LIC. #33819

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

**SECOND:** Dr. Farmer

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

**MOTION PASSED.**

**MOTION:** Dr. Krishna moved to issue an Order for Non-Disciplinary CME for failing to obtain written consent for pain management and for failing to document requirements of compliance and the consequences of non-compliance. Within six months, the physician shall complete 15-20 hours of Board staff pre-approved Category I CME in an in-person, intensive opioid prescribing course. The CME hours shall be in addition to the hours required for license renewal.

**SECOND:** Dr. Farmer

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

**MOTION PASSED.**

## **REVIEW OF EXECUTIVE DIRECTOR DISMISSALS**

**MOTION:** Dr. Khera moved to uphold the dismissal in item numbers 1, 2, 3, 4, 5, 6, and 8.

**SECOND:** Dr. Farmer

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

**MOTION PASSED.**

1. MD-13-0561A, ERIC J. CHURCH, M.D., LIC. #28649

RK spoke during the call to the public.

**RESOLUTION: Uphold the dismissal.**

2. MD-13-1107A, GLENDA M. WEISMAN, M.D., LIC. #36289

AB spoke during the call to the public.

**RESOLUTION: Uphold the dismissal.**

3. MD-13-0884A, CAMERON G. JAVID, M.D., LIC. #27248

Attorney Cynthia Patane addressed the Board during the call to public on behalf of Dr. Javid. Patient VM also spoke during the call to the public.

**RESOLUTION: Uphold the dismissal.**

4. MD-13-1269A, ROBERT B. OGESEN, M.D., LIC. #20679

**RESOLUTION: Uphold the dismissal.**

5. MD-13-0905A, ALYSSA B. CHAPITAL, M.D., LIC. #35390

**RESOLUTION: Uphold the dismissal.**

6. MD-13-0906A, HOWARD K. CHEN, M.D., LIC. #35744

Complainant LP spoke during the call to the public. Attorney Steven Perlmutter addressed the Board during the call to the public on behalf of Dr. Chen.

**RESOLUTION: Uphold the dismissal.**

7. MD-13-1263A, STEVEN E. WEISMAN, M.D., LIC. #27717

Complainant MA spoke during the call to the public.

Dr. Berg pulled this case for discussion. Kathleen Coffer, M.D., Medical Consultant, summarized for the Board that the Medical Consultant who reviewed this matter determined that Dr. Weisman met the standard of care in his treatment of MA. Dr. Berg questioned whether a two-week delay in following up on an x-ray for possible bowel obstruction is appropriate. Board members discussed that there may have

been confusion on the patient's part regarding the diagnosis, noting that postoperative ileus and bowel obstruction are two different conditions. Dr. Gillard stated that he did not find fault with the physician's care in this case and spoke in favor of upholding the dismissal.

**MOTION: Dr. Gillard moved to uphold the dismissal.**

**SECOND: Dr. Perry**

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

**MOTION PASSED.**

8. MD-13-1218A, JOHN H. KWON, M.D., LIC. #28252

AR spoke during the call to the public.

**RESOLUTION: Uphold the dismissal.**

## **OTHER BUSINESS**

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

**MOTION: Dr. Krishna moved to accept the proposed Consent Agreements in item numbers 1, 2, and 3.**

**SECOND: Ms. Bain**

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

1. MD-13-1123A, MARK I. FELDMAN, M.D., LIC. #5756

Dr. Gillard stated that he knows Dr. Feldman and that it would not affect his ability to adjudicate the case.

**RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Probation. Within six months, complete 15-20 hours of Board staff pre-approved Category I CME in an intensive, in-person course for opiate prescribing. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon successful completion of the CME.**

2. MD-13-0804A, JASON R. JENSEN, M.D., LIC. #43504

**RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Five Year Probation to participate in PHP. Dr. Jensen's PHP participation shall be retroactive to December 6, 2013.**

3. MD-13-0789A, MATTHEW R. SAMPSON, M.D., LIC. #41760

**RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand.**

### **PROPOSED INTERIM CONSENT AGREEMENT**

4. MD-13-1134A, PETER TSAI, M.D., LIC. #45470

**MOTION: Dr. Krishna moved to accept the proposed Interim Consent Agreement for Practice Restriction. Dr. Tsai shall not practice clinical medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications, until applying to the Board and receiving permission to do so. Dr. Tsai shall submit quarterly updates to the Board regarding the pending Ohio criminal action.**

**SECOND: Dr. Khera**

Board members discussed Dr. Tsai's request for modification of the Interim Practice Restriction. Mr. Harris advised the Board to vote on whether to accept the Interim Consent Agreement before considering the physician's request for modification.

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

The Board considered Dr. Tsai's request to modify the Practice Restriction to allow him to self-prescribe.

**MOTION: Dr. Krishna moved to deny Dr. Tsai's request to modify the Interim Order.**

**SECOND: Dr. Fromm**

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

## **REQUESTS FOR TERMINATION OF BOARD ORDER**

5. MD-11-0676A, RICHARD W. MORRISON, M.D., LIC. #12947

Dr. Perry was recused from this case. Attorney Frank Verderame addressed the Board during the call to the public.

**MOTION: Dr. Khera moved to enter into Executive Session to discuss records exempt by law from public inspection and to obtain legal advice.**

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

The Board entered into Executive Session at 10:57 a.m.

The Board returned to Open Session at 11:12 a.m.

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

**MOTION: Dr. Farmer moved to deny the request for Board Order termination and directed the Executive Director to proceed as discussed during Executive Session.**

**SECOND: Ms. Bain**

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, and Dr. Paul. The following Board member was recused from this case: Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

6. MD-11-1724A, CHRISTOPHER A. SULLIVAN, M.D., LIC. #45765

Dr. Berg was recused from this case.

**MOTION: Dr. Gillard moved to grant the request for Board Order termination.**

**SECOND: Dr. Krishna**

Kathleen Muller, Physician Health Program, provided the Board with a brief summary of this matter. She informed the Board that while Dr. Sullivan has not completed five years in the Arizona PHP, the number of years he has participated in Arizona combined with the number of years participating in the New Jersey PHP totaled five years of monitoring. She stated that, therefore, the physician is seeking termination of his PHP Order.

**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, Dr. Fromm, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board member was recused from this case: Dr. Berg. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

## **APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

7. MD-12-1050A, KULBHUSHAN K. SHARMA, M.D., LIC. #22286

Dr. Khera recused from this case. Dr. Sharma spoke during the call to the public.

**MOTION: Dr. Krishna moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Five Year Probation. The Probation shall include that Dr. Sharma limit his breast cosmetic surgery procedures to simple primary augmentations without any**

compounding conditions. Within thirty days, Dr. Sharma shall enter into a contract with a Board approved monitoring company to provide all monitoring services and chart reviews, at the physician's expense.

**SECOND: Ms. Bain**

**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, Dr. Gillard, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board member was recused from the case: Dr. Khera. The following Board members were absent: Mr. Gerding and Ms. Salter.

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

**MOTION PASSED.**

## **REVIEW, DISCUSSION AND POSSIBLE ACTION ON LICENSE APPLICATION, INCLUDING, BUT NOT LIMITED TO, THE ISSUANCE OF AN ADVISORY LETTER**

### **8. MD-14-0302A, JANET L. OTTO, M.D., PREVIOUS LIC. #46598**

Dr. Gillard questioned whether the Board has historically issued letters of concern to physicians for practicing medicine with an expired license, and whether the Board was obligated to issue an Advisory Letter in this matter. Dr. Khera stated that the Board has issued Advisory Letters for such violations in the past, and that physicians receive several notices to renew their license prior to expiration. Dr. Krishna spoke in favor of issuing an Advisory Letter and stated that by doing so, the Board can track the occurrence.

**MOTION:** Dr. Krishna moved to grant the license and issue an Advisory Letter admonishing the physician that practicing medicine without a license will result in further Board action.

