



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR REGULAR SESSION MEETING Held on Wednesday, August 10, 2011 9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Douglas D. Lee, M.D., Chair

Amy J. Schneider, M.D., F.A.C.O.G., Secretary

Andrea E. Ibáñez

Jody L. Jenkins, M.D.

Gordi S. Khera, M.D.

Ram R. Krishna, M.D.

Germaine Proulx

William J. Thrift, M.D.

CALL TO ORDER

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

ROLL CALL

The following Board members were present: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

CALL TO THE PUBLIC

Individuals who addressed the Board during the Call to the Public appear beneath the case referenced.

EXECUTIVE DIRECTOR'S REPORT

Ms. Wynn informed the Board that she will be working with the Federation of State Medical Boards to look at consumer action indexes involving the performance measures utilized by different state regulatory boards. Ms. Wynn reported that Board staff recently underwent investigative website training. She thanked James Gentile, Chief Information Officer, and the Information Technology Team for coordinating the training. Ms. Wynn introduced Paul Parker and Dr. Sosnowski as the Agency's new Investigator and Internal Medical Consultant. Ms. Wynn stated that they both are outstanding additions to the Board's team. Ms. Wynn extended Board staff's gratitude for the excellent work Dr. Petelin has done for the Board over the years, as well as Ms. Griffen. Ms. Wynn stated she is eager to hear from the Governor's Office regarding new Board member appointments. Ms. Wynn commented that if four new Board member appointments have been made by October 2011, the Board will have the opportunity for additional training and information sharing. She informed the Board that staff is in the preliminary planning stages for the Offsite Meeting and she questioned whether the Board preferred to hold the Offsite Meeting in October on the second day of the regular session meeting, or in Tucson as the Board has done in the past.

CHAIR'S REPORT

Dr. Lee reiterated Ms. Wynn's comments regarding the Offsite Meeting, and instructed Board members to notify Ms. Wynn of any additional discussion items that need to be agendaized for the meeting. Dr. Lee thanked Jennifer Boucek, Assistant Attorney General, for her presentation at the 2010 Offsite Meeting and he stated that it was very educational for Board members as well as members of the public. Board members spoke in favor of scheduling the Offsite Meeting for October 6, 2011.

LEGAL ADVISOR'S REPORT

Ms. Boucek stated that Camila Alarcon, Assistant Attorney General, and Anne Froedge, Assistant Attorney General have been doing an incredible job with Formal Hearing cases. Ms. Boucek stated that there have been a number of difficult cases at Formal Hearing in the past few weeks and that Ms. Alarcon and Ms. Froedge have been doing an excellent job.

APPROVAL OF 2012 MEETING DATES

Dr. Lee noted that the meetings have been scheduled for the first Wednesday for the scheduled months.

MOTION: Ms. Ibáñez moved to approve the 2012 Meeting Dates.

SECONDED: Dr. Thrift

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

MOTION PASSED.

APPROVAL OF FY 2010-2011 ANNUAL REPORT

Dr. Lee complimented Ms. Wynn regarding the appearance of the Annual Report. Ms. Wynn stated that the reports have typically been narrative, but that she found the same information that is required could be included without having as much wording in the report. Ms. Wynn stated that the Agency worked with Lisa McGrane in preparing the report and stated that if the Board is comfortable with the new model report, the Agency will move forward with it. Dr. Lee commended Board staff for the report, and he stated that it was put together very well and easy to read.

MOTION: Dr. Lee moved to approve the FY 2010-2011 Annual Report.

SECONDED: Dr. Krishna

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

MOTION PASSED.

APPROVAL OF FY 2011-2013 STRATEGIC PLAN

Dr. Thrift questioned whether the Strategic Plan encompassed the few concerns raised in the audit. Ms. Wynn stated that a lot of the measurements regarded timeliness, which was reviewed during the audit.

MOTION: Ms. Ibáñez moved to approve the FY 2011-2013 Strategic Plan.

SECONDED: Dr. Thrift

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

MOTION PASSED.

FY 2012 BUDGET

Dr. Lee noted that the budget did not include a particular dollar amount pertaining to capital equipment. Ms. Wynn stated that the Agency made a few expenditures in the past fiscal year, but that the Agency is allocated a lump sum appropriation in which funds can be moved. She stated that the budget is currently well positioned with a reasonable projection of what is expected for fiscal year 2012.

CONSIDERATION OF ASTS AS AN APPROVED ACCREDITING BODY

Dr. Lee stated that Board staff did an excellent job coordinating this matter. Dr. Lee recalled that the Board had a presentation regarding ASTS at its previous meeting in June and that the matter is currently agendaized for the Board's consideration to approve ASTS as an approved accrediting body. Ms. Boucek stated that she researched other states that had been mentioned by the presenters during the June Board Meeting. She found that those other states had very different framework and regulations. For example, Ms. Boucek stated that in New York, the Board of Regents approves accrediting bodies for medical licensure. The members of the Board of Regents are in a better position to decide whether to approve an accreditation program or not. Dr. Lee pointed out that foreign medical graduate applicants have the ability to obtain licensure in Arizona by completing three years of postgraduate training. Suzann Grabe, Licensing Manager, clarified that foreign medical graduate applicants can obtain a teaching license and apply for a full medical license after three years. Dr. Krishna informed the Board that this matter had been discussed at a meeting of the FSMB, and the Federation is supportive of States relying exclusively on ACGME accreditation. Dr. Thrift questioned whether a foreign medical graduate had the ability to complete two years of postgraduate training, apply for a teaching license for a year, and then qualify for full licensure. Ms. Grabe stated that the two cannot be combined; that either three years of postgraduate training is obtained, or three years of teaching at an approved facility. Board members spoke against approving the program. Dr. Thrift stated that the Board is not an accrediting body.

