



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR REGULAR SESSION MEETING

Held on June 3, 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

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

CALL TO ORDER

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

ROLL CALL

The following Board members were present: Ms. Griffen, Ms. Ibáñez, Dr. Krishna, Dr. Lee, Dr. Lefkowitz, Dr. Martin, Dr. Pardo, Dr. Petelin, Ms. Proulx, and Dr. Schneider. The following Board member was absent: Dr. Mackstaller.

CALL TO THE PUBLIC

Mary Lou Secor spoke on behalf of W. Neil Chloupek, M.D., and stated that in spite of his personal trials, Dr. Chloupek's standard of care for his patients remained the same over the years and that he is a very caring and competent physician and has been greatly missed by his patients. Ms. Secor stated that she has followed his case with the Board and questioned what evidence supported the Board's finding of unprofessional conduct. Dr. Chloupek also addressed the Board and provided Board members with his written call to the public statement along with attachments. He questioned the Board's reason for charging him with unprofessional conduct and ultimately revoking his license. Emma Castillo, M.D., spoke regarding case MD-08-0783A and asked that the Board reconsider the special dismissal letter she received in April 2009 contending that she failed to acknowledge that splenic hematoma is a known complication of colonoscopy. She stated that since she was limited to only three minutes during the call to the public during the April 2009 meeting, she had to tailor her statements to address the patient's complaints and the Board's concerns. In addition, she stated that she did not mean to imply that she did not believe that splenic hematoma was a known complication of colonoscopy. All other speakers who addressed the Board during the call to the public appear beneath the case referenced.

EXECUTIVE DIRECTOR'S REPORT

Lisa S. Wynn, Executive Director, reported that she attended the Federation of State Medical Boards' (FSMB) meeting in Washington D.C., along with Drs. Krishna, Lee, Lefkowitz, Martin, and Petelin. She informed the Board that Dr. Krishna was elected to the FSMB's Board of Directors. Ms. Wynn stated that she also attended the FSMB strategic planning lunch and stated there were many opportunities to learn from the Board Members and staff from other State Medical Boards regarding Physician Health Programs, maintenance of licensure, and benchmarks to measure success. Ms. Wynn reported that Board staff attended Crime Prevention and Violence in the Work Place training along with staff from the Arizona Board of Osteopathic Examiners and the Office of Pest Management. Ms. Wynn requested that Board members contact her prior to the meeting if there is any additional information they may need to assist in their case review or if they have any questions regarding a particular case. Ms. Wynn commented that she continues to be amazed and impressed by the dedication of Board staff. Ms. Wynn commended Chris Banys, Board Operations Manager, and Kenyada Corley, Legal Coordinator, for their work in drafting and negotiating the proposed Consent Agreements. Drs. Krishna and Pardo also expressed their appreciation for staff's efforts.

BOARD OFFSITE MEETING AGENDA

Ms. Wynn provided the Board with a list of proposed topics to be discussed at the Offsite Meeting, including issues requested by Board members throughout the year. The Board agreed on the following topics to be discussed at the meeting:

1. Informed Consents Regarding Surgeons' Level of Experience

2. Disclosure of a Physician's Communicable Disease
3. Frequent Use of Physician Assistants
4. Advisory Letters Posted on Physicians' Profiles
5. Subcommittee Updates

Ms. Wynn offered the Board scheduling options for the Offsite Meeting. She stated that Board staff anticipates holding a one-day meeting in August and suggested that the Offsite Meeting could be held the following day. She stated that the Offsite Meeting is currently scheduled for September 11, 2009. Dr. Lee pointed out that the Board has traditionally held the Offsite Meeting in Tucson in September. Board members spoke in favor of holding the Offsite Meeting on August 6, 2009, if the Regular Session Meeting is scheduled for one day.

CHAIR'S REPORT

Dr. Lee congratulated Dr. Krishna in his election to the FSMB's Board of Directors. Dr. Krishna thanked Ms. Wynn for her assistance in writing letters on his behalf during the campaign.

LEGAL ADVISOR'S REPORT

Ms. Boucek informed the Board that due to the State's Budget crisis, Emma Mamaluy, Assistant Attorney General, has been temporarily transferred to handle cases in another division of the Attorney General's Office. Ms. Boucek also informed the Board that the previous backlog of cases referred to the Office of Administrative Hearings for Formal Hearing has been eliminated. She stated that there are currently six cases pending Formal Hearing, and that cases are currently being scheduled in a timely fashion.

APPROVAL OF MINUTES

MOTION: Dr. Krishna moved to approve the April 1-2, 2009 Regular Session Meeting, including Executive Session.

SECONDED: Ms. Griffen

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

MOTION PASSED.

ADVISORY LETTERS

MOTION: Dr. Martin moved to issue an Advisory Letter in item numbers 2-6, 8, 11-14, 17-21, 24-29, and 31-34.

SECONDED: Ms. Ibáñez

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0723A	AUBREY M. PALESTRANT, M.D.	13416	Issue an Advisory Letter for failing to discontinue aspirin regimen prior to performing a biopsy, for performing a biopsy without an adequate target lesion, and by using an 18 gauge coaxial needle when alternatives were available. This was a one time occurrence that does not rise to the level of discipline.

Dr. Palestrant spoke during the call to the public and stated that he disagreed with the medical consultant's findings. Dr. Palestrant stated that there were no community guidelines regarding aspirin therapy when this incident occurred and that the 18 gauge needle used on this patient was a reasonable size. William Wolf, M.D., Chief Medical Consultant, summarized that the medical consultant who reviewed this case found that the constellation of events constituted a deviation from the standard of care. Dr. Wolf stated that the medical consultant's supplemental report acknowledged extenuating circumstances surrounding the incident. Dr. Petelin spoke in favor of issuing an Advisory Letter as Dr. Palestrant biopsied a major vessel rather than the targeted lesion. Dr. Krishna concurred with Dr. Petelin's statements and believed that issuing an Advisory Letter would be appropriate.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failing to discontinue aspirin regimen prior to performing a biopsy, for performing a biopsy without an adequate target lesion, and by using an 18 gauge coaxial needle when alternatives were available. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-08-0039A	GRAYSON H. WHEATLEY, M.D.	33217	Issue an Advisory Letter for performing an invasive surgery on a patient with substantial comorbidities resulting in a poor outcome, and for inadequate medical records. This was a one time occurrence that does not rise to the level of discipline.
3.	MD-08-1438A	HARRY L. HAWKINS, M.D.	27932	Issue an Advisory Letter for action taken by another state. This matter does not rise to the level of discipline.
4.	MD-08-1104A	JAMES C. VAN DOREN, M.D.	29000	Issue an Advisory Letter for inadequate medical records and for failing to adequately follow up with the patient after a suicidal attempt was reported. This matter does not rise to the level of discipline.
5.	MD-08-1045A	LAWRENCE S. KASKOWITZ, M.D.	28221	Issue an Advisory Letter for failure to identify a vertebral fracture on a chest x-ray taken for trauma. This was a one time occurrence that does not rise to the level of discipline.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
6.	MD-08-0709A	LINO A. OSSANNA, M.D.	33661	Issue an Advisory Letter for failure to identify fetal distress. This was a one time occurrence that does not rise to the level of discipline.
7.	MD-08-0426A	MATTHEW C. KIDD, M.D.	35101	Issue an Advisory Letter for failure to document an abdominal examination and testing of a G-Tube to verify placement. This was a one time occurrence that does not rise to the level of discipline.

