



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR REGULAR SESSION MEETING Held on April 1 and 2, 2009 9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Douglas D. Lee, M.D., Chair
Paul M. Petelin Sr., M.D., Vice Chair
Amy J. Schneider, M.D., F.A.C.O.G., Secretary
Patricia R. J. Griffen, Member-at-Large
Robert P. Goldfarb, M.D., F.A.C.S.
Andrea E. Ibáñez
Ram R. Krishna, M.D.
Todd A. Lefkowitz, M.D.
Lorraine L. Mackstaller, M.D.
William R. Martin III, M.D.
Dona Pardo, Ph.D., R.N.
Germaine Proulx

EXECUTIVE DIRECTOR'S REPORT

Lisa S. Wynn, Executive Director, acknowledged the work of the Administrative Support Office who, under the leadership of Lisa McGrane and Christina Hedrei, have been challenged in identifying and improving their key functions. Ms. Wynn requested that in preparation for the Board meeting, Board members, in advance, inform Board staff of cases that may be pulled for discussion to allow Board staff the opportunity to prepare material that the Board may require during the meeting. Ms. Wynn reported that Sandra Waitt, Information Technology Office, is no longer with the Agency, but has agreed to return on a contractual basis should the need arise. Ms. Wynn also reported that James Gentile, Chief Information Officer, will be recruiting a new member of the Information Technology team who specializes in development and program processing. She stated that in light of the hiring freeze, the Agency has obtained the authority to fill this mission critical position. Ms. Wynn reported that several associations are working with the new Governor's Administration to identify possible ways to recover a portion of the monies swept from several state agencies in April and June of 2008.

Ms. Wynn thanked Board staff for its diligence in being fiscally responsible, specifically Evangeline Webster, Business Office Manager. She reported that the Agency is currently working with its Monitored Aftercare Program (MAP) contractors to amend their contract to reduce the cost of participants' monitoring. Additionally, the MAP contractors would be allowed to charge physicians for the cost of the initial assessment. She stated that this amendment will reduce the monthly monitoring fees over the course of the physician's participation in MAP. Ms. Wynn informed the Board that she had the opportunity to attend a conference with MAP participants and alumni on February 21, 2009. She stated that several individuals from law firms, associations, and DEA attended. Ms. Wynn recognized the Board's internal MAP team for their work; specifically, Amanda Diehl, Deputy Executive Director, Christi Banys, Board Operations Manager, Kathleen Muller, Physician Health Program, Patricia McSorley, Case Review Manager, Lisa McGrane, and William Wolf, M.D., Chief Medical Consultant. She stated that the team has been tremendously helpful in looking at critical ways to improve the MAP program.

CHAIR'S REPORT

Dr. Lee presented Dr. Goldfarb with a plaque in recognition for his years of service on the Board. Dr. Lee stated that Dr. Goldfarb has been an incredible Board member and commended him for his work not only on the Board, but in leading several of the Board's Subcommittees. Dr. Goldfarb stated that over the past three years he has developed The Carondelet Neurological Institute at the St. Joseph's Hospital located in Tucson, Arizona. Dr. Goldfarb reported that he will be serving as the Chairman of the Board for the Institute. Dr. Goldfarb expressed appreciation for the opportunity to serve on the Board along with his fellow physicians and public members alike. Ms. Wynn thanked Dr. Goldfarb for his service and the support that he provided to Board staff throughout the years.

Dr. Lee commended Board staff on the quality of their work and recognized that cases are being adjudicated in a timely fashion. Dr. Lee expressed appreciation to Jennifer Boucek, Assistant Attorney General, for her proactive approach to several issues that

have come before the Board. Dr. Lee also recognized Dr. Martin's efforts as the Board's past Chair. He stated that under Dr. Martin's guidance, the Board now functions in a more proactive manner.

Federation of State Medical Boards (FSMB) Discussion

Dr. Lee announced that Dr. Krishna will be campaigning this year for the Director's position.

LEGAL ADVISOR'S REPORT

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

SECONDED: Dr. Goldfarb

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board went into Executive Session for legal advice at 9:21 a.m.

The Board returned to Open Session at 9:59 a.m.

No deliberations or discussions were made during Executive Session.

Ms. Boucek reported that she had the ability to work with Board staff, specifically Kenyada Corley, Legal Coordinator, in scheduling a case at the Office of Administrative Hearings and that a hearing date was scheduled within four days of receiving the request for the Formal Hearing. The case is scheduled for hearing in late April and Ms. Boucek added that she is hopeful the Administrative Law Judge (ALJ) decision will be received in time for the Board's consideration at the June 2009 meeting. Ms. Boucek concluded by stating that she anticipates that Hearing cases will be processed and set for hearing in a timelier manner.

BOARD EDUCATIONAL SEMINAR

Anne Froedge, Assistant Attorney General, presented information regarding the Formal Hearing process. Cases that must be referred to the Office of Administrative Hearings (OAH) are cases in which the Board seeks revocation of a physician's license, or suspension of a license of more than one year. Summary action cases that involve summary suspension of a license must be referred to OAH for a Formal Hearing within sixty days after the date of the Board's action, as well as cases involving appeal of license denial, which are required by statute to be held within sixty days following the date of the appeal. In addition, licensees may request a Formal Hearing, which is an option for the licensee when they receive their invitation for a Formal Interview. The Board may also refer any matter to OAH when the Board determines that the facts are sufficiently complicated. Once a case is referred to OAH for Formal Hearing, the Board's Legal Advisor at the Attorney General's Office (AGO) assigns the case to an Assistant Attorney General (AAG). The AAG reviews the case file in its totality, and may contact the Case Manager, Legal Coordinator, or Case Review Manager if additional information is needed. The Board's Legal Coordinator contacts OAH to request a Formal Hearing date after obtaining a list of witnesses and determining how many days the Formal Hearing may require. Once the case has been scheduled for Formal Hearing, the AAG drafts the Complaint and Notice of Hearing. During the course of the Formal Hearing, an Administrative Law Judge (ALJ) will listen to testimony, review exhibits, and provide the Board with recommended Findings of Facts Conclusions of Law, and a recommended Order. The Board is presented with the administrative record of the Formal Hearing and may accept, reject, or modify the ALJ's recommended decision. Ms. Froedge explained that when a case returns to the Board from OAH, an AAG from the Solicitor General's Office (SGO) provides the Board with legal advice. Ms. Froedge informed the Board that the next Seminar will regard appeals and judicial review actions.

APPROVAL OF MINUTES

MOTION: Dr. Krishna moved to approve the February 4-5, 2009 Regular Session Meeting, including Executive Session.

SECONDED: Dr. Pardo

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

MOTION PASSED.

ADVISORY LETTERS

MOTION: Dr. Pardo moved to issue an Advisory Letter in item numbers 3, 8-11, 14, 16-18, 21, 23-25, 27, 28, and 30.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0711A	DAVID R. SEASE, M.D.	19507	Dismiss.

Dr. Mackstaller noted that the patient was seen by several cardiologists throughout his life, prior to being seen by Dr. Sease. Board staff informed the Board that legal action had been taken against Dr. Sease; however, the statute of limitations lapsed so that legal action could not be taken against any of the other treating cardiologists

MOTION: Dr. Mackstaller moved for dismissal.

SECONDED: Dr. Martin

Dr. Krishna spoke against the motion and stated that the failure of a prior cardiologist to identify the coarctation does not relieve Dr. Sease of his duty to have recognized it. Dr. Krishna stated that an Advisory Letter would be more appropriate to track the occurrence.

VOTE: 6-yay, 4-nay, 2-abstain, 0-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-08-0985A	DUANE G. MARTIN, M.D.	30487	Issue an Advisory Letter for inadequate follow up following a facelift and for inadequate medical records, and within one year, complete 17.5 hours of non-disciplinary CME in medical recordkeeping and 10 hours of non-disciplinary CME in ethics. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The violation is a minor or technical violation that does not rise to the level of discipline.

DJ spoke during the call to the public. Dr. Pardo noted that Dr. Martin received an Advisory Letter in February 2009 for inadequate medical records and questioned whether he would benefit from obtaining non-disciplinary CME in recordkeeping. Dr. Petelin stated that he was concerned with Dr. Martin's attitude and approach to the patient, and recommended that he obtain non-disciplinary CME in ethics.