MOTION: Dr. Lee moved to continue to recognize ACGME and the Royal College of Physicians of Canada as the exclusive accrediting bodies.

SECONDED: Dr. Krishna

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

MOTION PASSED.

Dr. Lee thanked Board staff for their work in this matter, and commended Dr. Krishna stating that he was instrumental in serving as a liaison for the Board to the FSMB.

APPROVAL OF MINUTES

MOTION: Dr. Krishna moved to approve the June 8, 2011 Regular Session Meeting, including Executive Session.

SECONDED: Dr. Khera

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

MOTION PASSED.

ADVISORY LETTERS**MOTION: Dr. Schneider moved to issue an Advisory Letter in item numbers 1-7, 10, 11, 13-16, 18, 21-24, 26, and 29.****SECONDED: Dr. Krishna****VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.****MOTION PASSED.**

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-10-1361A	JODY A. COMSTOCK, M.D.	19464	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.
2.	MD-11-0047A	MARK J. GENTILE, M.D.	12913	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.
3.	MD-10-1381A	SHASHI J. GOEL, M.D.	24977	Issue an Advisory Letter for failing to review the patient's prior medical records, for failing to act upon numerous red flags for narcotics misuse/abuse, and for inappropriate prescribing of Oxycontin in short intervals. The physician has demonstrated substantial compliance through remediation or rehabilitation that mitigates the need for discipline.
4.	MD-11-0088A	CHIOMA N. IWEHA, M.D.	26965	Issue an Advisory Letter for inadequate documentation. This matter does not rise to the level of discipline.
5.	MD-11-0223A	WANDA D. JUARROS, M.D.	26518	Issue an Advisory Letter for failure to inform a patient in the dismissal letter that the licensee would provide medical care for a limited period while the patient obtains a new provider. This matter does not rise to the level of discipline.
6.	MD-11-0477A	SEAN D. BEATY, M.D.	34118	Issue an Advisory Letter for action taken by the State of Nevada. This matter does not rise to the level of discipline.

Dr. Jenkins stated that she knows the outside medical consultant who reviewed this matter, but that it would not affect her ability to adjudicate the case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-11-0235A	DEREK LANDAN, M.D.	28634	Issue an Advisory Letter for failure to notify a patient of a pathology result in a timely manner. This matter does not rise to the level of discipline.
8.	MD-11-0414A	STEPHANIE A. REDDICK, M.D.	32199	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.

Dr. Reddick and attorney Sandra Rogers spoke during the call to the public. Dr. Jenkins questioned whether the opacity in the right lung should have been reported on the image report. Dr. Lee noted that Dr. Reddick's expert witness had commented that a non-specialist or inexperienced radiologist may be tempted to report the patient's tiny nodules, but that in the absence of a history of pre-existent tumor the standard does not require that they be mentioned. Dr. Lee observed that Dr. Reddick's examination of the patient documented a history of a pulmonary nodule, though she charted on the CT scan report that the lungs were clear. Dr. Lee spoke in favor of the issuing an Advisory Letter for tracking purposes. Dr. Krishna agreed with Dr. Lee's comments and spoke in favor of issuing an Advisory Letter.

MOTION: Dr. Jenkins moved to issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.**SECONDED: Dr. Krishna****VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.****MOTION PASSED.**

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
9.	MD-10-1074A	RANDAL L. TROYER, M.D.	31396	Issue an Advisory Letter for failure to notify the Board that a PA under his supervision was terminated for substance abuse. This matter does not rise to the level of discipline.

Attorney John Shufeldt and Dr. Troyer spoke during the call to the public. Dr. Thrift found that Dr. Troyer appropriately removed the PA from practicing by terminating the supervisory relationship and by timely consulting with the DEA. Dr. Thrift questioned whether this matter rises to the level of Board action. Elle Steger, Investigator, summarized that Dr. Troyer failed to notify the Board in writing of any evidence that a doctor or PA is or may be medically incompetent, pursuant to A.R.S. §32-1401(27)(oo). Ms. Steger stated that due to the egregiousness of the PA's conduct, the information should have been reported to the Board at the time Dr. Troyer submitted the termination letter. Ms. Steger explained that it is generally accepted that as soon as unprofessional conduct is suspected, it should be reported to the Board. She stated that statute does not provide a time frame for the reporting. Pat McSorley, Investigations Manager, informed the Board that Dr. Troyer submitted the termination letter to the Board, but did not provide a reason for the termination or that substance abuse was involved and that, therefore, the Board was denied the opportunity to investigate the substance abuse immediately. Dr. Jenkins observed that Dr. Troyer had indicated that the DEA informed him that a liaison would be reporting the matter to the Board. She noted that Dr. Troyer ultimately contacted the Board and sent a letter regarding the PA's substance abuse issues. Ms. McSorley stated that there is no evidence to support Dr. Troyer's claim that the DEA told him not to inform the Board that he was terminating the PA due to possible substance abuse issues. Dr. Thrift reiterated his belief that Dr. Troyer tried to work within a system of which he is unfamiliar, and tried to do the right thing to ensure the safety of the public. Dr. Thrift spoke in favor of dismissal.

MOTION: Dr. Thrift moved for dismissal.

SECONDED: Dr. Jenkins

Dr. Krishna spoke against the motion and stated he believed that the PA could have potentially harmed herself or the public had the Board not become aware of the issue. Dr. Schneider agreed and spoke against dismissing the case.

VOTE: 3-yay, 4-nay, 0-abstain, 0-recuse, 1-absent.

MOTION FAILED.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failure to notify the Board that a PA under his supervision was terminated for substance abuse. This matter does not rise to the level of discipline.