Dr. Petelin spoke in favor of dismissing this case as the patient's G-tube was correctly replaced and he believed that Dr. Kidd's actions had no bearing on the events that subsequently occurred. Dr. Petelin found that Dr. Kidd adequately evaluated the patient.

MOTION: Dr. Petelin moved for dismissal.

SECONDED: Dr. Schneider

Dr. Krishna spoke against the motion and noted that Dr. Kidd failed to document an abdominal examination and testing to verify G-tube placement. Dr. Petelin stated that had Dr. Kidd delegated these duties to the nurse, it would have been appropriate that he did not document an exam that he did not perform. Dr. Martin pointed out that Dr. Kidd billed the patient for an abdominal exam and verification of G-tube placement. Dr. Martin spoke in favor of issuing Dr. Kidd an Advisory Letter and stated that Dr. Kidd should not be absolved of his responsibility to the patient.

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

MOTION FAILED.

MOTION: Dr. Krishna moved to issue an Advisory Letter for failure to document an abdominal examination and testing of a G-tube to verify placement. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Ms. Ibáñez

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
8.	MD-08-1044A	MICHAEL K. BUSH, M.D.	14105	Issue an Advisory Letter for inadequate physician coverage. This was a one time occurrence that does not rise to the level of discipline.
9.	MD-08-0606B	PAUL S. WAHLHEIM, M.D.	28833	Issue an Advisory Letter for inadequate evaluation of a patient presenting with confusion and oxygen saturation of 70%, and for prescribing Phenergan for a new complaint of nausea without re-evaluation. This was a one time occurrence that does not rise to the level of discipline.

Dr. Wahlheim addressed the Board and provided a brief summary of the case. He stated that the patient was stable when he saw her and that she was on multiple medications when he administered Phenergan. Dr. Wahlheim pointed out that several providers were involved in the care of this patient and that he has learned from this experience. Ms. Judith Berman addressed the Board on behalf of Dr. Wahlheim and requested that the case be dismissed, as Dr. Wahlheim obtained an independent reviewer who found that there was no breach in the standard of care. CS also addressed the Board and stated that she was not on any medications when she was seen by Dr. Wahlheim and given the Phenergan. CS alleged that Dr. Wahlheim failed to provide her with adequate patient care.

Bhupendra Bhatheja, M.D., Medical Consultant, summarized that Dr. Wahlheim prescribed Phenergan to a patient with complaints of nausea without re-evaluation. Dr. Petelin expressed concern that Dr. Wahlheim failed to respond to the patient's hypoxemia and that Dr. Wahlheim failed to document his thought process in dismissing the patient's hypoxemia. Dr. Petelin spoke in favor of issuing an Advisory Letter. Dr. Lee questioned whether the standard of care required a physician to request that the patient return for further work up to address the complaint of nausea when an evaluation was previously performed. Dr. Bhatheja stated that primary care physicians may prescribe medication over the phone without conducting a second work up for the nausea. Dr. Bhatheja pointed out that the patient was provided a small dose of Phenergan.

MOTION: Dr. Krishna moved to issue an Advisory Letter for inadequate evaluation of a patient presenting with confusion and oxygen saturation of 70%, and for prescribing Phenergan for a new complaint of nausea without re-evaluation. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Dr. Petelin

VOTE: 7-yay, 1-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
10.	MD-08-1022A	PHILIP TING-YI KOI, M.D.	36603	Issue an Advisory Letter for administering Bactrim to a patient who is allergic to sulfa. This was a one time occurrence that does not rise to the level of discipline.

Kathleen Coffey, M.D., Medical Consultant, summarized that Dr. Koi administered Bactrim to a patient with a known allergy to sulfa. Dr. Petelin noted that the patient suffered several bladder perforations and was concerned with the omission of a dictated history and physical and a dictated operative report. Dr. Coffey stated that the medical consultant's report indicated that the interventional radiologist perforated the patient's bladder, but that this was not performed by Dr. Koi.

MOTION: Dr. Petelin moved to issue an Advisory Letter for administering Bactrim to a patient who is allergic to sulfa. This was a one time occurrence that does not rise to the level of discipline.

SECONDED: Ms. Griffen

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
11.	MD-08-1529A	CHRISTOPHER S. HILER, M.D.	27512	Issue an Advisory Letter for failure to notify a patient's guardian of an abnormal lab test in a timely manner and for failure to maintain adequate medical records. This was a one time occurrence that does not rise to the level of discipline.

Dr. Martin was recused from this case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
12.	MD-09-0157A	LAWRENCE ADLER, M.D.	7434	Issue an Advisory Letter for reuse of disposable extension tubing. This matter does not rise to the level of discipline.
13.	MD-08-1358A	RONALD C. PETCHER, M.D.	31540	Issue an Advisory Letter for failure to recognize and report a sacral abnormality on an MRI. This was a one time occurrence that does not rise to the level of discipline.
14.	MD-08-1254A	TAMI J. ROMANO, M.D.	22543	Issue an Advisory Letter for delayed response in recognition and treatment of hypoglycemia. This matter does not rise to the level of discipline.
15.	MD-08-1279A	THOMAS BROUSSEAU, M.D.	30331	Issue an Advisory Letter for making a billing error and violating a State statute in connection with AHCCCS billing. This matter does not rise to the level of discipline.

Dr. Pardo instructed Board staff to open an investigation for the three additional physicians who were also investigated by AHCCCS.