MOTION: Dr. Pardo moved to issue an Advisory Letter for inadequate follow up following a facelift and for inadequate medical records, and within one year, complete 17.5 hours of non-disciplinary CME in medical recordkeeping and 10 hours of non-disciplinary CME in ethics. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The violation is a minor or technical violation that does not rise to the level of discipline.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
3.	MD-08-0254A	GERALD S. ASIN, M.D.	20348	Issue an Advisory Letter for excessively prescribing Viagra and Cialis over a fourteen month period. The violation is a minor or technical violation that does not rise to the level of discipline.
4.	MD-08-0397A	MARY LOUISE CALLERAME, M.D.	15830	Dismiss.

Dr. Mackstaller stated that Dr. Callerame's failure to document a blood sugar of 109 did not warrant Board action. She stated that the level may be recognized and discussed with the patient, but is not commonly documented in the community of primary care physicians.

MOTION: Dr. Mackstaller moved for dismissal.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
5.	MD-08-0351A	MICHAEL R. ROLLINS, M.D.	30379	Issue an Advisory Letter for failing to either review a magnetic resonance imaging scan or document review of a magnetic resonance imaging scan prior to breast cancer surgery, for failing to perform an axillary dissection in a patient with a mammogram that described metastatic disease in an axillary lymph node, and for inadequate medical records; and within one year, complete 15-20 hours of non-disciplinary CME in the management of carcinoma of the breast. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The violation is a minor or technical violation that does not rise to the level of discipline.

Dr. Petelin recommended requiring Dr. Rollins to obtain non-disciplinary CME in the management of carcinoma of the breast.

MOTION: Dr. Petelin moved to issue an Advisory Letter for failing to either review a magnetic resonance imaging scan or document review of a magnetic resonance imaging scan prior to breast cancer surgery, for failing to perform an axillary dissection in a patient with a mammogram that described metastatic disease in an axillary lymph node, and for inadequate medical records; and within one year, complete 15-20 hours of non-disciplinary CME in the management of carcinoma of the breast. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The violation is a minor or technical violation that does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
6.	MD-08-1045B	STEPHEN E. HOCHEDER, M.D.	28710	Invite the physician for a Formal Interview.

Dr. Goldfarb was concerned with Dr. Hocheder's failure to obtain a back x-ray and releasing the patient from spinal immobilization after sustaining a back injury from being thrown from a horse while intoxicated. Dr. Petelin concurred with Dr. Goldfarb's concerns and felt that the patient was under-evaluated.

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

SECONDED: Dr. Mackstaller

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-08-0586A	STEVEN M. GITT, M.D.	17134	Issue an Advisory Letter for improper informed consent documentation, for failing to document the presence or absence of leg pain or swelling and for failing to document consideration of pulmonary embolus in a post operative patient with a complaint of shortness of breath. The violation is a minor or technical violation that does not rise to the level of discipline.

RB spoke during the call to the public. Dr. Pardo questioned whether this case was equivalent to wrong-site surgery. Gerald Moczynski, M.D., Medical Consultant, informed the Board that Dr. Gitt failed to adequately document a discussion and verbal agreement regarding a change in the procedure with the patient just prior to surgery. It was also noted that the record reflected that Dr. Gitt did not evaluate the patient. The nurse practitioner treated the patient's shortness of breath postoperatively. Board members noted that a nurse practitioner practices under an independent license and does not require physician supervision.

MOTION: Dr. Pardo moved to issue an Advisory Letter for improper informed consent documentation, for failing to document the presence or absence of leg pain or swelling and for failing to document consideration of pulmonary embolus in a postoperative patient with a complaint of shortness of breath. The violation is a minor or technical violation that does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

Drs. Goldfarb and Pardo instructed Board staff to refer this matter to the Arizona Board of Nursing.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
8.	MD-08-0557A	SURENDBHER LOKAREDDY, M.D.	22345	Issue an Advisory Letter for failing to adequately evaluate a post-partum patient with pain and bleeding. This is a one time occurrence that does not rise to the level of discipline.
9.	MD-08-0392A	EUGENE LEIBSOHN, M.D.	3090	Issue an Advisory Letter for inadequate evaluation and treatment of granuloma annulare. This matter does not rise to the level of discipline.
10.	MD-08-0584A	RICHARD H. RENSTON, M.D.	24477	Issue an Advisory Letter for authorizing a change from ICU status to telemetry status in a patient who required management in an ICU setting. This was a one time occurrence that does not rise to the level of discipline.
11.	MD-08-0584B	GERONIMO RAMIREZ, M.D.	20273	Issue an Advisory Letter for failing to assess a patient with a significant change in clinical status. This was a one time occurrence that does not rise to the level of discipline.

JS spoke during the call to the public with regard to Advisory Letter item numbers 10 and 11.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
12.	MD-08-0545A	LOUIS G. TRUNZO, M.D.	19585	Issue an Advisory Letter for inadequate timeliness of follow up in a 34-week infant who was discharged early, and within 6 months, complete 15-20 hours of non-disciplinary CME in the management of neonatal hyperbilirubinemia. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This matter does not rise to the level of discipline.

Dr. Pardo questioned whether this matter was referred to the Arizona Board of Nursing. Board staff informed the Board that the notice submitted to the Board that initiated this case was also sent to the Arizona Board of Nursing. Dr. Petelin noted that Dr. Trunzo's prior Board history included a Letter of Reprimand that involved similar issues that were identified in this case. However, Dr. Lee pointed out that this incident predated the incident involved in the 2004 Letter of Reprimand. Dr. Petelin recommended requiring Dr. Trunzo to obtain non-disciplinary CME in the management of neonatal hyperbilirubinemia.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inadequate timeliness of follow up in a 34-week infant who was discharged early, and within 6 months, complete 15-20 hours of non-disciplinary CME in the management of neonatal hyperbilirubinemia. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This matter does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
13.	MD-08-1057A	MUHAMMAD M. SALIM, M.D.	24008	Issue a non-disciplinary CME Order to obtain 15-20 hours of non-disciplinary

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				CME in medical recordkeeping, to be completed within 6 months. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

Mr. Rick Carter, legal counsel for the physician, spoke during the call to the public. Dr. Petelin recommended that this case be dismissed as the issues identified in the Staff Investigational Review Committee (SIRC) report were not what the patient was concerned with in the complaint to the Board. Dr. Schneider pointed out that the Board has the ability to investigate any concerns that may arise during the course of an investigation. Bhupendra Bhatheja, M.D., Medical Consultant, informed the Board that it is relatively safe for a physician to proceed with surgery if the patient has discontinued Coumadin for a period of six days without obtaining a ProTime. However, Dr. Bhatheja stated that if the patient had been on Coumadin for a long period of time, stopping the Coumadin for a period of days will not be effective and would require the physician to obtain a ProTime prior to surgery.

MOTION: Dr. Petelin moved for dismissal.
SECONDED: Dr. Goldfarb

Dr. Schneider spoke against the motion and noted that Dr. Salim's medical records for this patient were illegible. Dr. Pardo recommended issuing a non-disciplinary CME Order that would require Dr. Salim to obtain non-disciplinary CME in recordkeeping. Dr. Petelin withdrew his motion for dismissal and Dr. Goldfarb agreed.

MOTION: Dr. Martin moved to issue a non-disciplinary CME Order to obtain 15-20 hours of non-disciplinary CME in medical recordkeeping, to be completed within 6 months. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
14.	MD-08-0775A	PAUL E. TATUM, M.D.	31966	Issue an Advisory Letter for writing the incorrect dose of Methadone on a discharge prescription. This was a one time occurrence that does not rise to the level of discipline.
15.	MD-08-1138A	KRISHNA MALLIK, M.D.	37346	Issue an Advisory Letter for failing to recognize a hip fracture on x-ray. This was a one time occurrence that does not rise to the level of discipline.