SECONDED: Dr. Schneider

VOTE: 4-yay, 3-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
10.	MD-10-1295A	JOHN L. PO, M.D.	37948	Issue an Advisory Letter for inappropriate treatment of blood culture positive MSSA and for failure to refer the patient to a cardiovascular surgeon in a timely fashion. This matter does not rise to the level of discipline.
11.	MD-10-1295B	AMIT SRIVASTAVA, M.D.	40247	Issue an Advisory Letter for failure to refer a patient with endocarditis to a cardiovascular surgeon in a timely manner. This matter does not rise to the level of discipline.
12.	MD-10-1295C	JONATHAN Z. CARTSONIS, M.D.	24232	Dismiss.

Dr. Cartsonis spoke during the call to the public. Dr. Thrift stated that in reviewing the case, it seemed that diagnostic procedures were attempted in order to identify the problem, but the patient was difficult in complying with recommendations to do further diagnostics. Dr. Thrift stated that this case involved a difficult patient, and that he believed Dr. Cartsonis did the best he could in respecting the patient's wishes. Dr. Thrift spoke in favor of dismissal.

MOTION: Dr. Thrift moved for dismissal.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
13.	MD-10-1402A	EDWARD H. KOWALESKI, M.D.	16098	Issue an Advisory Letter for failing to address ER labs that showed acute renal failure, and for failing to timely dictate the patient's hospital discharge summary. This matter does not rise to the level of discipline.
14.	MD-10-1431A	HIGINIO ZUNIGA, M.D.	8597	Issue an Advisory Letter for action taken by the State of Texas. This matter does not rise to the level of discipline.
15.	MD-11-0375A	JOHN M. ARIAS, M.D.	34782	Issue an Advisory Letter for action taken by the State of Colorado. This matter does not rise to the level of discipline.
16.	MD-11-0170A	CHRISTOPHER T. LEWIS, M.D.	40784	Issue an Advisory Letter for failing to either convert to an open cholecystectomy or perform an intraoperative cholangiogram when dense adhesions and inflammatory changes were identified. This matter does not rise to the level of discipline.
17.	MD-11-0230A	THOMAS H. LYON, M.D.	31043	Issue an Advisory Letter for failure to obtain an EKG. This matter does not rise to the level of discipline.

Complainant CG spoke during the call to the public. Dr. Krishna questioned whether an EKG was obtained. Jennifer Sosnowski, M.D., Medical Consultant, informed the Board that there was no EKG done. Dr. Thrift stated that he struggled with this case. He noted that this was a noncompliant and difficult patient. Dr. Thrift stated that Dr. Lyon had multiple opportunities to obtain an EKG, and should learn from his mistake. Dr. Thrift spoke in favor of issuing an Advisory Letter for tracking purposes.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failure to obtain an EKG. This matter does not rise to the level of discipline.

SECONDED: Dr. Thrift

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
18.	MD-10-1372A	MICHAEL J. FERMO, M.D.	28317	Issue an Advisory Letter for failure to retain medical records as required by statute. This matter does not rise to the level of discipline.

Complainant JW spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
19.	MD-11-0299A	DAVID C. JOHNSON, M.D.	14158	Issue an Advisory Letter for selection of inappropriate operative procedure.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				This matter does not rise to the level of discipline.

Complainant CW spoke during the call to the public. Dr. Krishna observed that the patient presented for a simple procedure, but suffered complications and ultimately expired. Dr. Wolf stated that the medical consultant indicated that the transoral procedure was unnecessary and the primary concern of the medical consultant was that Dr. Johnson scheduled the transoral procedure while simultaneously scheduling a laparoscopic procedure. Dr. Krishna questioned whether the complication was an acceptable complication in the medical community. Dr. Wolf stated that it is unclear if there was a technical reason for the complication, but that it cannot be considered a deviation from the standard of care as it was handled in a timely manner. Dr. Jenkins stated that a transoral procedure alone is appropriate in cases involving a hiatal hernia that measures less than 2cm in size. Dr. Jenkins also stated that she struggled with this case in that the patient suffered the complication of hepatic congestion that resulted in her demise.

MOTION: Dr. Krishna moved to issue an Advisory Letter for selection of inappropriate operative procedure. This matter does not rise to the level of discipline.

SECONDED: Dr. Jenkins

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
20.	MD-11-0005A	AMARDEEP S. MAJHAIL, M.D.	25498	Dismiss.

Attorney Steve Myers and Dr. Majhail spoke during the call to the public. Dr. Lee observed that Dr. Majhail and his attorney raised concern during the call to the public that Dr. Majhail had not been notified of the medical recordkeeping violation. Dr. Lee pointed out that the SIRC report contained both the quality of care violation as well as the medical records violation. Dr. Lee stated that he believed that an Advisory Letter is appropriate in this case.

MOTION: Dr. Lee moved to issue an Advisory Letter for failing to evaluate for adenopathy, for performing an incomplete evaluation of dyspnea and chest pain in the setting of unilateral lower extremity edema, and for inadequate medical records. This matter does not rise to the level of discipline.

SECONDED: Dr. Krishna

Ms. Boucek informed the Board that the SIRC report is considered the notification of statutory violations for due process purposes. Dr. Khara spoke against the motion and stated that he believed that the medical consultant's review of the case was poor. Dr. Khara stated he found that Dr. Majhail met the standard of care in this case and ordered appropriate testing for the patient. Dr. Jenkins also spoke against the motion and commented that radiologists do not comment on lymph nodes that measure less than 2cm. Dr. Jenkins noted that this patient's lymph node measured 1.3cm.

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

MOTION FAILED.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Jenkins

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
21.	MD-11-0122B	JACOB J. MUSALLAM, M.D.	9205	Issue an Advisory Letter for the performance of a technically suboptimal barium enema. The violation was a one-time occurrence that does not rise to the level of discipline.
22.	MD-10-1543A	SOPHIA SKINNER, M.D.	32668	Issue an Advisory Letter for failure to obtain a head CT scan on an emergent basis for a patient with severe headaches. This matter does not rise to the level of discipline.