MOTION: Dr. Pardo moved to issue an Advisory Letter for making a billing error and violating a State statute in connection with AHCCCS billing. This matter does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
16.	MD-08-1488A	EDGARDO D. ZAVALA-ALARCON, M.D.	27016	Issue an Advisory Letter for inappropriate use of a heating pad, for failure to recognize a third degree burn, and for inadequate medical records; within six months, complete 15 hours of Board staff pre-approved Category I non-disciplinary CME in wound management. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

JA spoke during the call to the public and stated that she sustained a first-degree burn from a heating pad during a liposuction procedure performed by Dr. Zavala-Alarcon. JA stated that Dr. Zavala-Alarcon should have taken more time during the procedure and should have been more thorough. Dr. Wolf summarized that Dr. Zavala-Alarcon deviated from the standard of care by placing a heating pad beneath a sedated patient resulting in a burn to the abdomen. Dr. Wolf informed the Board that Dr. Zavala-Alarcon reported that he has banned the use of the pads in his practice since this incident occurred. Dr. Petelin expressed concern with Dr. Zavala-Alarcon's lack of recognition that the patient sustained a third-degree burn. Dr. Petelin recommended requiring the physician to obtain CME in burn therapy. Dr. Martin suggested that the CME course involve wound management, rather than burn therapy; Dr. Petelin agreed.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inappropriate use of a heating pad, for failure to recognize a third degree burn, and for inadequate medical records; within six months, complete 15 hours of Board staff pre-approved Category I non-disciplinary CME in wound management. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

SECONDED: Dr. Martin

Dr. Schneider recommended including the language regarding the physician's failure to recognize the third degree burn to clarify why the Board is requiring CME in wound management.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
17.	MD-08-1055A	ELENA SAVILO, M.D.	27181	Issue an Advisory Letter for failure to make the correct diagnosis of vaginal biopsy. This was a one time occurrence that does not rise to the level of discipline.
18.	MD-08-0388A	CATHERINE K. ASPINWALL, M.D.	26934	Issue an Advisory Letter for failure to order gastroenterology and nephrology consultations in a patient with end stage liver failure and worsening renal function. This matter does not rise to the level of discipline.

JD spoke during the call to the public on behalf of his son, the patient. He alleged that Dr. Aspinwall failed to contact the patient's family when he was no longer able to competently make his own medical decisions. He requested that the Board issue Dr. Aspinwall the recommended Advisory Letter. Mr. Curtis Bergan addressed the Board on behalf of Dr. Aspinwall. Mr. Bergan stated that Dr. Aspinwall disagreed with the medical consultant's finding that she deviated from the standard of care in this case. Mr. Bergan stated that Dr. Aspinwall did not obtain the gastroenterology consultation as Dr. Aspinwall did not believe it would have benefited the patient, and that she did obtain a curbside nephrology consultation. He requested that the Board dismiss the case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
19.	This matter was pulled from the agenda.			
20.	MD-08-1036A	GILBERT M. NYAMUSWA, M.D.	23231	Issue an Advisory Letter for inadequate medical records. This was a one time occurrence that does not rise to the level of discipline.
21.	MD-08-0992A	LUIS A. GARCIA, M.D.	32680	Issue an Advisory Letter for failing to directly communicate the CT finding of a large pericardial effusion in an early post-cardiac surgical patient. This was a one time occurrence that does not rise to the level of discipline.
22.	MD-08-1266A	ROBERT D. LANCASTER, M.D.	20188	Issue an Advisory Letter for failure to fully evaluate a patient's weight loss and abdominal pain with imaging procedures. This matter does not rise to the level of discipline.

Dr. Pardo expressed concern regarding the nurse practitioner involved in this case and recommended referring the matter to the Arizona Board of Nursing to review whether the nurse practitioner was practicing outside her scope of practice.

MOTION: Dr. Pardo moved to issue an Advisory Letter for failure to fully evaluate a patient's weight loss and abdominal pain with imaging procedures. This matter does not rise to the level of discipline.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
23.	MD-07-0364A	TERRY L. SIMPSON, M.D.	21784	Issue an Advisory Letter for inadvertently performing a colovaginal anastomosis instead of the intended colorectal anastomosis and within six months complete 15-20 hours of Board staff pre-approved Category I non-disciplinary CME in GI stapling techniques and related complications. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time technical violation that does not rise to the level of discipline.

Dr. Martin was recused from this case. Mr. Stephen Myers addressed the Board on behalf of Dr. Simpson. He noted that Board staff recommended issuing Dr. Simpson an Advisory Letter for inadvertently performing a colovaginal anastomosis instead of the intended colorectal anastomosis. He stated that Dr. Simpson deserved to be interviewed by the Board before such a derogatory statement is published on the Board's website. Mr. Myers further stated that their independent experts found that Dr. Simpson correctly performed a colorectal anastomosis and he stated that there is sufficient evidence to support dismissal of the case. Dr. Simpson also addressed the Board and stated that this patient required resection of more colon than rectum when performing the procedure. Dr. Simpson stated that he tested the anastomosis prior to completing the operation and that there was no doubt when he left the operating room that the anastomosis was correctly performed. Dr. Simpson reported that he believed the patient's colovaginal anastomosis was caused by an unseen colovaginal fistula done previously.

Dr. Pardo stated that she was concerned with the wording of the Advisory Letter as it sounds similar to wrong-site surgery. Dr. Petelin informed the Board that this is a known but very uncommon complication. Dr. Petelin opined that this was an egregious technical error and recommended that Dr. Simpson obtain CME in GI stapling techniques and related complications. Dr. Pardo questioned why the matter does not rise to the level of discipline if this was such an egregious technical error. Dr. Schneider suggested returning the case for further investigation to obtain a new medical consultant review. Board staff informed the Board that the case has been thoroughly investigated and reviewed. Dr. Krishna commented that this was a one time technical error that he believed warranted an Advisory Letter.

MOTION: Dr. Krishna moved to issue an Advisory Letter for inadvertently performing a colovaginal anastomosis instead of the intended colorectal anastomosis and within six months complete 15-20 hours of Board staff pre-approved Category I non-disciplinary CME in GI stapling techniques and related complications. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. This was a one time technical violation that does not rise to the level of discipline.

SECONDED: Ms. Griffen

Dr. Schneider suggested changing the language to state that the Advisory Letter was for "incorrectly performing a colorectal anastomosis." Dr. Pardo agreed with the language change. Dr. Petelin spoke against changing the language as he believed that "colovaginal" needed to remain in the language of the Advisory Letter.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
24.	MD-08-0130A	BALWINDER S. PAWAR, M.D.	27010	Issue an Advisory Letter for failure to document a discussion of risks and

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
				benefits of treatment. This was a one time occurrence that does not rise to the level of discipline.
25.	MD-08-1054A	JOHN P. BADALAMENTI, M.D.	30744	Issue an Advisory Letter for signing a prescription for Fentanyl for a patient without discussing the patient with the PA who had seen and examined the patient. This matter does not rise to the level of discipline.
26.	MD-08-1295B	WADE E. KARTCHNER, M.D.	23164	Issue an Advisory Letter for failure to follow up an abnormal x-ray in a timely manner and for failure to refer a patient with intestinal malrotation to a surgeon. This was a one time occurrence that does not rise to the level of discipline.
27.	MD-09-0243A	FRANCISCO J. HERNANDEZ, M.D.	20754	Issue an Advisory Letter for failure to file a Notice of Supervision form and obtain Board approval prior to supervising a PA. The violation is a minor violation that does not rise to the level of discipline.
28.	MD-07-1110A	JOHN E. HENSLER, M.D.	5346	Issue an Advisory Letter for failure to respond to abnormal labs and for inappropriate treatment with thyroid replacement medication. This matter does not rise to the level of discipline.
29.	MD-08-1314A	JUSTICE H.D. TRAN, M.D.	33525	Issue an Advisory Letter for failure to adequately drain the bladder prior to tubal ligation. The violation was a one time technical error that does not rise to the level of discipline.
30.	MD-08-0779A	KENNETH J. RANSOM, M.D.	36291	Issue an Advisory Letter for inadequate medical records and within six months complete 15-20 hours of Board staff pre-approved Category I 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.