Mr. Stephen Myers, legal counsel for the physician, Dr. Mallik and CM spoke during the call to the public. Dr. Goldfarb recommended this case be dismissed. Dr. Moczynski summarized the case and stated that from review of the x-ray, the fracture was subtle and identifiable. He noted Dr. Mallik's statement issued during the call to the public in which she stated that after re-review of the x-rays, she identified the fracture. The Board noted that pathologic fractures are more difficult to diagnose versus a traumatic fracture. Dr. Martin noted that the patient required a more extensive procedure at a subsequent date due to Dr. Mallik's failure to recognize the fracture.

MOTION: Dr. Martin moved to issue an Advisory Letter for failing to recognize a hip fracture on x-ray. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
16.	MD-08-1229A	ANN A. CAYWOOD, M.D.	8279	Issue an Advisory Letter for prescribing a higher than recommended dose of Adderall to a seven year-old patient. This matter does not rise to the level of discipline.
17.	MD-08-0928A	CHARLES H. PSHAENICH, M.D.	25570	Issue an Advisory Letter for failure to obtain basic blood work in a patient with at least a two-day history of vomiting and weakness. This was a one time occurrence that does not rise to the level of discipline.
18.	MD-08-0259A	HARRIS S. SILVER, M.D.	23195	Issue an Advisory Letter for failure to advise a patient of the necessity for removal of a sinus stent and for inadequate medical records. This matter does not rise to the level of discipline.
19.	MD-08-1258A	MARCO GHIGNONE, M.D.	17052	Issue an Advisory Letter for action taken by the Florida Medical Board for failure to obtain a PT/INR prior to performing an epidural injection for a patient on Coumadin. This was a one time occurrence that does not rise to the level of discipline.

Dr. Petelin questioned whether Dr. Ghignone should obtain CME in anticoagulation and coagulation cascade, Dr. Krishna pointed out that Dr. Ghignone was required to complete CME in anticoagulation pursuant to his Florida Board Order.

MOTION: Dr. Krishna moved to issue an Advisory Letter for action taken by the Florida Medical Board for failure to obtain a PT/INR prior to performing an epidural injection for a patient on Coumadin. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
20.	MD-08-0505A	MICHAEL F. ROCKWELL, M.D.	6563	Issue an Advisory Letter for failure to personally evaluate an obstetrical patient with non-reassuring fetal tracings in a timely manner. This matter does not rise to the level of discipline.

Dr. Petelin was recused from this case.

MOTION: Dr. Mackstaller moved to issue an Advisory Letter for failure to personally evaluate an obstetrical patient with non-reassuring fetal tracings in a timely manner. This matter does not rise to the level of discipline.

SECONDED: Ms. Griffen

VOTE: 11-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
21.	MD-08-0994A	STEVEN L. PORTER, M.D.	25535	Issue an Advisory Letter for improper performance of open reduction internal fixation of the humerus leading to radial nerve palsy. This was a one time occurrence that does not rise to the level of discipline.
22.	MD-08-1322A	MISTY YI TU, M.D.	40715	Issue an Advisory Letter for failure to conduct a physical examination prior to prescribing Norco, and within 6 months, complete 10 hours of non-disciplinary CME in ethics. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time occurrence that does not rise to the level of discipline.

Dr. Pardo stated that she was concerned with Dr. Tu's dishonesty with the Pharmacy Board and recommended that she obtain CME in ethics. Vicki Johansen, Case Manager, informed the Board that when the issue was discussed at SIRC, it was determined that Dr. Tu was ultimately forthright with the Board and a violation of A.R. S. §32-1401(27)(t) was not sustained.

MOTION: Dr. Pardo moved to issue an Advisory Letter for failure to conduct a physical examination prior to prescribing Norco, and within 6 months, complete 10 hours of non-disciplinary CME in ethics. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Dr. Martin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
23.	MD-08-0448A	PATRICIA M. CRELLIN, M.D.	21731	Issue an Advisory Letter for failure to report possible sexual abuse of a vulnerable patient. This matter does not rise to the level of discipline.
24.	MD-08-1066A	SANJEEV C. PATEL, M.D.	33908	Issue an Advisory Letter for action taken by another state. This was a one time occurrence that does not rise to the level of discipline.
25.	MD-08-0907A	IAN G. HAYCOCKS, M.D.	27813	Issue an Advisory Letter for failure to recognize and report features on an upper GI that may have been related to the patient's subsequently diagnosed carcinoma. This was a one time technical violation that does not rise to the level of discipline.
26.	MD-08-1068A	JAMES C. VAN DOREN, M.D.	29000	Dismiss.

Dr. Mackstaller was recused from this case. Dr. Van Doren spoke during the call to the public. Kathleen Coffey, M.D., Medical Consultant, summarized that Dr. Van Doren made the diagnosis of Somatization Disorder without supporting documentation. Dr. Martin noted that the case was initiated with the allegation that Dr. Van Doren failed to refer the patient and Dr. Van Doren's response was found to be adequate; however, the failure to properly establish the diagnosis arose during the course of the investigation. Dr. Martin pointed out that the Medical Consultant opined that the issue is not significant and that it should not affect the physician's record. Therefore, Dr. Martin spoke in favor of dismissal.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Martin

VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
27.	MD-08-1518A	JOE T. HAYASHI, M.D.	12865	Issue an Advisory Letter for failure to urgently or emergently obtain a follow up in a patient with melena and a significant drop in hemoglobin. This was a minor violation that does not rise to the level of discipline.
28.	MD-08-0727A	MARY K. DURFEE, M.D.	34923	Issue an Advisory Letter for applying an incorrect solution to the vulva during colposcopy. This was a one time technical error.

Dr. Schneider was recused from this case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
29.	MD-08-0203B	MICHELLE L. CABRET-CARLOTTI, M.D.	30196	Issue an Advisory Letter for inadequate medical records and for failing to adequately disclose her Board Certification qualifications on her website. This was a minor technical violation that does not rise to the level of discipline.

PP spoke during the call to the public. The Board reviewed Dr. Cabret-Carlotti's profile on her website and noted that it displayed her Oral and Maxillofacial Surgery training and indicated that she is Board Certified. Board members expressed their concern that patients may be misled to think that her certification applies to the area of breast surgery. Dr. Krishna pointed out that a records violation was also identified in reviewing this case.

MOTION: Dr. Krishna moved to issue an Advisory Letter for inadequate medical records. The violation is a minor or technical violation that does not rise to the level of discipline.

SECONDED: Dr. Martin

Board members noted that Dr. Cabret-Carlotti's profile failed to identify which organization granted the Board Certification. The Board noted that Dr. Cabret-Carlotti's Board Certification applies to her dental license and not her allopathic medicine license. Dr. Krishna withdrew his motion.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inadequate medical records and for failing to adequately disclose her Board Certification qualifications on her website. This was a minor technical violation that does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
30.	MD-08-0769A	VINSON C. THOMPSON, M.D.	13010	Issue an Advisory Letter for inadequate medical records. This matter does not rise to the level of discipline.
31.	MD-06-0964A	MARGARET R. KHOURI, M.D.	27739	Issue an Advisory Letter for performing procedures without clear indications and on high risk patients, for using an indirect visualization technique while dilating an elderly patient's esophagus after food removal, and for failing to immediately recognize a perforated colon during a colonoscopy procedure. There is not sufficient evidence to support discipline.

Dr. Krishna was recused from this case.

MOTION: Dr. Mackstaller moved to issue an Advisory Letter for performing procedures without clear indications and on high risks patients, for using an indirect visualization technique while dilating an elderly patient's esophagus after food removal, and for failing to immediately recognize a perforated colon during a colonoscopy procedure. There is not sufficient evidence to support discipline.

SECONDED: Ms. Griffen

VOTE: 11-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
32.	MD-08-1407A	SANJAY KRISHNAN, M.D.	34277	Offer the physician a Consent Agreement for a Letter of Reprimand. If the physician declines, invite for a Formal Interview.

Dr. Krishnan spoke during the call to the public. Dr. Pardo noted that it has been the Board's position to discipline physicians that violate Board Orders. Dr. Pardo noted Dr. Krishnan's statement issued during the call to the public and found that he was very contrite. However, she was concerned with physicians who violate Board Orders as it decreases the Board's ability to regulate those physicians.

MOTION: Dr. Krishna moved to offer the physician a Consent Agreement for a Letter of Reprimand. If the physician declines, invite for a Formal Interview.