**SECOND: Dr. Khera**

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

**MOTION PASSED.**

## **REVIEW, DISCUSSION AND POSSIBLE ACTION SEEKING AN INJUNCTION FOR PRACTICING MEDICINE WITHOUT A LICENSE**

### **9. MD-14-0205A, YVETTE ST. THOMAS**

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

**SECOND: Dr. Krishna**

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

**MOTION PASSED.**

The Board entered into Executive Session at 2:57 p.m.

The Board returned to Open Session at 3:03 p.m.

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

Tony Cimino, Investigator, provided the Board with a brief summary of this matter. He stated that after the Attorney General's Office was contacted by a local media outlet regarding the alleged illegal practice of medicine by a non-licensed individual, the Board was notified and assisted in researching the matter further. Mr. Cimino stated that after discovering Ms. St. Thomas' legal name of Eunice Bundrage, he was able to determine that she was previously a non-certified nurse's assistant in the State of California. Mr. Vest praised Mr. Cimino for his thorough research and investigation into this matter, and noted the collaborative efforts of Mr. Harris and Ms. A. Shepherd. Mr. Harris further summarized that it was discovered through video and numerous articles that Ms. St. Thomas was holding herself out to be a licensed Medical Doctor in Arizona. Mr. Harris explained that statute allows the Board to seek injunctive relief against individuals who are holding themselves out as licensed professionals when they do not hold an active license by this Board.

**MOTION:** Dr. Krishna moved to authorize the State to seek injunctive relief.

**SECOND: Ms. Bain**

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

**MOTION PASSED.**

## **APPROVE, DENY OR TAKE OTHER ACTION REGARDING LICENSE APPLICATION**

### **10. MD-13-0642A, JAYA K. CHADALAVADA, M.D., LIC. #N/A**

Dr. Chadalavada spoke during the call to the public. Board members were informed that Dr. Chadalavada withdrew his application for licensure. Therefore, the Board took no action on this matter.

11. MD-14-0023A, CYNTHIA M. RIPSIN, M.D., LIC. #N/A

Dr. Ripsin spoke during the call to the public.

**MOTION: Dr. Gillard moved to grant the license.**

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

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

**MOTION PASSED.**

12. MD-14-0431A, CLIFFORD H. LYONS, M.D., LIC. #N/A

Mr. Harris stated that this matter was brought before the Board pursuant to statute, for the Board to determine whether the applicant's affirmative answers on the application have been satisfactorily resolved. Board members noted that Dr. Lyons currently holds an active Pennsylvania medical license.

**MOTION: Dr. Krishna moved to grant the license.**

**SECOND: Dr. Gillard**

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

13. MD-14-0427A, JEFF D. HARDIN, M.D., LIC. #N/A

Mr. Harris presented this matter to the Board and stated that, similar to the previous case, the Board is to determine whether the applicant's affirmative application answers have been resolved to the Board's satisfaction. Board members considered the pending malpractice case disclosed on the application. Dr. Gillard stated he found that the case involved a patient that presented with unusual symptoms and that it was not until the next day that the patient was diagnosed with a CVA by MRI. Dr. Gillard stated that this was not a straight forward presentation and that if the matter were further reviewed by the Board, it would not be deemed to rise to the level of discipline. Dr. Gillard spoke in favor of granting the license.

**MOTION: Dr. Gillard moved to grant the license.**

**SECOND: Dr. Fromm**

Dr. Krishna questioned whether Board staff was concerned with Dr. Hardin's previous monitoring program participation. Elle Steger, Investigator, informed the Board that the participation occurred over five years previously, and that it did not present a concern.

**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, Dr. Gillard, Dr. Khera, Dr. Krishna, Dr. Paul, and Dr. Perry. The following Board member was abstained from the vote: Ms. Bain. The following Board members were absent: Mr. Gerding and Ms. Salter.**

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

**MOTION PASSED.**

The meeting adjourned at 4:20 p.m.



*C. Lloyd Vest, II*

C. Lloyd Vest, II, Executive Director