Dr. Petelin recommended that the Board require Dr. Ransom to obtain CME in medical recordkeeping in addition to issuing an Advisory Letter.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inadequate medical records and within six months complete 15-20 hours of Board staff pre-approved Category I 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.

SECONDED: Dr. Krishna

Dr. Pardo noted that Dr. Ransom has no prior Board history and questioned why the CME would be appropriate. Dr. Krishna pointed out that this case involved more than one recordkeeping violation.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
31.	MD-08-0857A	MARK A. STRUMPF, M.D.	13083	Issue an Advisory Letter for failure to perform tailored physical exams in a patient with declining mental status during several visits. This matter does not rise to the level of discipline.
32.	MD-09-0319A	MICHAEL A. CADOGAN, M.D.	36713	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.
33.	MD-08-1352A	RICHARD H. DEMIR, M.D.	36773	Issue an Advisory Letter for failure to completely remove a sheath during performance of a procedure for incontinence. The violation was a one time technical error that does not rise to the level of discipline.
34.	MD-07-1086A	RICHARD H. DEMIR, M.D.	36773	Issue an Advisory Letter for failure to perform breast examinations during well-woman gynecologic visits and for inadequate medical records. The physician has shown substantial compliance through remediation that mitigates the need for discipline.

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

MOTION: Dr. Krishna moved to issue an Advisory Letter with Board staff pre-approved Category I non-disciplinary CME in item numbers 1, 2, and 4-6.

SECONDED: Ms. Proulx

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0795A	MICHAEL P. RIDGE, M.D.	15513	Issue an Advisory Letter for inadequate medical records, for failure to provide clear discharge medication instructions in a patient with a seizure disorder, and within six months obtain 15-20 hours of Board staff pre-approved Category I 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.

Ms. Griffen was recused from this case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-08-1160A	MOHAMMAD A. SUBHAN, M.D.	24949	Issue an Advisory Letter for inadequate supervision of a resident, for inadequate medical records, and within six months obtain 10 hours of Board staff pre-approved Category I non-disciplinary CME in the management of knee arthritis and 10 hours of non-disciplinary CME in the role of supervision of a resident. 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.
3.	MD-08-0288A	PAUL D. MONTANARELLA, M.D.	22111	Return for further investigation to conduct a chart review to determine whether this was an isolated incident.

Dr. Petelin was recused from this case. Dr. Montanarella spoke during the call to the public and reported that he has learned from this experience that better documentation in the anesthesia record may have prevented the problem at hand. He stated that the practice of trauma anesthesia is significantly different than that of the typical practice of anesthesia, and thanked the Board for its time and consideration of his case. Dr. Lee noted that the complaint included concerns regarding Dr. Montanarella's billing practices. Dr. Bhatheja pointed out that the medical consultant did not identify any deviation from the standard of care. Dr. Lee recommended returning the matter for further investigation to determine whether this was an isolated incident or if Dr. Montanarella has a pattern of poor billing practices.

MOTION: Dr. Lee moved to return the case for further investigation to conduct a chart review to determine whether this was an isolated incident.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-0915A	WILLIAM J. HALL, M.D.	25521	Issue an Advisory Letter for failure to employ sterile technique during surgical procedures and within six months obtain 15-20 hours of Board staff pre-approved Category I non-disciplinary CME in the performance of sterile surgical procedures. 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.

Mr. Andrew Plattner addressed the Board on behalf of Dr. Hall and requested that the Board adopt the medical consultant's recommendations rather than issue Dr. Hall an Advisory Letter. He stated that this case involved sterile technique versus dermatologic aseptic technique and that Dr. Hall has agreed to include language on his website to clarify the difference of the techniques.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
5.	MD-09-0133A	MARK D. WILLIAMS, M.D.	29945	Issue an Advisory Letter for inadequate medical records and within six months complete 15-20 hours of Board staff pre-approved Category I 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-08-1025A	PAUL LAMPERT, M.D.	22619	Issue an Advisory Letter for incorrectly interpreting a pediatric chest x-ray and within six months complete 15-20 hours of Board staff pre-approved Category I non-disciplinary CME in interpretation of pediatric chest x-rays. 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. Krishna was recused from this case.

REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Krishna moved to uphold the Dismissal in item numbers 1-3 and 5-6.

SECONDED: Ms. Griffen

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0753A	GERARDO C. SABAL, M.D.	11048	Uphold Dismissal.
2.	MD-08-0753B	ROBERT A. WHITE, M.D.	14834	Uphold Dismissal.
3.	MD-08-0753C	RONOLFO S. MACABUHAY, M.D.	10931	Uphold Dismissal.

JD spoke during the call to the public on behalf of his son, the patient. He alleged that Dr. Macabuhay denied his son the opportunity for hospital admission to receive treatment for his medical condition.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-1169A	ANDREW J. APPEL, M.D.	33956	Uphold Dismissal.

Dr. Petelin noted inconsistencies in Dr. Appel's responses to the Board with regard to the presurgical history and physical. Dr. Coffey stated that the medical consultant accepted Dr. Appel's explanation that indicated the original presurgical history and physical was lost and he had to dictate it at a later date.

MOTION: Dr. Petelin moved to uphold the dismissal.

SECONDED: Dr. Krishna

Dr. Pardo noted Dr. Appel's prior Board history and that it also involved medical records issues.

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
5.	MD-08-1150A	JAMES D. GORDON, M.D.	28386	Uphold Dismissal.
6.	MD-08-1230A	SHAWN D. BLICK, M.D.	27246	Uphold Dismissal.

WP spoke during the call to the public and requested that the Board re-examine the case and sanction Dr. Blick for providing false information to the Board and failing to inform WP that he was not experienced in performing the robotic procedure.

OTHER BUSINESS

MOTION: Dr. Krishna moved to accept the proposed Consent Agreement in item numbers 1, 2, 4, 5, 7-10, 12-14, 16-20, 30, and 31.

SECONDED: Ms. Griffen

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-1072A	KAREN G. CANULLA, M.D.	36948	Accept the proposed Consent Agreement for a Letter of Reprimand and One Year Probation to obtain 15-20 hours of Board staff pre-approved Category I CME in boundary issues. 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. Martin was recused from this case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-08-0841A	DANNY S. DOWNS, M.D.	25306	Accept the proposed Consent Agreement for a Letter of Reprimand.
3.	MD-08-1513A	TAMARA M. SIMON, M.D.	38229	Accept the proposed Consent Agreement for Surrender of License.