SECONDED: Dr. Pardo

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

MOTION PASSED.

ADVISORY LETTERS WITH NON-DISCIPLINARY CME

MOTION: Dr. Krishna moved to issue an Advisory Letter with non-disciplinary CME in item numbers 1, and 3-6.

SECONDED: Dr. Goldfarb

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0308A	SCOTT A. WASSERMAN, M.D.	23328	Issue an Advisory Letter for failing to explain the most common side effects of

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				Minocycline and for inadequate medical records; and within 6 months, complete 15-20 hours of non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The violation is a minor or technical violation that does not rise to the level of discipline.
2.	MD-08-1013A	STEPHEN W. HARTZ, M.D.	12105	Issue an Advisory Letter for inappropriate prescribing of a Fentanyl patch and for inadequate medical records; and within 6 months, complete 15-20 hours of non-disciplinary CME in opioid prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time occurrence that does not rise to the level of discipline.

Dr. Lee was recused from this case. NC spoke during the call to the public.

MOTION: Dr. Krishna moved to issue an Advisory Letter for inappropriate prescribing of a Fentanyl patch and for inadequate medical records; and within 6 months, complete 15-20 hours of non-disciplinary CME in opioid prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Dr. Pardo

VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
3.	MD-08-1012A	DOUGLAS M. LAKIN, M.D.	19362	Issue an Advisory Letter for failing to fully evaluate a patient with a CT scan suggestive of lymphoma who responded poorly to therapy directed at Crohn's disease, and for poor documentation; and within 6 months, complete 15-20 hours of non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.
4.	MD-08-0746A	ANGELO L. CHIRBAN, M.D.	27055	Issue an Advisory Letter for inadequate medical records and for signing a blank prescription; and within 6 months, complete 15-20 hours of non-disciplinary CME in prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, repetition of the activities that led to the investigation may result in further board action against the licensee.

PH and LH spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
5.	MD-08-1110A	BALBIR C. SHARMA, M.D.	14499	Issue an Advisory Letter for inadequate medical records and within 6 months, complete 15-20 hours non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This matter does not rise to the level of discipline.
6.	MD-08-0386A	PATRICIA L. CLARKE, M.D.	26877	Issue an Advisory Letter for failure to adequately evaluate anemia, for prescribing a beta-blocker to a patient with a low heart rate, for performing an inadequate history and physical in a patient with low back pain, and for inadequate medical records; and within 6 months, complete 15-20 hours non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This matter does not rise to the level of discipline.

REVIEW OF EXECUTIVE DIRECTOR (ED) DISMISSALS

MOTION: Dr. Pardo moved to uphold the ED dismissal in item numbers 1, 2, and 4.

SECONDED: Ms. Proulx

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0897A	JASON P. DU PONT, M.D.	31546	Uphold the ED Dismissal.

Dr. Du Pont spoke during the call to the public.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-08-1114A	WILLIAM E. DEYDEN, M.D.	10408	Uphold the ED Dismissal.
3.	MD-08-0783A	EMMA J. CASTILLO, M.D.	29015	Uphold the ED Dismissal and draft a special dismissal letter to reflect that the Board expressed serious concern regarding the licensee's failure to acknowledge that splenic hematoma is a known complication of a colonoscopy.

Dr. Castillo spoke during the call to the public. PH and her husband also addressed the Board during the call to the public. Dr. Petelin noted the statements issued during the call to the public, specifically, Dr. Castillo's statement that she did not believe the

patient's development of a splenic hematoma was related to her performance of the colonoscopy. Board members expressed concern that Dr. Castillo failed to acknowledge that splenic hematoma is a known complication of a colonoscopy. The Board considered issuing Dr. Castillo a non-disciplinary CME Order. Dr. Pardo questioned whether Dr. Castillo should have aborted the procedure once she realized how tortuous and difficult the patient's colon was. Dr. Mackstaller pointed out that most colons are identified as tortuous and difficult when performing a colonoscopy. Dr. Schneider pointed out that the Medical Consultant found that Dr. Castillo met the standard of care in this case and did not identify any patient harm.

MOTION: Dr. Mackstaller moved to uphold the ED dismissal.
SECONDED: Dr. Schneider

Dr. Krishna spoke against the motion. Dr. Goldfarb opined that it is the Board's duty to inform the licensee that splenic hematoma is a known and acceptable complication of a colonoscopy. Dr. Martin recommended that Board staff draft a special dismissal letter that conveys the Board's sentiments.

AMENDED MOTION: Dr. Mackstaller moved to uphold the ED dismissal and instructed Board staff to draft a special dismissal letter to reflect that the Board expressed serious concern regarding the licensee's failure to acknowledge that splenic hematoma is a known complication of a colonoscopy.

SECONDED: Dr. Schneider
VOTE: 12-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-0846A	HABIB U. KHAN, M.D.	27915	Uphold the ED Dismissal.

OTHER BUSINESS

MOTION: Dr. Krishna moved to accept the proposed Consent Agreement in item numbers 2-6.
SECONDED: Dr. Pardo

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-07-0980A	DONALD R. SCHIEVE, M.D.	18602	Accept proposed Consent Agreement for a Letter of Reprimand. Six Months Probation to obtain 15-20 hours CME in the performance of autopsies. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall terminate upon successful completion of the CME.

Dr. Pardo noted that prior to the Agency's conversion to the new database, there was investigation tracking information that provided the Board with the chronology of the case. Board staff stated that such a process is under development. Dr. Pardo noted Dr. Schieve's significant prior Board history that involved the same issues as identified in this case.

MOTION: Dr. Pardo moved to enter into Executive Session to receive legal advice.
SECONDED: Dr. Lee
VOTE: 12-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

The Board entered into Executive Session at 12:08 p.m.
 The Board returned to Open Session at 12:12 p.m.
 No deliberations or discussions were made during Executive Session.

MOTION: Dr. Pardo moved to accept the proposed Consent Agreement for a Letter of Reprimand. Six Months Probation to obtain 15-20 hours of CME in the performance of autopsies. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall terminate upon successful completion of the CME.

SECONDED: Dr. Krishna
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-07-0843A	JOHN S. CARLSON, M.D.	2455	Accept the proposed Consent Agreement for a Letter of Reprimand.
3.	MD-08-0547A	DANIEL I. SHAPIRO, M.D.	20700	Accept the proposed Consent Agreement for a Letter of Reprimand. Five Years Probation to participate in MAP

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-0708A	MARK D. FRIEDMAN, M.D.	17039	Accept the proposed Consent Agreement for a Letter of Reprimand.
5.	MD-08-0882A	DAVID R. BOLICK, M.D.	33101	Accept the proposed Consent Agreement for Surrender of an active license.
6.	MD-07-0128A	MARK D. GOLDBERG, M.D.	18592	Accept the proposed Consent Agreement for a Decree of Censure. Five Years Probation to obtain 10 hours CME in medical recordkeeping and 10 hours CME in practice management. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall include periodic chart reviews. After two years, Dr. Goldberg may petition the ED to terminate the Probation.

Dr. Mackstaller was recused from this case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-06-0621A	ROBERT D. CASTILLO, M.D.	11036	Accept the proposed Consent Agreement for a Decree of Censure.

Dr. Pardo questioned whether Dr. Castillo currently holds an active license to practice medicine. Ms. Boucek informed the Board that Dr. Castillo's license expired; however, when a physician's license expires while there is an open investigation, their license is suspended pending expiration until final adjudication. Once the Board takes final action on the case, the license will then expire.

MOTION: Dr. Pardo moved to accept the proposed Consent Agreement for a Decree of Censure.

SECONDED: Dr. Krishna

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
8.	MD-96-0572	SARDEV S. SIDHU, M.D.	23778	Termination of Board Order

Kathleen Muller, Physician Health Program, summarized that Dr. Sidhu requested the Board terminate his January 1997 Board Order that requires a chaperone when Dr. Sidhu provides care to female patients. Ms. Muller stated that Dr. Sidhu's therapist provided the Board with a report demonstrating the physician's compliance and recommendation for termination of the Order. The Board's Evaluation Review and Staff Investigational Review Committees have also recommended termination of the Order.