Attorney Ed Gaines spoke during the call to the public on behalf of Dr. Skinner.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
23.	MD-10-1521A	DANIEL R. WRIGHT, M.D.	23507	Issue an Advisory Letter for failing to communicate a significant CT scan report change/addendum to the ordering provider. This matter does not rise to the level of discipline.
24.	MD-10-1521B	ALBERT S. CHARNEY, M.D.	21298	Issue an Advisory Letter for failing to report a mandibular condylar fracture on cranial CT and cervical CT studies, and for inadequate medical records. This matter does not rise to the level of discipline.
25.	MD-11-0418A	JAMES F. BURKE, M.D.	12170	Dismiss.

Dr. Thrift observed that the allegations in this case involved Dr. Burke's failure to report the first two incidences of peer review in regards to a surgeon at Scottsdale Health Systems. Dr. Thrift noted that in his response to the allegations, Dr. Burke stated that he was not involved in the first incident that occurred in 2003, and that he believed the second incident was handled in peer

review in 2005. Ms. Steger explained that Dr. Burke's response focused on the Board's Substantive Policy Statement #13, which was not in place at the time. Ms. Steger stated that Dr. Burke is being held to A.R.S. §32-1401(27)(oo) for his failure to report unprofessional conduct to the Board in a timely manner. Dr. Jenkins noted that peer review found no cause for action in the hospital and that there had been a police report filed that did not result in charges against the physician. She questioned how Dr. Burke can be held accountable for failure to report when no fault was found during the 2003 and 2005 incidents. Ms. Boucek explained that the case had been brought to the Board's attention for the Board to make a policy decision as to whether they believe that when there is a police report, the Board should be made aware of the matter. Dr. Lee stated that this case may not warrant an Advisory Letter and stated it was appropriate for staff to bring the matter to the Board's attention. Dr. Krishna stated that he did not believe this matter rises to the level of Board action. Dr. Lee stated that if there is conduct egregious enough that there is the potential for harm, the issue should be reported to the Board immediately. Dr. Lee clarified that it is at the discretion of the Chief Medical Officer or their equivalent.

MOTION: Dr. Thrift moved for dismissal.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
26.	MD-11-0255A	JOHN C. EGAN, M.D.	40388	Issue an Advisory Letter for action taken by the State of Wisconsin. This matter does not rise to the level of discipline.
27.	MD-10-1327A	STEFANIE A. WORKMAN, M.D.	18831	Return the case to re-notice the physician for a medical records violation.

Dr. Jenkins observed that the allegation in this case involved Dr. Workman's failure to review the patient's history and lab values from the hospital in order to make an informed decision. In her response to the complaint, Dr. Workman indicated that she did review the patient's labs, though it was not documented in the patient's chart. Dr. Jenkins stated she believed the recommendation to issue an Advisory Letter is appropriate; however, she suggested that it be issued for inadequate medical records rather than a quality of care issue. Ingrid Haas, M.D., Medical Consultant, summarized that the case involved an infant who had been started on phototherapy at two days-old. Dr. Haas stated that a PA working at Dr. Workman's office had contacted the family on day six and recommended that they continue the phototherapy. Dr. Workman subsequently contacted the family and instructed them to discontinue the phototherapy and that further follow up was not necessary. Dr. Thrift opined that it was within the standard of care for Dr. Workman to have recommended discontinuing the phototherapy, but that the reasoning should have been documented. Dr. Thrift further found that there was no harm to the patient. Dr. Jenkins questioned whether the Advisory Letter could be issued for medical recordkeeping rather than a quality of care issue. Ms. Boucek stated that Dr. Workman was not noticed regarding a recordkeeping violation. Dr. Lee recommended returning the case to re-notice the physician of a medical recordkeeping violation as the Board determined that there is no quality of care issue present.

MOTION: Dr. Krishna moved to return the case to re-notice the physician for a medical records violation.

SECONDED: Dr. Jenkins

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
28.	MD-10-1327C	JAMES J. SMITH, M.D.	14623	Return the case to re-notice the physician for a medical records violation.

Dr. Thrift noted that this matter was associated to Advisory Letter item #27. Dr. Thrift observed that Dr. Smith signed off on his associate's verbal order to discontinue the phototherapy without knowing the infant's lab results. Dr. Thrift stated he found that there was no patient harm involved in this case. Dr. Thrift recommended returning the case to re-notice the physician of a medical records violation. He noted that Dr. Smith's involvement in this case was minimal. Dr. Thrift stated he found that Dr. Smith examined the patient and made appropriate follow up recommendations. Dr. Krishna noted that Dr. Smith stated in his response to the complaint that he would not have signed off on the verbal orders to discontinue the phototherapy if he knew the patient's lab values were so high. Dr. Lee recommended returning the case to re-notice the physician of a medical recordkeeping violation as the Board determined that there were no quality of care issues present.

MOTION: Dr. Thrift moved to return the case to re-notice the physician for a medical records violation.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
29.	MD-11-0656A	KENNETH G. PIPPUS, M.D.	22412	Issue an Advisory Letter for action taken by the State of Colorado. This matter does not rise to the level of discipline.

ADVISORY LETTER WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION (CME)

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-10-1211A	ALEXANDER VILLARES, M.D.	32704	Issue an Advisory Letter for failure to properly protect the ureter during colon surgery. Issue an Order for Non-disciplinary CME for inadequate medical

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				records. Within six months, obtain 15-20 hours of Board staff pre-approved Category I CME in an intensive, in person medical recordkeeping course. The CME hours shall be in addition to the hours required for the renewal of licensure. This matter does not rise to the level of discipline.

MOTION: Dr. Schneider moved to issue an Advisory Letter for failure to properly protect the ureter during colon surgery; and issue an Order for Non-disciplinary CME for inadequate medical records. Within six months, obtain 15-20 hours of Board staff pre-approved Category I CME in an intensive, in person medical recordkeeping course. The CME hours shall be in addition to the hours required for the renewal of licensure. This matter does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Krishna moved to uphold the dismissal in item numbers 1-11, 13-18, and 20.