Dr. Petelin questioned why the proposed Consent Agreement was more severe than the action taken against Dr. Simon's medical license by the Idaho Medical Board. Vicki Johansen, Case Manager, summarized that Dr. Simon was disciplined by the Idaho Medical Board and that she volunteered to surrender her license to the Arizona Medical Board during the course of the investigation.

MOTION: Dr. Petelin moved to accept the proposed Consent Agreement for Surrender of License.

SECONDED: Ms. Griffen

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.	MD-08-1407A	SANJAY KRISHNAN, M.D.	34277	Accept the proposed Consent Agreement for a Letter of Reprimand.
5.	MD-07-1052A MD-08-0121A MD-08-0333A	GERALD J. TAITAGUE, M.D.	26182	Accept the proposed Consent Agreement for a Decree of Censure and Probation. 10 Years Probation to include a Practice Restriction prohibiting the physician from prescribing, administering or dispensing any controlled substances. After five years, Dr. Taitague may petition to terminate the Probation. The ED may require any combination of approved physical exam, psychiatric and/or psychological evaluations, or successful passage of Special Purpose Licensing Exam to assist in determining whether to terminate the Probation. The physician is responsible for all expenses related to any evaluation.
6.	MD-08-0292A	BENJAMIN H. VENGER, M.D.	20605	Accept the proposed Consent Agreement for a Decree of Censure. Dr. Venger shall pay a civil penalty of \$5,000 within 60 days.

Ms. Johansen referred the Board to supplemental materials available on the 411 site. Dr. Pardo questioned why Dr. Venger was not required to undergo an ethics course and stated that she considered revocation of his license to be more appropriate. Board members noted that the Nevada Medical Board took action against Dr. Venger's license and placed him on Probation. Board members also noted that this incident did not involve patient care, that this incident did not occur in Arizona, and that Dr. Venger is currently not practicing in Arizona. The Board expressed concern regarding Dr. Venger's ability to practice medicine in Arizona with an unrestricted license. Ms. Boucek informed the Board that in addition to the Nevada Medical Board's action, the United State's Attorney also placed conditions on Dr. Venger that would carry forward to any state in which he intends to practice.

MOTION: Dr. Petelin moved to accept the proposed Consent Agreement for a Decree of Censure. Dr. Venger shall pay a civil penalty of \$5,000 within 60 days.

SECONDED: Ms. Griffen

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
7.	MD-08-0673A	MARK R. HEMPHILL, M.D.	24566	Accept the proposed Consent Agreement for a Letter of Reprimand and Five Years MAP Probation. Dr. Hemphill shall obtain a treating psychiatrist. After twelve months, he may request the ED to terminate the psychiatric requirement. Dr. Hemphill's MAP participation is retroactive to December 12, 2008. In the event of chemical dependency relapse or the use of drugs or alcohol in violation of this Order, Dr. Hemphill's license shall be Revoked.
8.	MD-08-0804A	LAUCHIE C. MC DOUGALL, M.D.	19322	Accept the proposed Consent Agreement for a Letter of Reprimand.

Ms. Griffen was recused from this case.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
9.	MD-08-0020B	MICHAEL R. BAKER, M.D.	21813	Accept the proposed Consent Agreement for a Letter of Reprimand.
10.	MD-08-0581A	TIN T. WIN, M.D.	28212	Accept the proposed Consent Agreement for a Letter of Reprimand and One Year Probation to obtain 15-20 hours of Board staff pre-approved Category I CME in prescribing controlled substances and 15-20 hours of CME in medical recordkeeping. 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.
11.	MD-06-0136A MD-06-0506A	MARK L. GRAMS, M.D.	11869	Accept the proposed Consent Agreement for Stayed Revocation with a Practice Restriction prohibiting the physician from practicing medicine in any setting until satisfactorily completing Phase II of PACE and a comprehensive medical evaluation with a Board approved evaluator.

Kathleen Muller, Physician Health Program, presented this matter to the Board and clarified that there is no time frame for Dr. Grams to complete Phase II of PACE, but that the Agreement prohibits Dr. Grams from practicing any form of medicine until completing PACE and undergoing a comprehensive medical evaluation with a Board approved evaluator.

MOTION: Dr. Lee moved to accept the proposed Consent Agreement for Stayed Revocation with a Practice Restriction prohibiting the physician from practicing medicine in any setting until satisfactorily completing Phase II of PACE and a comprehensive medical evaluation with a Board approved evaluator.

SECONDED: Dr. Schneider

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
12.	MD-08-1285A	ALKESHKUMAR H. PATEL, M.D.	35747	Accept the proposed Consent Agreement for a Letter of Reprimand.
13.	MD-08-0840A MD-08-1427A	MICHAEL MAHL, M.D.	12868	Accept the proposed Consent Agreement for License Reactivation, a Letter of Reprimand, and Five Years MAP Probation, upon payment of renewal fee. Within six months, Dr. Mahl shall obtain 15-20 hours of Board staff pre-approved Category I CME in prescribing controlled substances. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. Dr. Mahl shall employ Affiliated Monitors to conduct quarterly chart reviews, at his expense. This requirement may terminate after two years if Dr. Mahl is in compliance and if the chart reviews are acceptable. Dr. Mahl shall obtain a treating psychiatrist and psychotherapist until further order of the ED. In the event of chemical dependency relapse, Dr. Mahl's license shall be revoked. Dr. Mahl shall pay the costs of the scheduled administrative hearing in an amount not to exceed \$2,000.
14.	MD-08-0927A	ALISON K. COOPER, M.D.	24314	Accept the proposed Consent Agreement for a Letter of Reprimand.
15.	MD-08-0900A	DONOVAN J. ANDERSON, M.D.	13491	Accept the proposed Consent Agreement for a Letter of Reprimand.

Dr. Pardo noted Dr. Anderson's prior Board history and stated that she was concerned that this would be his third Letter of Reprimand. She noted that one previous Letter of Reprimand involved Dr. Anderson's failure to conduct a physical examination, which is the same issue identified in this case. Dr. Pardo recommended offering Dr. Anderson a Consent Agreement for a Decree of Censure due to his repetitive offense. Dr. Krishna noted that there was no patient harm involved in this case and spoke in favor of accepting 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: Dr. Petelin