MOTION: Dr. Krishna moved to terminate the Board Order.

SECONDED: Ms. Ibanez

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	SUBJECT
9.	MD-07-0974A	JAMES I. COLLINS, M.D.	24893	Dismiss.

MOTION: Dr. Krishna moved to uphold the previous recommendation for an Advisory Letter.

Dr. Schneider spoke against the motion and recommended dismissal. Dr. Lee noted that the Board previously recommended that this case be returned for further investigation and, specifically, to obtain a second opinion. The case was returned to the Medical Consultant who provided the Board with an addendum indicating that Dr. Collins met the standard of care. Dr. Lee spoke in support of dismissal. Dr. Schneider pointed out that ultrasounds for size and dates is more limited than an ultrasound for fetal anatomy. Dr. Krishna withdrew his motion.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Dr. Mackstaller

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	SUBJECT
10.	MD-07-1029A	SHAM M. VENGURLEKAR, M.D.	20227	No action was taken. Affirm the Advisory Letter as issued at the February 2009 Board Meeting.

Dr. Lee summarized this matter and stated that he believed the Advisory Letter issued at the February 2009 meeting should be amended to replace "osteopenia" with "osteoarthritis." He also stated that Dr. Vengurlekar requested that "of the hip" be added after osteoarthritis. Dr. Petelin was concerned that the record did not adequately reflect that the patient's hip was osteoarthritic. Dr. Krishna concurred with Dr. Petelin and recommended taking no action.

MOTION: Dr. Krishna moved for the Board to take no action. Affirm the Advisory Letter as issued at the February 2009 Board Meeting.

SECONDED: Ms. Ibanez

VOTE: 11-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	SUBJECT
11.	MD-08-0250A	SYED Z. TAHIR, M.D.	19801	Approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

Dr. Krishna was recused from this case.

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

SECONDED: Ms. Proulx

VOTE: 11-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	SUBJECT
12.	MD-07-0617A MD-08-0265A	ELI J. HAMMER, M.D.	17176	Accept the proposed Consent Agreement for a Decree of Censure.

The Board invoked the "Rule of Impossibility". That rule states that if all of the members of a board have a statutory conflict of interest in a matter, the board members can invoke the Rule of Impossibility and vote, provided they disclose their conflict of interest. Dr. Krishna was recused from this case. Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider read aloud attesting to the following:

"As a result of the Notice of Claim filed by Dr. Hammer against the Arizona Medical Board, I, as a member of the Board, have a statutory conflict of interest with regard to the proposed Consent Agreement involving Dr. Hammer. However, I can set aside any consideration of the Notice of Claim and will impartially consider only the matters that are before the Board today in determining whether to approve this proposed Consent Agreement."

Ms. Boucek stated that by entering into this Consent Agreement, Dr. Hammer admitted to the deviations from the standard of care identified by the Medical Consultant, prescribing medication to a family member, and his taking of the medication tablets without a prescription.

MOTION: Dr. Petelin moved to accept the proposed Consent Agreement for a Decree of Censure.

SECONDED: Ms. Griffen

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider. The following Board member was recused: Dr. Krishna.

VOTE: 11-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	SUBJECT
13.	MD-07-0928A	HELEN E. WATT, M.D.	22016	Accept the proposed Consent Agreement for a Letter of Reprimand.

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

SECONDED: Ms. Proulx

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

MOTION PASSED.

WEDNESDAY, APRIL 1, 2009

CALL TO ORDER

The meeting was called to order at 8:00 a.m.

ROLL CALL

The following Board members were present: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

CALL TO THE PUBLIC

TM addressed the Board during the call to the public on behalf of patient SE. He stated that when this patient presented to him, he was concerned with the amount of pain he was in. He requested that the Board reconsider SE's complaint and open an investigation. Steve Elson addressed the Board and alleged that Dr. Bluvus failed to adequately examine his chief complaints of back and neck pain that began one year prior. He demanded that the Board reconsider his complaint and conduct an investigation. AF also addressed the Board during the call to the public as a former patient of Michelle Cabret-Carlotti, M.D. AF alleged that after undergoing surgery performed by Dr. Cabret-Carlotti, she suffered stress and anxiety. All other statements issued during the call to public appear beneath the case referenced.

OTHER BUSINESS

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
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1.	MD-07-0923A	DAVID A. RUBEN, M.D.	11382	Rescind referral to Formal Hearing and accept the Proposed Consent Agreement for a Letter of Reprimand. One Year Probation to obtain 15-20 hours CME in pain management. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall include periodic chart reviews and Dr. Ruben shall pay administrative costs to the Board relating to filing for hearing at the Office of Administrative Hearings not to exceed \$1,000.
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Dr. Ruben was not present during the Board's consideration of this case. Emma Mamaluy, Assistant Attorney General, thanked Carol Peairs, M.D., Medical Consultant, for her assistance in this case. Ms. Mamaluy stated that the Consent Agreement adequately protects the public and provides sufficient information on a factual basis to notice the public.

MOTION: Dr. Krishna moved to rescind the referral to Formal Hearing and accept the Proposed Consent Agreement for a Letter of Reprimand. One Year Probation to obtain 15-20 hours CME in pain management. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall include periodic chart reviews and Dr. Ruben shall pay administrative costs to the Board relating to filing for hearing at the Office of Administrative Hearings not to exceed \$1,000.

SECONDED: Ms. Proulx

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-05-1133A	GARY W. HALL, M.D.	12977	Deny the motion for rehearing or review.

Dr. Lefkowitz was recused from this case. Ms. Mamaluy summarized that in his motion, Dr. Hall stated that he feels the civil penalty of \$10,000 is excessive. Ms. Mamaluy stated that she does not believe the fee is excessive, given Dr. Hall's very lengthy prior Board history that dates back to 1997, and given that the Board's decision was based on substantial evidence. Dr. Pardo stated that she was concerned with Dr. Hall's violation of a Board Order. Dr. Pardo spoke in favor of denying the motion for rehearing as she did not believe that the civil penalty was excessive.

MOTION: Dr. Krishna moved to deny the motion for rehearing or review.

SECONDED: Dr. Pardo

VOTE: 11-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
3.	MD-06-0622A MD-06-0780A MD-07-0009A MD-07-0255A	JAMES L. ROBROCK, M.D.	16209	Deny the motion for rehearing or review.

Ms. Boucek summarized that in his motion, Dr. Robrock submitted additional information that he claimed was new information; however, the material could have been produced at an earlier date prior to the hearing. Ms. Boucek requested that the Board deny the motion for rehearing or review.

MOTION: Dr. Martin moved to deny the motion for rehearing or review.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-0095A	SHAHZAD HASAN, M.D.	33716	Amend the Findings of Fact by striking Finding of Fact #15 and placing it after Finding of Fact #16.

Ms. Boucek summarized that the motion for technical amendment of the Findings of Fact is to strike Finding of Fact #15 and place it after Finding of Fact #16 so that the statements are correctly positioned in the Board Order.

MOTION: Dr. Martin moved to amend the Findings of Fact by striking Finding of Fact #15 and placing it after Finding of Fact #16.

SECONDED: Ms. Griffen

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
5.	MD-08-0095A	SHAHZAD HASAN, M.D.	33716	Deny the motion for rehearing or review.

Mr. Paul Giancola, legal counsel for the physician, stated that the penalty of a Letter of Reprimand under the circumstance is excessive. He stated that the nursing staff failed to communicate the patient's deteriorating status to Dr. Hasan in a timely manner

and that this case involved a systemic error rather than that of a cognitive nature. Drs. Krishna and Martin stated that they know Mr. Giancola, but it would not affect their ability to adjudicate the case.

MOTION: Dr. Schneider moved to deny the request for rehearing or review.

SECONDED: Dr. Pardo

Dr. Petelin noted that Dr. Hasan explained that he was busy with other patients; therefore, he failed to follow up on the STAT PT/INR. Dr. Petelin found it aggravating that Dr. Hasan had such a large volume of patients to care for at one time.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Martin, Dr. Pardo, Ms. Proulx, and Dr. Schneider. The following Board members voted against the motion: Drs. Lefkowitz, Mackstaller, and Petelin. The following Board member abstained: Dr. Goldfarb.