SECONDED: Dr. Jenkins

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-11-0535A	M. AKRAM BHATTI, M.D.	19726	Uphold the dismissal.
2.	MD-11-0125A	JEFFREY A. GOLDSTEIN, M.D.	36531	Uphold the dismissal.
3.	MD-11-0506A	MARK A. WYSE, M.D.	12165	Uphold the dismissal.

Attorney Andrew Plattner spoke during the call to the public on behalf of Dr. Wyse.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-11-0384A	SUNIL NATRAJAN, M.D.	21356	Uphold the dismissal.
5.	MD-11-0554A	ZEENA I. UBOGY, M.D.	19961	Uphold the dismissal.
6.	MD-10-1529A	SCOTT V. SLAGIS, M.D.	15463	Uphold the dismissal.
7.	MD-11-0213A	PATRICK L. FLYTE, M.D.	31870	Uphold the dismissal.
8.	MD-11-0201A	ABE P. KAPLAN, M.D.	40269	Uphold the dismissal.

Attorney Diana Rasner spoke during the call to the public on behalf of Dr. Kaplan.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
9.	MD-11-0241A	SUMIR M. PATEL, M.D.	32270	Uphold the dismissal.

DCH spoke during the call to the public on behalf of complainant DH.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
10.	MD-11-0459A	RICHARD L. VANESIAN, M.D.	21283	Uphold the dismissal.
11.	MD-11-0328A	JOHN P. WOHLER, M.D.	25661	Uphold the dismissal.
12.	MD-10-0711A	MICHAEL C. MAXWELL, M.D.	31814	Uphold the dismissal.

Complainant SK spoke during the call to the public. Dr. Jenkins expressed concern regarding Dr. Maxwell's use of Esmolol in this case and she questioned whether hypertension was documented in the patient's emergency room records. Bhupendra Bhatheja, M.D., Medical Consultant, summarized that Dr. Maxwell stated in his response letter that he examined the patient's blood pressure, but did not document it. Dr. Thrift stated he found that Dr. Maxwell adequately documented his reasoning for the Esmolol for the patient's hypertension. Dr. Bhatheja stated that he questioned whether Dr. Maxwell reviewed the addendum report that recommended further evaluation as the record is unclear as to whether the addendum was received prior to or after the patient's operation. Dr. Bhatheja stated that a TEE should have been performed to determine whether a hematoma was present. Dr. Bhatheja stated that Dr. Maxwell did perform an epiortic cardiogram to determine whether the finding was true dissection. Dr. Jenkins questioned why the Esmolol was administered when there was no evidence or hypertension documented in the chart. Dr. Bhatheja explained that the dissection required the physician to decrease the left ventricular function with a beta-blocker medication, such as Esmolol. Dr. Khara stated he observed that Dr. Maxwell was faced with a difficult and emergent situation in which he did what he thought was best for the patient. Dr. Khara stated that had the patient developed hypotension, the medication could have been adjusted.

MOTION: Dr. Khara moved to uphold the dismissal.

SECONDED: Dr. Thrift

Dr. Krishna questioned whether the addendum report showed that there was no dissection present. Dr. Bhatheja stated that the addendum did show that there was no dissection and was written prior to surgery; however, he stated that the report was signed off twenty-one days after the operation.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
13.	MD-11-0805A	CHRISTOPHER W. HUSTON, M.D.	21658	Uphold the dismissal.
14.	MD-10-1220D	MAHMOOD R. SHAHLAPOUR, M.D.	28914	Uphold the dismissal.
15.	MD-11-0628A	NANNI B. BACHENHEIMER, M.D.	33906	Uphold the dismissal.

Dr. Bachenheimer spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
16.	MD-11-0155A	MARK IVEY, M.D.	10659	Uphold the dismissal.

Dr. Ivey spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
17.	MD-11-0509A	PETER NIEMCZYK, M.D.	34718	Uphold the dismissal.
18.	MD-11-0293A	JAMES W. STEINER, M.D.	12795	Uphold the dismissal.
19.	MD-11-0278A	JAMES A. MADURA, M.D.	41342	Uphold the dismissal.

Complainant DS spoke during the call to the public. Dr. Lee expressed concern regarding the surgery consent form in this case. Dr. Lee noted that the patient's history involved a hiatal hernia, and questioned whether the surgeon should have informed the patient preoperatively regarding the potential risks associated with the surgery regarding a hernia repair. Dr. Wolf stated that a very large fraction of the population has hiatal hernias, and that it is difficult to predict whether it will become an issue during surgery. Dr. Jenkins noted that the findings in surgery differed from the preoperative CT scan findings. She stated that personally, she would not have counseled the patient regarding hernia repair preoperatively.

MOTION: Dr. Lee moved to uphold the dismissal.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
20.	MD-11-0131A	JOSE A. MENENDEZ, M.D.	35922	Uphold the dismissal.

Complainant HS spoke during the call to the public.

OTHER BUSINESS

MOTION: Dr. Krishna moved to accept the proposed Consent Agreement in item numbers 1-6.