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
16.	MD-07-0989A	AJAYSINGH D. NIRWAN, M.D.	31994	Accept the proposed Consent Agreement for a Letter of Reprimand.
17.	MD-09-0256A	SUDHIR P. AGARWAL, M.D.	17587	Accept the proposed Consent Agreement for Reactivation, and Five Years MAP Probation, upon payment of renewal fee. Dr. Agarwal shall obtain a treating psychiatrist. After twelve months, he may request the ED terminate the psychiatric requirement. Dr. Agarwal's MAP participation is retroactive to February 24, 2009. In the event of chemical dependency relapse or the use of drugs or alcohol in violation of this Order, Dr. Agarwal's license shall be Revoked.
18.	MD-08-1144A	HENRY J. SCHULTE, M.D.	12400	Accept the proposed Consent Agreement for a Letter of Reprimand and One Year Probation to obtain 10-25 hours of Board staff pre-approved Category I CME in ethics. 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.
19.	MD-08-0787A	MARTIN S. CHATTMAN, M.D.	7618	Accept the proposed Consent Agreement for a Letter of Reprimand and One Year Probation to include periodic chart reviews. Within 6 months, Dr. Chattman shall provide the Board with a certificate of completion from the PACE prescribing course. Dr. Chattman shall not act as a supervising physician for a physician assistant while his Probation is in effect.
20.	MD-08-0212A	WILLIAM R. HEARTER, M.D.	16116	Accept the proposed Consent Agreement for a Letter of Reprimand.
21.	MD-05-0242A	JOHN W. HOWLEY, M.D.	22390	Deny the request for termination of Board Order.

Dr. Lee was recused from this case. Ms. Muller summarized that Dr. Howley requested termination of his June 9, 2006 Consent Agreement for Letter of Reprimand and Five Years MAP Probation that is due to terminate by operation of law in July 2010. Dr. Howley stated in his request that he feels the terms of his monitoring agreement are additional stressors rather than a benefit to recovery. Ms. Muller stated that the Board's Evaluation Review Committee (ERC) reviewed the case and recommended denying Dr. Howley's request due to his prior relapse. Dr. Pardo stated that physicians are more successful in their recovery when they complete the entire five year program.

MOTION: Dr. Pardo moved to deny the request for termination of a Board Order.

SECONDED: Ms. Ibáñez

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
22.	MD-04-0827A	MICHAEL A. CHASIN, M.D.	8082	Grant the request for termination of Board Probation Order.

Dr. Chasin spoke during the call to the public and requested that the Board terminate his three year probation as he now understands that he had committed a boundaries violation. Dr. Chasin stated that undergoing the boundary violations course has taught him to communicate more appropriately with his patients. Ms. Muller summarized that in August 2006, Dr. Chasin was issued a Letter of Reprimand and Three Years Probation that required him to undergo treatment with a psychologist for a minimum of one year. Ms. Muller stated that Dr. Chasin's psychologist submitted correspondence to the Board in support of Dr. Chasin's request.

MOTION: Dr. Pardo moved to grant the request for termination of Board Order.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
23.	MD-04-0100A	MARK R. MOURITSEN, M.D.	28909	Grant the request for modification of Board Order.

Ms. Muller presented this matter and summarized that in November 2005, Dr. Mouritsen entered into a Consent Agreement for a Decree of Censure and Five Years MAP Probation. Ms. Muller stated that the Probation included a supervising physician requirement. She stated that the Board's Addiction Medicine Consultant supported Dr. Mouritsen's request for termination of the supervising requirement.

MOTION: Dr. Krishna moved to grant the request for modification of Board Order.

SECONDED: Dr. Petelin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
24.	MD-06-0942A	ALAN K. OSUMI, M.D.	23063	Place on a future agenda with the recommendation for an Advisory Letter for failing to review the content of a report prior to signing it.

Mr. Ed Gaines spoke during the call to the public and briefly summarized the case for the Board which involved Dr. Osumi proxy signing a radiology report without reviewing it. Mr. Gaines stated that the Board's medical consultant found that the standard of care was met in this case and he requested that the Board accept the recommendation for dismissal.

MOTION: Dr. Schneider moved for dismissal.

SECONDED: Ms. Proulx

Dr. Wolf stated that an informal statewide survey confirmed that the vast majority of radiology groups proxy sign reports without reviewing the content. Dr. Wolf stated that due to the informal survey, the Chairman of the Department of Radiology at Dell Webb Hospital elected to terminate proxy signing; however, the decision was reversed after noting that the reports were being processed less expeditiously. Drs. Krishna and Pardo spoke against the motion. Dr. Krishna stated that signing off on a radiologist's report means that the physician signing it knows that the report is sufficient. He recommended issuing a newsletter informing physicians to be more cautious when signing off on reports without first reviewing them.

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

MOTION FAILED.

MOTION: Dr. Krishna moved to place this matter on a future agenda with the recommendation for an Advisory Letter for failing to review the content of a report prior to signing it.

Dr. Krishna stated that issuing an Advisory Letter would be more appropriate for failing to review the content of a report prior to signing it. Dr. Lee commented that if Dr. Osumi was under the impression that proxy signature was the community standard, then the matter should be dismissed. He stated that he did not believe the matter rises to the level of an Advisory Letter. Board members noted that this issue was discussed at its Offsite Meeting in September 2008. Dr. Petelin questioned whether the Board is confusing community standard of care with pattern of practice. He stated that if the Board does not act on this issue then it is, in essence, validating proxy signature. Dr. Martin stated that when a physician signs a lab report, that signature has to mean something. Dr. Pardo questioned whether this was an ethical issue and proposed issuing Dr. Osumi a non-disciplinary CME Order to obtain additional education in ethics. Dr. Lee spoke in support of issuing a non-disciplinary CME Order. Dr. Krishna withdrew his motion and questioned why the Board would not want to advise the physician that it is not medically ethical to proxy sign a report without first reviewing its contents. Dr. Petelin concurred with Dr. Krishna's comments and spoke in favor of issuing Dr. Osumi an Advisory Letter.

MOTION: Dr. Krishna moved to place the matter on future agenda with the recommendation for an Advisory Letter for failing to review the content of a report prior to signing it.

SECONDED: Dr. Pardo

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
25.	MD-07-1096A	WILLIAM A. ARNOLD, M.D.	32913	Dismiss.

Dr. Wolf summarized that this case was initiated at the direction of the Board alleging that Dr. Arnold prematurely discharged a patient after sustaining a colovaginal fistula during the postoperative period. Dr. Wolf stated that in his response to the Board, Dr. Arnold stated that he contacted the surgeon and agreed that surgical correction should be delayed due to a wound infection, and that he preferred to keep the patient in the hospital, but she insisted on being discharged. Dr. Petelin noted that a wound infection may complicate returning a patient for reoperation. Dr. Petelin spoke in favor of dismissal; Dr. Krishna agreed.

MOTION: Dr. Krishna moved for dismissal.

SECONDED: Ms. Proulx

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
26.	MD-08-1290A	DUAN C. COPELAND, M.D.	35699	Offer the physician a Consent Agreement for Stayed Revocation and Five Years MAP Probation. If the physician declines, refer the matter to Formal Hearing.