VOTE: 8-yay, 3-nay, 1-abstain, 0-recuse, 0-absent.

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0430A	KENNETH M. FISHER, M.D.	12762	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. One Year Probation to obtain 15-17.5 hours of CME in medical recordkeeping and 15-20 hours of CME in prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall terminate upon successful completion of the CME.

Dr. Fisher was present without legal counsel. Bhupendra Bhatheja, M.D., Medical Consultant, summarized that Dr. Fisher inappropriately and improperly administered injectable steroids into the deltoid of a patient who was already on steroids and failed to maintain adequate medical records. Dr. Fisher disagreed with the Medical Consultant's findings and clarified that he did not inject the patient personally, he directed his Medical Assistant (MA) to administer the steroid intramuscularly (IM). Dr. Fisher stated that the patient was nonresponsive to conservative management. Board members noted that the patient was on oral steroids at the time that she presented to Dr. Fisher and received the IM injection of steroids. Dr. Fisher stated that there was more fat in the patient's hip and the MA was not comfortable injecting that area. Dr. Fisher also stated that the patient requested the deltoid injection; however, Board members noted that this was not documented in the patient's chart.

Board members questioned whether the MA should have been given more specific direction with regard to which muscle to inject. Dr. Fisher stated that he has learned from this experience and is providing more direction to his MAs as to which muscle should be injected. However, Dr. Fisher stated that he was confused by the Board's concerns as he is not required to provide such specific direction to hospital nurses when they are instructed to administer IM injections. The Board questioned whether Dr. Fisher recognized the difference between a MA and a nurse, as nurse practitioners hold independent licenses and do not require as much physician supervision as MAs. Dr. Martin expressed concern for Dr. Fisher's fund of knowledge as he was unable to identify the dosage of steroids the patient was provided when questioned by the Board. Dr. Fisher accepted responsibility for his MAs actions and stated that this particular MA is no longer employed by his practice. Dr. Lee stated that he did not find that the steroid dose was excessive; however, Dr. Lee stated that he found it unusual that Dr. Fisher would order an IM steroid injection for a patient that is currently taking oral steroids.

MOTION: Dr. Lee 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

Dr. Mackstaller did not believe that the steroid dosing was excessive and does not represent a deviation from the standard of care. However, Dr. Mackstaller expressed concern with the deltoid injection and Dr. Fisher's inadequate medical recordkeeping.

VOTE: 11-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Lee noted Dr. Fisher's significant prior Board history and found that this matter rises to the level of discipline.

MOTION: Dr. Lee moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. One Year Probation to obtain 15-17.5 hours CME in medical recordkeeping and 15-20 hours of CME in prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The Probation shall terminate upon successful completion of the CME.

SECONDED: Dr. Krishna

Dr. Pardo requested that the CME course in prescribing be more specific to the Board's concerns. Dr. Lee stated that he was concerned with Dr. Fisher's general prescribing practice. Patricia McSorley, Case Review Manager, informed the Board that with the range of CME hours requested by the Board, Board staff is able to find an appropriate course for Dr. Fisher to attend.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-08-0651A	TINA M. PELOPIDA, M.D.	34703	Issue an Advisory Letter for failing to return the patient to the operating room after tachycardia, hypotension, and anemia were noted; and within 6 months, complete 15-20 hours of non-disciplinary CME in the treatment of hemorrhagic complications and shock. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time occurrence that does not rise to the level of discipline.

Dr. Pelopida was present with legal counsel, Mr. Rick Delo. Drs. Krishna and Petelin stated that they know Mr. Delo, but it would not affect their ability to adjudicate the case. Ingrid Haas, M.D., Medical Consultant, summarized that Dr. Pelopida failed to return a patient to the operating room after tachycardia, hypotension, and anemia were noted. Dr. Pelopida stated that she planned to avoid having the patient undergo a second procedure and attempted the most conservative approach. She stated that fetal heart tones were noted and a repeat laparotomy was performed. Dr. Pelopida said that an ultrasound was obtained after the second surgery and fetal demise was diagnosed. Dr. Schneider was concerned with the lack of response once Dr. Pelopida was informed that the patient was tachycardic, pale with poor urine output, and hypotensive.

Dr. Schneider found that Dr. Pelopida should have discussed the risks of conservative management versus aggressive treatment with the patient. Dr. Petelin found that Dr. Pelopida prolonged the delay by ordering an unnecessary CT scan. Dr. Mackstaller noted that Dr. Pelopida documented that she had a lengthy discussion with the patient preoperatively; however, Dr. Mackstaller found that she failed to document what was discussed. Mr. Delo stated that the unfortunate outcome was not due to any negligence on the part of Dr. Pelopida. He pointed out that fetal heart tones were identified as being normal just prior to the second procedure. Mr. Delo stated that Dr. Pelopida has learned from this experience and has implemented changes in her practice to prevent a similar occurrence in the future. Dr. Schneider expressed concern with the Dr. Pelopida's failure to timely evaluate the patient and return her to the emergency room for reoperation.

MOTION: Dr. Schneider 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.

SECONDED: Dr. Petelin

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

MOTION PASSED.

Dr. Schneider did not believe that this matter rises to the level of discipline and requested input from other Board members. Dr. Krishna opined that Dr. Pelopida is a competent physician and noted that she has no prior Board history.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failing to return the patient to the operating room after tachycardia, hypotension, and anemia were noted; and within 6 months, complete 15-20 hours non-disciplinary CME in the treatment of hemorrhagic complications and shock. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Ms. Griffen

Dr. Mackstaller was concerned with Dr. Pelopida's failure to document and possible failure to recognize the seriousness of the cyst and the associated complications. Drs. Lee and Petelin spoke in favor of the Advisory Letter with non-disciplinary CME. Dr. Petelin believed that Dr. Pelopida has learned from this case. Dr. Pardo recognized the seriousness of the outcome and expressed concern with Dr. Pelopida's failure to timely respond to the patient's deteriorating status.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Petelin, Ms. Proulx, and Dr. Schneider. The following Board members voted against the motion: Ms. Ibanez, and Drs. Martin and Pardo.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
3.	MD-08-0277A	SUDEEP S. PUNIA, M.D.	20224	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. One Year Probation to obtain 15-20 hours CME in the supervision of PAs and ethics, and 15-20 hours CME in billing, to be completed within 6 months. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

Dr. Punia was present without legal counsel. Elle Steger, Case Manager, summarized that this case stemmed from the investigation of a physician assistant (PA) in which the allegation of Dr. Punia's inadequate supervision of a PA was identified. Dr. Punia informed the Board that he is the Medical Director of three Urgent Care facilities and at any given time, he supervises no more than two PAs. He reported that he meets with his PAs on a weekly basis and maintains a meeting log that consists of the patient's name, which charts were reviewed, and what was discussed. Dr. Goldfarb noted that the PA testified that she was instructed to use CPT Codes 99204 and 99205 when billing for urgent care visits. Dr. Punia stated that the PA's billing practices have nothing to do with his supervision and that there are no specific CPT Codes published for urgent care facilities. Dr. Punia stated that the two codes are contracted between his Urgent Care clinics and the healthcare plans, and that the healthcare plans have not found an issue with his billing practices. It was further alleged that Dr. Punia allowed the PA to write prescriptions using his DEA number. Dr. Punia stated that the PA had not yet received a DEA registration, but was approved to work by the Board. The Board noted that the PA wrote prescriptions on Dr. Punia's blank prescription pad that included his DEA number, the Urgent Care's name, and the PA's signature. Dr. Punia said it is his understanding that once the Board approves the Notification of Supervision (NOS) the PA is allowed to work within the full scope of their supervisor, including prescribing. Dr. Goldfarb pointed out that the NOS application is filed with the Arizona Regulatory Board of Physician Assistants and is signed by the PA's supervising physician, who attests to the following:

By my signature below, I certify that I have read and will abide by Arizona Revised Statutes pursuant to Title 32 and the Rule and Regulations A.A.C. Title 4, Chapter 17, and that any agents and the physician assistant are familiar with the Statutes and Rules regarding the practice of physician assistants and that I assume legal responsibility for health care tasks performed by the physician assistant and I understand the physician assistant may not perform any health care task until I receive written approval of this Notification of Supervision Application.