SECONDED: Dr. Schneider

Dr. Jenkins questioned whether it was the Board's routine to issue disciplinary action to physician that has been disciplined by another state. Dr. Wolf informed the Board that each case is evaluated individually by the Staff Investigational Review Committee. He stated it is not infrequent that SIRC has recommended an Advisory Letter for cases in which a physician has been disciplined by another state. Dr. Lee stated that all state guidelines are different in terms of when disciplinary action is warranted. Ms. McSorley informed the Board that these cases involve violations of A.R.S. §32-1401(27)(o) and that Board staff does not conduct a quality of care review. Ms. McSorley explained that SIRC considers the facts of the case based on the findings of the other state to determine an appropriate recommendation. Dr. Lee noted that the Board does not initiate a new investigation regarding the underlying case.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-10-1478A	LEE S. YOSOWITZ, M.D.	12610	Accept the proposed Consent Agreement for a Letter of Reprimand.
2.	MD-10-1473A	DIANA B. KOSS, M.D.	29375	Accept the proposed Consent Agreement for a Letter of Reprimand with Five Year Probation to participate in PHP. Dr. Koss' PHP participation shall be retroactive to March 9, 2011.
3.	MD-11-0231A	LINDA L. AUSTIN, M.D.	21329	Accept the proposed Consent Agreement for a Letter of Reprimand.
4.	MD-10-1447A	LAURANCE SILVERMAN, M.D.	20780	Accept the proposed Consent Agreement for a Letter of Reprimand.
5.	MD-09-1543A	VANNA ZANAGNOLO, M.D.	41181	Accept the proposed Consent Agreement for a Letter of Reprimand.
6.	MD-10-1530A	JAMES L. UNGER, M.D.	38118	Accept the proposed Consent Agreement for a Letter of Reprimand.

MOTION: Dr. Schneider moved to accept the proposed Consent Agreement in item numbers 7 and 8.

SECONDED: Dr. Jenkins

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-10-1458A	GIRIKUMAR VENATI, M.D.	37195	Accept the proposed Consent Agreement for Surrender of License.
8.	MD-11-0696A	M. ZAFAR QURESHI, M.D.	8269	Accept the proposed Consent Agreement for Surrender of License.
9.	MD-10-1429B	SATYAVATHI ATLURI, M.D.	23483	Dismiss.

Complainant CL spoke during the call to the public. Dr. Krishna observed that the patient presented for a laparoscopic nephrectomy, suffered a bowel perforation and sepsis, and ultimately expired. Dr. Wolf summarized that the urologist took the patient to surgery for the procedure and that on the first postoperative day, the patient had a decreased urine output and rising creatinine. A chest x-ray was obtained that demonstrated a substantial amount of free air. Dr. Wolf explained that the medical consultant criticized that Dr. Atluri, the internist involved in the patient's care, failed to act on the free air. He stated that SIRC recommended dismissal based on the fact that this was a surgical complication and that if an action was to be taken, it would have been the surgeon's decision to act rather than the internist. Dr. Wolf informed the Board that the urologist's involvement in this case had been reviewed by a medical consultant who found no deviation from the standard of care and the case was dismissed by the Executive Director. Dr. Lee noted that the Executive Director has been given the authority by the Board to dismiss cases in which a violation has not been identified. Ms. Wynn informed the Board that the Executive Director's Report that is submitted at the Board's regular session meetings contains a list of Executive Director dismissals that were done within the previous two months. Dr. Wolf explained to the Board that the case concerning the urologist involved several factors that were considered, including the fact that a number of physicians examined the patient and none identified abdominal pain or a definite perforation. Dr. Krishna questioned whether a CT scan of the abdomen should have been obtained. Dr. Wolf stated that both physicians were in agreement that no one had determined that the patient had abdominal tenderness or significant pain.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Thrift

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

MOTION PASSED.

Dr. Lee clarified that the Board has delegated authority to the Executive Director to dismiss cases in which there is no sustained violation. Ms. Wynn stated that in the current case, Board staff found it appropriate to bring the case to the Board's attention. Dr. Jenkins questioned whether the Board had the ability to review the urologist's case after having been dismissed by the Executive Director. Ms. Boucek informed the Board that statute and rule provide that the Executive Director shall dismiss a case that is without merit, and that the Executive Director shall provide the Board a list of dismissed cases. Ms. Boucek further stated that by requiring the Executive Director to submit a list of dismissed cases to the Board, the statute is implying that the Board still has oversight of that decision. Ms. Boucek advised the Board that when considering dismissed cases, to keep in mind that there has been no statutory violation sustained. Dr. Lee observed that the medical consultant reviewed the matter as well as the Chief Medical Consultant. Dr. Lee stated that he is satisfied with the two surgical opinions that found no standard of care deviation.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
10.	MD-10-1255A	JOHN T. PELLERITO, M.D.	14864	Approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and One Year Probation. Within six months, complete the PACE prescribing course. The course hours shall be in addition to the CME hours required for the renewal of licensure. The Probation shall terminate upon successful completion of the CME.
11.	MD-10-1440A	GOVINDASAMY SANKAR, M.D.	33633	Approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. Within six months, complete 15 hours of Board staff pre-approved Category I CME in opioid prescribing. The CME hours shall be in addition to the hours required for the renewal of licensure.

Attorney Paul Giancola spoke during the call to the public on behalf of Dr. Sankar. Dr. Thrift observed that supplemental information had been submitted from the complainant in the matter regarding Dr. Sankar, and that it was unrelated to the current case. Dr. Lee noted Mr. Giancola's request for modification of Findings of Fact #19-22 in Other Business item #11. Dr. Lee stated that the Findings of Fact were addressed in the transcript of the Formal Interview as well as the meeting minutes. Ms. Boucek stated that both the minutes and the transcript clearly state that the Board has found that the licensee violated both of the statutory provisions cited in the Order.

MOTION: Dr. Krishna moved to approve the draft Findings of Fact, Conclusions of Law and Order in item numbers 10-12.

SECONDED: Dr. Khera

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
12.	MD-10-1534A	SUMIT DEWANJEE, M.D.	32018	Approve the draft Findings of Fact, Conclusions of Law and Order for a

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				Letter of Reprimand and Two Year Probation to participate in PHP. Dr. Dewanjee's PHP participation shall be retroactive to January 10, 2011.
13.	MD-11-0001A	DARRELL J. JESSOP, M.D.	23441	Refer the case to Formal Hearing

Dr. Krishna spoke in favor of referring this case for a full evidentiary hearing.