Dr. Jones Cavanaugh spoke during the call to the public in support of Dr. Copeland. He requested that the Board find a way to return Dr. Copeland to the practice of medicine as his patients and the practice of medicine needs him. Dr. Copeland addressed the Board and stated that he now appreciates the full extent of his impairment. Dr. Copeland requested that the Board place him on probation to continue his participation in MAP. He reported that he has been in successful recovery for the past seven months while actively participating in MAP under an Interim Order. Mr. Stephen Myers also addressed the Board on behalf of Dr. Copeland. Mr. Myers pointed out that Dr. Copeland has no prior Board history and no prior malpractice complaints. Mr. Myers stated that Dr. Copeland was not consciously aware of his impairment when the incident occurred as he was in an Ambien trance. Mr. Myers stated that it would be a profound loss to the medical community if the Board were to revoke Dr. Copeland's license.

Dr. Krishna expressed concern for Dr. Copeland's egregious conduct and recommended Stayed Revocation with MAP Probation as well as a restriction on his work hours. Dr. Pardo noted that Dr. Copeland is currently under an Interim Order and has been participating in MAP for approximately seven months. Ms. Boucek informed the Board that Board staff can offer Dr. Copeland a Consent Agreement for Stayed Revocation with MAP Probation, and if he declines refer the matter to Formal Hearing. She stated that the Board would have to consider issuing a lesser sanction if Dr. Copeland is invited for a Formal Interview. However, should the Board determine that the matter warrants review by an Administrative Law Judge during the course of a Formal Interview, the Board may terminate the proceeding and refer the matter to Formal Hearing.

MOTION: Dr. Krishna moved to offer the physician a Consent Agreement for Stayed Revocation and Five Years MAP Probation. If the physician declines, refer the matter to Formal Hearing.
SECONDED: Dr. Petelin

Dr. Martin stated that he recognizes the struggles and trials that it takes to become a physician. Dr. Martin questioned whether Dr. Copeland deserved the opportunity to be allowed to return to practice given the circumstances surrounding this case. He stated that the vast majority of physicians who are in MAP were not involved in situations where they were impaired at work. Dr. Petelin expressed concern that Dr. Copeland's wife was in control of his medications. In addition, he stated that Dr. Copeland's actions may have directly or indirectly attributed to the patient's subsequent death, given the fact that the patient required transfer to another hospital in another town. Dr. Lee found Dr. Copeland's conduct to be egregious and stated that placing Dr. Copeland in the MAP program and allowing him to return to practice in a small community with no oversight may present a problem. Dr. Lee spoke in favor of referring the matter to Formal Hearing if the physician declines the proposed Consent Agreement. Dr. Pardo explained that sometimes it may take something egregious for an individual to realize that they have an illness. She stated that she is more inclined to stay the revocation of his license. Dr. Martin expressed serious concern for this case as he noted that the matter came to the Board's attention because Dr. Copeland was stopped in the middle of operating on a patient while he was significantly impaired.

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
27.	MD-08-0277A	SUDEEP S. PUNIA, M.D.	20224	Approval of Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and One Year Probation to obtain 15-20 hours of Board staff pre-approved Category I CME in the supervision of physician assistants and ethics, and 15-20 hours of CME in billing, to be completed within six months. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.
28.	MD-07-0526A	DEREK LANDAN, M.D.	28634	Approval of Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.
29.	MD-08-0430A	KENNETH M. FISHER, M.D.	12762	Approval of Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and One Year Probation to obtain 15-17.5 hours of Board staff pre-approved Category I CME in prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

MOTION: Dr. Petelin moved to approve the draft Findings of Fact, Conclusions of Law and Order in item numbers 27-29.

SECONDED: Dr. Martin

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
30.	MD-09-0570A	RICHARD A. HOVERSTEN, M.D.	29872	Accept the proposed Consent Agreement for Surrender of license.
31.	MD-08-0739A	MARK J. TRENTALANGE, M.D.	29601	Accept the proposed Consent Agreement for a Decree of Censure and Five Years MAP Probation. The Probation shall include a Practice Restriction prohibiting the physician from practicing anesthesia and from prescribing, handling, administering or storing intravenous narcotics. Dr. Trentalange shall not work more than 40 hours per week, including on call status. He may request the Board terminate the Practice Restriction after successful completion of at least two years of MAP participation and after undergoing a substance abuse evaluation to determine his ability to practice as an anesthesiologist. Shall take Naltrexone for a period determined by the Map Medical Director and shall obtain a treating psychotherapist. After twelve months, Dr. Trentalange may petition the ED to terminate the psychotherapist requirement. Dr. Trentalange's MAP participation is retroactive to October 8, 2008.

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

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
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NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-0612A	RICHIE P. BAST, M.D.	14854	Adopt the ALJ's recommended Order for Revocation and assess Formal Hearing costs, to be paid within 30 days of invoice.

Dr. Petelin was recused from this case. Dr. Michael Zimmerman spoke during the call to the public in support of Dr. Bast. Dr. Zimmerman requested that the Board place Dr. Bast in a long-term monitoring program rather than revoke his license. He stated that the White Mountain Regional Medical Center has offered to employ Dr. Bast and monitor him as the Board may deem necessary. Dr. Bast was not present during the Board's consideration of the case. Board members indicated that they received and reviewed the administrative record of the Formal Hearing in this matter. Ms. Boucek summarized that Dr. Bast engaged in unprofessional conduct. She stated that this case was Dr. Bast's "third-strike" as he was previously found to be impaired, underwent treatment, and subsequently relapsed. Ms. Boucek recommended that the Board adopt the ALJ's recommended decision in its entirety, with one amendment to Finding of Fact #12.

MOTION: Dr. Krishna moved to adopt and modify the ALJ's recommended Findings of Fact to replace "surfentail" with "sufentanil" in Finding of Fact #12, and adopt the ALJ's recommended Conclusions of Law.

SECONDED: Ms. Ibáñez

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

MOTION PASSED.

MOTION: Dr. Krishna moved to adopt the ALJ's recommended Order for Revocation and assess Formal Hearing costs, to be paid within 30 days of invoice.

SECONDED: Ms. Ibáñez

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

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

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-07-1078A	TAHIR M. ALKHAIRY, M.D.	31004	Issue an Advisory Letter for inadequate medical records, failing to reflect all positive findings on a radiographic study. There is insufficient evidence to support discipline.

Dr. Lefkowitz was recused from this case. Dr. Alkhairy was present with legal counsel, Mr. Stephen Myers. Dr. Bhatheja summarized that several patient charts were reviewed for quality of care concerns and it was determined that Dr. Alkhairy misread films with the potential for serious consequences. Dr. Alkhairy stated that in 2003 the Maricopa County Medical Center had a 7,000 case backlog and that he began reading films in addition to his night shift duties to assist the Medical Center in eliminating the backlog. Therefore, the films were read months after the studies were performed. Dr. Alkhairy was questioned regarding the deviations from the standard of care identified by the medical consultant that involved his misreading of radiographic studies. Dr. Alkhairy stated that he had limited information at the time he reviewed the studies. In closing, Mr. Myers stated that the American College of Radiology states that an expert opinion should be based on the information available to the physician at the time that the incident occurred. He stated that the Board's medical consultant had additional films available during the quality of care review and was already aware of the patient outcomes. Mr. Myers stated that Dr. Alkhairy followed up on each patient and rendered very good care, and he requested that the Board dismiss the case. Dr. Alkhairy stated that he addressed his film misreads adequately, properly followed up with the patients, and ordered the appropriate examinations.