Dr. Punia stated that it is the PA's responsibility if there is misinformation or an omission made on the NOS application. Dr. Goldfarb stated that a PA is in a dependent position and requires the supervision of a physician who holds an active license to practice medicine. Dr. Goldfarb found that Dr. Punia committed unprofessional conduct by allowing the PA to work at a geographically separate location without Board approval, by encouraging the PA to use his DEA number when writing prescriptions, and by failing to list the information required by statute on his prescription pad. Dr. Goldfarb was also concerned with Dr. Punia's billing practices.

MOTION: Dr. Goldfarb moved for a finding of unprofessional conduct in violation of A.R.S. §32-1401(27)(ii) - Lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

SECONDED: Ms. Griffen

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Goldfarb moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. One Year Probation to obtain 15-20 hours CME in the supervision of PAs and ethics, and 15-20 hours CME in billing, to be completed within 6 months. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. Probation to include site visits to review the PA weekly meeting logs that had been recorded previously and to see if the appropriate notices are posted prominently.

SECONDED: Dr. Lee

Dr. Goldfarb found that discipline was warranted and recommended that Dr. Punia obtain CME in ethics and in the supervision of PAs. He also recommended one year probation at which time Board staff shall obtain the meeting logs and that Board staff shall visit Dr. Punia's Urgent Care clinics to ensure that the appropriate notice is posted prominently. Dr. Goldfarb expressed serious concern for Dr. Punia's failure to understand the Board's issue with his supervision of PAs, and requested that he be restricted from supervising until further education is obtained. Ms. Boucek informed the Board that supervising physicians cannot hold a license that is under probation; therefore, Dr. Punia will be restricted from supervising PAs while he serves his year of probation. Ms. Boucek recommended that the Board enter into a separate Order of immediate effectiveness to allow Board staff to obtain immediate possession of Dr. Punia's meeting logs and conduct a site visit to ensure the prominent posting of the notice.

AMENDED MOTION: Dr. Goldfarb moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand. One Year Probation to obtain 15-20 hours CME in the supervision of PAs and ethics, and 15-20 hours CME in billing, to be completed within 6 months. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

SECONDED: Dr. Lee

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, and Dr. Schneider. The following Board members abstained: Ms. Ibanez, Dr. Petelin and Ms. Proulx.

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

MOTION PASSED.

MOTION: Dr. Goldfarb moved for an Order of immediate effectiveness allowing Board staff to obtain immediate possession of the PA meeting logs that had been recorded previously and to conduct a site visit to ensure that the appropriate notices are posted prominently.

SECONDED: Dr. Petelin

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, and Dr. Schneider. The following Board members abstained: Ms. Ibanez and Ms. Proulx.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-0983A	INAYAT ALI-KHAN, M.D.	12985	Issue an Advisory Letter for inadequate medical records, and within 6 months complete a non-disciplinary Intensive Course in medical recordkeeping with individual preceptorship or Board staff-approved CME course. This matter does not rise to the level of discipline.

Dr. Ali-Khan was present without legal counsel. Kathleen Coffey, M.D., Medical Consultant, summarized that Board staff had conducted a random chart review in which six patients' charts were reviewed pursuant to Dr. Ali-Khan's June 2006 Board Order. Recordkeeping issues were identified in two of the six charts reviewed that involved patients CA and CG. The Board considered this case at its February 2009 meeting and noted that Dr. Ali-Khan's prior Board history is significant for medical recordkeeping issues; therefore, the Board voted to invite the physician for a Formal Interview. Board members noted that the physician previously underwent a recordkeeping course at PACE. Dr. Ali-Khan stated that he has implemented changes in his recordkeeping that include more thorough history taking and more detailed notes. He stated that he also modified his recordkeeping to include explanations of the patient's symptoms and his rationale for the prescribing of medication. Dr. Petelin was concerned that Dr. Ali-Khan's recordkeeping had not improved, but found that this matter does not rise to the level of discipline.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inadequate medical records, and within 6 months complete a non-disciplinary intensive course in medical recordkeeping with individual preceptorship or Board staff-approved CME course. This matter does not rise to the level of discipline.

SECONDED: Dr. Mackstaller

Board staff informed the Board that Dr. Ali-Khan is currently not subject to a Board Order. Dr. Martin stated that he recognized Dr. Ali-Khan's willingness to accept the Board's criticisms and stated that it is clear he is also willing to learn. Dr. Martin further stated that the Board should allow Dr. Ali-Khan the ability to rehabilitate. Dr. Pardo instructed Board staff to research the possibility for the physician to participate in a preceptorship locally.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

MOTION PASSED.

THURSDAY, APRIL 2, 2009

CALL TO ORDER

The meeting was called to order at 8:00 a.m.

ROLL CALL

The following Board members were present: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

CALL TO THE PUBLIC

There was no one present to speak during the call to the public.

FORMAL INTERVIEWS

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
1.	MD-08-0232A	MARION L. SULLIVAN, M.D.	17124	Issue an Advisory Letter for failing to admit a patient with chest pain radiating to the throat with paresthesia in the left upper extremity as well as transient pallor and diaphoresis, and within 6 months obtain 15-20 hours of non-disciplinary CME in the treatment of acute coronary syndrome. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This matter does not rise to the level of discipline.

Dr. Sullivan was present without legal counsel. Bhupendra Bhatheja, M.D., Medical Consultant, summarized that Dr. Sullivan failed to admit a patient to the hospital who subsequently expired due to ventricular fibrillation. Dr. Sullivan explained that the

patient presented to the emergency room (ER) via emergency medical services, but did not display the same symptoms as described in the paramedic's report. The Board noted that the patient received nitroglycerin and aspirin while transported to the ER, which decreased her pain. Dr. Sullivan informed the Board that the patient was involved in a motor vehicle collision 48-72 hours prior to her presentation to the ER. Dr. Goldfarb noted that the patient had a similar episode of pain prior to the collision. Dr. Sullivan believed that she met the standard of care in this case, but has learned from this experience. She stated that she no longer allows her PAs to work up patients with more serious medical or surgical problems. Dr. Schneider found Dr. Sullivan to be a competent and caring physician, and questioned what she would do differently if presented with a similar patient in the future. Dr. Sullivan stated that her examination would not change, but she would include a cardiology consultation. Dr. Mackstaller opined that the patient should have been admitted to the hospital, which would have afforded her the opportunity for a better outcome. Dr. Mackstaller noted that Dr. Sullivan has no prior Board history and found that this matter does not rise to the level of discipline.

MOTION: Dr. Mackstaller moved to issue an Advisory Letter for failing to admit a patient with chest pain radiating to the throat with paresthesia in the left upper extremity as well as transient pallor and diaphoresis, and within 6 months obtain 15-20 hours of non-disciplinary CME in the treatment of acute coronary syndrome. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This matter does not rise to the level of discipline.

SECONDED: Dr. Lefkowitz

Dr. Pardo spoke in support of discipline as she believed the tragic outcome may have been preventable had the patient been admitted to the hospital. Dr. Petelin spoke in favor of the motion, and stated that he was concerned with the repeated issue of physician assistant supervision. Ms. Ibanez instructed Board staff to place the frequent issue of PA supervision on the Board's Offsite Meeting Agenda.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Petelin, Ms. Proulx, and Dr. Schneider. The following Board member voted against the motion: Dr. Pardo. The following Board member abstained: Dr. Martin.

VOTE: 10-yay, 1-nay, 1-abstain, 0-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
2.	MD-07-0526A	DEREK LANDAN, M.D.	28634	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

Dr. Landan was present with legal counsel, Ms. Sarah Sato. Dr. Wolf summarized that Dr. Landan performed endoscopic retrograde cholangiopancreatography (ERCP) and endoscopic sphincterotomy without appropriate indications, performed sphincterotomy prior to cholangiography to verify the position of the sphincterotomy within the bile duct, and failed to maintain adequate medical records. Dr. Krishna noted that it is routine to perform a cholangiogram prior to sphincterotomy; however, the medical record indicated that a cholangiogram was performed after sphincterotomy. Dr. Landan explained that his dictation did not adequately reflect the correct sequence of the procedures. Dr. Landan stated that in retrospect, he would have obtained additional studies prior to performing ERCP. Dr. Petelin was concerned with Dr. Landan's aggressive approach without proper indications for the performance of ERCP. Ms. Sato stated that the performance of ERCP was well within Dr. Landan's expertise. She pointed out that the complication is a known and acceptable complication that may occur in the absence of negligence, and was recognized timely and treated appropriately. Dr. Krishna found that Dr. Landan is a competent physician, but was concerned with his performance of ERCP without proper indications.