MOTION: Dr. Krishna moved to refer the case to Formal Hearing.

SECONDED: Dr. Jenkins

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

FORMAL HEARING MATTERS – CONSIDERATION OF ADMINISTRATIVE LAW JUDGE (ALJ) RECOMMENDED DECISION

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-09-1034A	JUSTIN M. LEE, M.D.	41535	Adopt the ALJ's recommended Findings of Fact, Conclusions of Law and Order for Revocation.

Dr. Justin Lee was not present during the Board's consideration of this case. Board members indicated that they received and reviewed the administrative record of the Formal Hearing in this matter. Camila Alarcon, Assistant Attorney General, summarized that on September 7, 2010, Dr. Justin Lee pled guilty to two felony counts related to child pornography. Ms. Alarcon stated that due to the egregious nature of the felonies, the State requested that the Board affirm the ALJ's recommendation to revoke the license.

MOTION: Dr. Krishna moved to adopt the ALJ's recommended Findings of Fact, Conclusions of Law and Order for Revocation.

SECONDED: Dr. Jenkins

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-10-1412A	ALLAN B. AVEN, M.D.	40302	Adopt the ALJ's recommended Findings of Fact, Conclusions of Law and Order for Revocation, as modified.

Dr. Aven was not present during Board's consideration of the case. Board members indicated that they received and reviewed the administrative record of the Formal Hearing in this matter. Anne Froedge, Assistant Attorney General, summarized that Dr. Aven was summarily restricted by the Board based on allegations that he engaged in sexual conduct with the patients. The restriction required that he have a chaperone present when treating female patients. Ms. Froedge stated that Dr. Aven's expert witness testified at the hearing that a chaperone requirement is adequate to protect the public. Ms. Froedge stated that the State felt strongly that a chaperone requirement would not be an adequate resolution of the case as the patient encounters occurred outside of patient meetings. Ms. Froedge requested that the Board adopt the ALJ's recommended decision with minor modifications to the Findings of Fact. She explained that Findings of Fact #12 had been modified to accurately reflect that Dr. Aven's date of initial licensure was in 2009. Ms. Froedge noted the graphic language articulated in Findings of Fact #31 and 34, and stated that the language should be modified as she did not believe that the wording was necessary for an accurate depiction of what occurred in this case. In addition, Ms. Froedge recommended modification to Findings of Fact on pages 15, 16, 17, and 25 by removing the medical assistant's last name to protect her confidentiality as she was a former patient of Dr. Aven. Dr. Khera questioned whether the Board had the authority to modify the ALJ's recommended decision. Dr. Krishna stated that he believed the ALJ's decision was only a recommendation, and that the Board had the ability to make modifications.

MOTION: Dr. Jenkins moved to enter into Executive Session to received legal advice.

SECONDED: Dr. Khera

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

MOTION PASSED.

The Board entered into Executive Session at 10:14 a.m.

The Board returned to Open Session at 10:19 a.m.

No discussions or deliberations were made during Executive Session.

MOTION: Dr. Krishna moved to adopt the ALJ's recommended Findings of Fact, Conclusions of Law and Order for Revocation, as modified.

SECONDED: Dr. Schneider

Ms. Ibáñez spoke against modifying Findings of Fact #31 and 34 and stated that she believed that the language used in the ALJ's recommended decision fully demonstrated Dr. Aven's behavior in the case. Dr. Krishna noted that the wording was very explicit. Dr. Jenkins spoke in favor of the motion and stated that the case was strong without having to add the graphic wording.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
1.	MD-10-0471A	THOMAS S. SPENCER, M.D.	41026	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

Patient MR spoke during the call to the public along with JCS. Dr. Spencer was present without legal counsel. Ingrid Haas, M.D., Medical Consultant, summarized that four patients' charts were reviewed and deviations from the standard of care were identified in Dr. Spencer's care and treatment of four patients. Specifically, Dr. Spencer failed to further evaluate TC, a post cesarean section patient with tachycardia; failed to repair patient MR's serosal defects; and failed to assure that patient RG's polyp was properly removed during surgery. Additionally, Dr. Spencer attempted to reposition patient VW's IUD rather than remove and potentially replace it, and he failed to maintain adequate medical records. Dr. Spencer stated that he was contacted by the nurse for TC when tachycardia was noted and that he was at her bedside within one half hour, though it was not well documented. Dr. Lee observed that the nurse anesthetist performed spinal anesthetic in the face of known hypovolemia. Dr. Krishna questioned whether Dr. Spencer was aware that he is responsible for the care provided by the nurse anesthetist that is done under his supervision. Dr. Spencer stated that he did not sign off on any of the nurse's chart notes. Dr. Spencer explained that MR complained of chronic pelvic pain following laparoscopic removal of her ovaries. Dr. Spencer stated he believed he had a reasonable shot at finding the trigger point of her pain and removing it. Dr. Schneider commented that a bowel prep would have been appropriate in a patient such as this that has undergone extensive surgeries in the past. Dr. Spencer stated that in retrospect, he knows he should have prepped the patient's bowel, but that he did not expect her adhesions to have been as extensive.

Dr. Schneider observed that Dr. Spencer failed to ensure that RG's polyp was properly removed at surgery. Dr. Spencer emphasized that he did not subject RG to two different procedures for the same lesion. He explained that the initial surgery was a diagnostic procedure in which he believed he removed the polyp, and that the second procedure was operative to help RG's bleeding. Dr. Schneider questioned whether it was appropriate for Dr. Spencer to reposition VW's IUD rather than remove and potentially replace it. Dr. Spencer acknowledged that the risks involved with repositioning an IUD include perforation and infection. Dr. Spencer commented that he is not aware of a standard of care regarding repositioning. Dr. Schneider noted that Dr. Spencer underwent Phase I and II of PACE. Dr. Spencer stated that the highlight of the program was the opportunity to observe a robotics case. Dr. Schneider found that Dr. Spencer engaged in unprofessional conduct by deviating from the standard of care in three of the four patient's cases reviewed, and by failing to maintain adequate medical records. Dr. Schneider found that Dr. Spencer's attempt to reposition VW's IUD rather than remove it is not a deviation from the standard of care. Dr. Schneider commented that the patient's infection was remote and not associated to the repositioning.