MOTION: Dr. Krishan 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. Petelin

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

MOTION PASSED.

Dr. Krishna found that this case rises to the level of discipline as Dr. Landan's inappropriate performance of ERCP caused harm to the patient, and that Dr. Landan's operative report was inadequate.

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

SECONDED: Dr. Petelin

Dr. Pardo found that the outcome was egregious, but stated that she could not support a Letter of Reprimand. Dr. Schneider was concerned with Dr. Landan's failure to inform the patient of the risks and benefits of proceeding with aggressive surgery versus conservative management. Dr. Goldfarb was concerned with Dr. Landan's performance of an unnecessary procedure and agreed that the matter rises to the level of discipline.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Dr. Krishna, Dr. Lee, Dr. Martin, Dr. Petelin, and Dr. Schneider. The following Board members voted against the motion: Ms. Griffen, Ms. Ibanez, Dr. Lefkowitz, Dr. Mackstaller, and Dr. Pardo. The following Board member abstained: Ms. Proulx.

VOTE: 6-yay, 5-nay, 1-abstain, 0-recuse, 0-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
3.	MD-08-0901A	PAUL C. PFLUEGER, M.D.	37966	Issue an Advisory Letter for placing left total knee components into a right knee during total knee arthroplasty. This was a technical violation that does not rise to the level of discipline.

Dr. Lee stated that he works with the organization in which Dr. Pflueger is associated, but it would not affect his ability to adjudicate the case. Dr. Pflueger was present with legal counsel, Mr. Fred Cummings. Dr. Krishna stated that he knows Mr. Cummings, but it would not affect his ability to adjudicate the case. Gerald Moczynski, M.D., Medical Consultant, summarized that Dr. Pflueger placed left femoral and tibial components into a right knee during total knee arthroplasty. Dr. Pflueger admitted that he made a mistake and stated that he takes full responsibility for what occurred. Dr. Martin questioned whether the placement of incorrect knee components into the patient's knee was a form of wrong-site surgery. Dr. Pflueger stated that the circulating nurse and scrub nurse saw and approved the implant components prior to his approval and insertion of the components. He admitted that he failed to document his discussion regarding the error that occurred with the patient that immediately following surgery. He stated that this matter has caused him to implement changes in his policies and procedures, as well as the hospital's policy. Dr. Petelin appreciated Dr. Pflueger's honesty with the Board and his forthright behavior. Mr. Cummings commended the Board for taking the circumstances of each case individually. He reported that Dr. Pflueger ensured that the patient was taken care of economically and reiterated that the mistake will not occur in the future.

MOTION: Dr. Martin 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.

SECONDED: Dr. Krishna

VOTE: 11-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Martin found it aggravating that Dr. Pflueger was unfamiliar with the operating room staff and found that an Advisory Letter would be appropriate to track the incident.

MOTION: Dr. Martin moved to issue an Advisory Letter for placing left total knee components into a right knee during total knee arthroplasty. This was a technical violation that does not rise to the level of discipline.

SECONDED: Dr. Krishna

Dr. Krishna spoke in favor of the motion. Dr. Martin was impressed with the manner in which Dr. Pflueger addressed the complication. Dr. Pardo found that this matter is similar to wrong-site surgery and warrants discipline.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Petelin, Ms. Proulx and Dr. Schneider. The following Board member voted against the motion: Dr. Pardo. The following Board member abstained: Dr. Goldfarb.

VOTE: 10-yay, 1-nay, 1-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Pardo instructed Board staff to refer this matter to the Arizona Board of Nursing as the nursing staff also failed to recognize the wrong total knee components were presented to the physician and then implanted into the knee.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
4.	MD-08-0131A	RONALD B. JOSEPH, M.D.	8699	Issue an Advisory Letter for failing to impress upon a patient the urgent need for hospitalization and intervention of a forearm pseudoaneurysm. This matter does not rise to the level of discipline.

Dr. Martin stated that he knows Dr. Joseph, but it would not affect his ability to adjudicate the case. Dr. Joseph was present with legal counsel, Ms. Margaret Dean. Dr. Moczynski summarized that Dr. Joseph failed to impress upon a patient the urgent need for hospitalization and intervention of a forearm pseudoaneurysm. Dr. Joseph stated that after performing endoscopic carpal tunnel release, he felt the patient had a laceration of the artery and recommended reoperation. However, Dr. Joseph could not provide the patient with a guarantee that surgical intervention would correct the problem and the patient declined his recommendation. The Board noted that the patient was subsequently seen by her primary care physician who scheduled her surgery four days later. Dr. Joseph stated that he recognized the complication in a timely fashion and made the appropriate recommendations. Dr. Krishna stated that he did not believe the case rises to the level of discipline and noted the patient's noncompliance. Dr. Krishna commended Dr. Joseph for the improvements in his recordkeeping.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failing to impress upon a patient the urgent need for hospitalization and intervention of a forearm pseudoaneurysm. This matter does not rise to the level of discipline.

SECONDED: Dr. Lefkowitz

Dr. Schneider was concerned that the subsequent physician also failed to act urgently in the face of this patient's complication. Board staff stated that was a case, in and of itself, that has been adjudicated.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Goldfarb, Ms. Griffen, Ms. Ibanez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC.#	RESOLUTION
5.	MD-08-0722A	ROBERT B. CAIRNS, M.D.	9712	Issue an Advisory Letter for failure to document recommended treatment for atrial fibrillation with rapid ventricular response; and within 6 months, complete 15-20 hours of non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

Dr. Cairns was present without legal counsel. Dr. Coffey summarized that Dr. Cairns failed to institute therapy for atrial fibrillation with rapid ventricular response, failed to institute acute reduction of elevated diastolic blood pressure, and failed to maintain adequate medical records. Dr. Cairns acknowledged the inadequacy of his documentation and stated that this was a difficult patient who was noncompliant with his blood pressure medication and refused to present to the emergency room for evaluation. The Board questioned why Dr. Cairns did not obtain a cardiology consultation. Dr. Cairns stated that he was informed by the patient's primary care physician's office that the patient was scheduled for a cardiology consultation. Dr. Cairns admitted that the medical records do not adequately reflect the sequence in which Dr. Cairns ordered tests. Board members expressed their concern for Dr. Cairns' failure to adequately document what occurred during this patient's visit and recognized the tragic outcome that involved patient death. The Board also noted that Dr. Cairns failed to document that he strongly recommended the patient undergo an evaluation in the emergency room or that the patient left his office against medical advice. Dr. Cairns stated that his ultimate failure in this case was his failure to convince the patient that he was extremely sick. Dr. Mackstaller found that this matter does not rise to the level of discipline and commented that a physician should not be held accountable for a patient's noncompliance.

MOTION: Dr. Mackstaller moved to issue an Advisory Letter for failure to document recommended treatment for atrial fibrillation with rapid ventricular response; and within 6 months, complete 15-20 hours of non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

SECONDED: Ms. Ibanez

Dr. Petelin spoke against the motion and stated that there were several inconsistencies with the physician's testimony and what is documented in the patient's medical record.

ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Griffen, Ms. Ibanez, Dr. Lee, Dr. Lefkowitz, Dr. Mackstaller, and Ms. Proulx. The following Board members voted against the motion: Dr. Krishna, Dr. Martin, Dr. Pardo, and Dr. Petelin. The following Board members abstained: Drs. Goldfarb and Schneider.

VOTE: 6-yay, 4-nay, 2-abstain, 0-recuse, 0-absent.

MOTION PASSED.



The meeting adjourned at 2:45 p.m.

Lisa S. Wynn, Executive Director