MOTION: Dr. Schneider moved for a finding of unprofessional conduct in violation of A.R.S. §32-1401(27)(e) - Failing or refusing to maintain adequate records on a patient; and 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.

SECONDED: Dr. Krishna

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

MOTION PASSED.

Dr. Schneider stated she appreciated the fact that Dr. Spencer underwent the PACE program and obtained additional CME. However, she stated that this matter rises to the level of discipline as the cases involved patient harm and substantial aggravating factors were identified in at least two cases.

MOTION: Dr. Schneider moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez, Dr. Jenkins, Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

Board staff was instructed to refer this matter to the Arizona Board of Nursing for performance of a second spinal anesthetic in a hypovolemic patient.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
2.	MD-11-0086A	JOHN W. MARTIN, M.D.	20499	Issue an Advisory Letter for failing to obtain an appropriate consent and for inadequate medical records. There is insufficient evidence to support discipline.

Complainant TB spoke during the call to the public. Dr. Martin was present with legal counsel, Ms. Libby Peterson. Dr. Martin explained to the Board that he obtained consent from the patient for excision of a mass and CO2 laser of the clitoris. He stated that he ultimately did not laser the surface of the clitoris as it was not indicated during the procedure. Dr. Martin stated that the patient's allegation that he removed the clitoris is untrue in that there is no evidence to support her claim. Dr. Haas summarized that the documented plan was to laser the surface of the clitoris and repair the labial fistula. Dr. Haas observed that Dr. Martin's permit for the procedures documented excision of the clitoral hood, CO2 laser, and left labial repair. Dr. Haas stated that the patient subsequently consulted with a nurse practitioner who opined that a portion of the clitoris was absent on exam. Dr. Martin pointed out that TB was instructed to follow up every three months eight years previously, but that she never returned. He emphasized that the pathology report showed that he did not remove the clitoris. Dr. Martin explained that the patient had undergone multiple procedures in the past, resulting in extensive scar tissue hiding the clitoris.

Dr. Jenkins questioned how Dr. Martin documented the details of his conversation with TB preoperatively at the time that the consent form was signed and initialed by the patient. Dr. Martin stated he believed the consent form was adequate, and that physicians cannot list everything discussed without recording the visit. Dr. Schneider stated it seemed as though the patients confusion stemmed from the fact that she presented to Dr. Martin for a laser procedure that she did not receive. Dr. Martin reiterated that he did not find that the laser surgery was indicated, which he stated he explained to the patient and her family postoperatively. Dr. Lee commented that the dictation of the procedure clearly documented excision of the clitoral hood and the tip of the clitoral head. Dr. Martin stated that the report was dictated by the senior resident that assisted him in surgery, and that he signed off on the chart. Dr. Thrift expressed concern regarding the incomplete pathology report. In closing, Ms. Peterson stated that pathology was very clear that only the clitoral hood was identified in the specimen submitted. She stated that Dr. Martin discussed with the patient the anticipated procedures and explained to her the importance of follow up. Dr. Jenkins stated she found that Dr. Martin engaged in unprofessional conduct by deviating from the standard of care and by failing to maintain adequate medical records.

MOTION: Dr. Jenkins moved for a finding of unprofessional conduct in violation of A.R.S. §32-1401(27)(e) - Failing or refusing to maintain adequate records on a patient; and 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.

SECONDED: Dr. Krishna

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

MOTION PASSED.

Dr. Jenkins found that this matter rises to the level of discipline. She stated that there was clearly a breakdown in communication between Dr. Martin and the patient.

MOTION: Dr. Jenkins moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECONDED: Ms. Ibáñez

Dr. Khera spoke against the motion and noted that this was a complicated case. Dr. Khera also noted that there was no documentation in the pathology report to support that the clitoris was removed. Ms. Ibáñez commented that she found Dr. Martin's attitude to be condescending and arrogant to the Board. Dr. Lee spoke against the motion and reaffirmed Ms. Ibáñez's statement regarding Dr. Martin's attitude towards the Board as well as how it may translate into his relationships with patients.

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

SECONDED: Dr. Schneider

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

MOTION PASSED.

The Board entered into Executive Session at 12:48 p.m.

The Board returned to Open Session at 12:53 p.m.

No discussions or deliberations were made during Executive Session.

Dr. Thrift spoke against the motion and stated he found that this was a complex case that involved multiple mitigating factors. Dr. Krishna found that Dr. Martin is knowledgeable, and found that this involved a systems failure.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Ibáñez and Dr. Jenkins. The following Board members voted against the motion: Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board member was absent: Ms. Proulx.

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

MOTION FAILED.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failing to obtain an appropriate consent and for inadequate medical records. There is insufficient evidence to support discipline.

SECONDED: Dr. Schneider

Dr. Krishna noted that this case involved several mitigating factors, and commented that there is insufficient evidence to support disciplinary action.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Khera, Dr. Krishna, Dr. Lee, Dr. Schneider, and Dr. Thrift. The following Board members voted against the motion: Ms. Ibáñez and Dr. Jenkins. The following Board member was absent: Ms. Proulx.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC.#	PRESENTING BOARD MEMBER
3.	This matter was pulled from the meeting agenda.			

The meeting adjourned at 3:08 p.m.



A handwritten signature in black ink, appearing to read "Lisa S. Wynn".

Lisa S. Wynn, Executive Director