MOTION: Dr. Lee moved to enter into Executive Session to review confidential material.

SECONDED: Dr. Martin

Vote: 9-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

The Board went into Executive Session to review confidential material at 10:59 a.m.

The Board returned to Open Session at 11:04 a.m.

No deliberations were made during Executive Session.

Dr. Martin expressed concern for the system errors that involved a 7,000 case backlog at Maricopa County Medical Center. Dr. Alkhairy informed the Board that the backlog has been eliminated and that radiographic films are currently being read in a timely fashion. Dr. Petelin found that this matter does not rise to the level of discipline, but stated that he was concerned with some of Dr. Alkhairy's film dictations.

MOTION: Dr. Petelin moved to issue an Advisory Letter for inadequate medical records, failing to reflect all positive findings on a radiographic study. There is insufficient evidence to support discipline.

SECONDED: Dr. Krishna

Dr. Krishna stated that he found Dr. Alkhairy to be very knowledgeable, but was concerned with his documentation. Dr. Martin agreed and spoke in favor of issuing an Advisory Letter to track the occurrence. Dr. Martin found the system errors referred to by Dr. Alkhairy to be a mitigating factor.

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

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

MOTION PASSED.

Dr. Martin noted that Dr. Alkhairy testified that there was a backlog of 7,000 cases at the Maricopa County Medical Center and recommended that the facility be referred to the Arizona Department of Health Services.

MOTION: Dr. Martin moved to refer Maricopa County Medical Center to the Arizona Department of Health Services.

SECONDED: Dr. Krishna

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	MD-07-1039A	VINSON C. THOMPSON, M.D.	13010	Issue an Advisory Letter for inadequate medical records, and within six months complete 15-20 hours of Board staff pre-approved Category I non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. There is insufficient evidence to support discipline.

Dr. Lefkowitz was recused from this case. SF spoke during the call to the public and alleged that Dr. Thompson failed to provide medical records in a timely fashion upon written request. She stated that Dr. Thompson provided the records after receiving a second notice from her attorney; however, the records were not complete. SF also alleged that Dr. Thompson failed to examine her following her first procedure. Dr. Thompson was present with legal counsel, Mr. Thomas G. Bakker. Ingrid Haas, M.D., Medical Consultant, summarized that the case was based on a complaint of patient SF. At its October 2008 meeting, the Board returned the case for further investigation and instructed Board staff to conduct a chart review of Dr. Thompson's surgical patients. Dr. Haas stated that five additional charts were reviewed and no deviations from the standard of care were identified. However, the medical consultant found documentation issues in two of the five cases. Dr. Thompson summarized the care he provided to SF. Dr. Schneider noted that SF alleged Dr. Thompson failed to evaluate her between the time of her initial surgery to the time of her second procedure. Dr. Thompson informed the Board that he did examine SF, but did not document it by failing to sign off on the nurse's chart. Board members noted that following the review of additional charts, the medical consultant found that Dr. Thompson met the standard of care, but was critical of a missing discharge summary in one case and a delay in dictating an operative note in another case. Dr. Thompson did not recall why there was a delay in dictating the operative report and did not know why the discharge summary was not available. Dr. Schneider did not find that Dr. Thompson engaged in unprofessional conduct. She expressed concern with Dr. Thompson's medical recordkeeping and stated that there is insufficient evidence to support discipline.

MOTION: Dr. Schneider moved to issue an Advisory Letter for inadequate medical records, and within six months complete 15-20 hours of Board staff pre-approved Category I non-disciplinary CME in medical recordkeeping. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. There is insufficient evidence to support discipline.

SECONDED: Dr. Krishna

Dr. Lee suggested requiring Dr. Thompson obtain non-disciplinary CME in medical recordkeeping as there were additional documentation issues identified following the chart review. Dr. Pardo spoke in favor of the motion.

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

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

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
1.	MD-08-1045B	STEPHEN E. HOCHEDER, M.D.	28710	Issue an Advisory Letter for failing to complete a work up on a patient with a distracting injury. This was a technical error that does not rise to the level of discipline.

Dr. Schneider was recused from this case. Dr. Hocheder was present with legal counsel, Mr. Dan Cavett. Dr. Bhatheja summarized that this case stemmed from a malpractice settlement regarding Dr. Hocheder's care and treatment of patient DM, alleging failure to diagnose fractures with subsequent chronic pain and limited mobility. Dr. Bhatheja summarized that Dr. Hocheder failed to obtain spinal radiographs in an intoxicated trauma patient with a significant distracting injury, and failed to image the patient's brain. Dr. Hocheder stated that he did not believe that the patient was clinically intoxicated and that she did not

have a significant distracting injury. Dr. Hocheder stated that he has taken remedial action by changing his practice to avoid a similar occurrence. He informed the Board that the patient was observed in the emergency room for three hours. Dr. Martin questioned why the patient was not admitted for observation. Dr. Hocheder reiterated that he did not believe that the patient was clinically intoxicated at time of discharge, although her blood alcohol level was 0.16. In closing, Mr. Cavett pointed out that Dr. Hocheder has changed his practice since this incident occurred. He stated that there was clearly potential for harm, but there was no actual harm to the patient. Mr. Cavett requested that the Board issue Dr. Hocheder an Advisory Letter as he believed this matter does not rise to the level of discipline. Dr. Martin stated that he appreciated Dr. Hocheder's candor; however, Dr. Martin found that performing a routine examination on an intoxicated patient was not appropriate in this case. Dr. Martin found that this matter does not rise to the level of discipline and recommended issuing Dr. Hocheder an Advisory Letter to track the occurrence.

MOTION: Dr. Martin moved to issue an Advisory Letter for failing to complete a work up on a patient with a distracting injury. This was a technical error that does not rise to the level of discipline.

SECONDED: Dr. Krishna

Dr. Petelin stated that he considered dismissing this case and noted that mistakes were made in the care of the patient. Dr. Petelin spoke in favor of issuing an Advisory Letter for tracking purposes.

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
2.	This matter was pulled from the agenda.			
3.	MD-08-1182A	RAY O. HATCH, M.D.	15921	Issue an Advisory Letter for failing to recognize the prominent urine drug test and within six months complete 10-15 hours of Board staff pre-approved Category I non-disciplinary CME in prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

Dr. Hatch was present with legal counsel Mr. Jay Fradkin. Dr. Coffey summarized that Dr. Hatch failed to properly evaluate substantial increase in symptoms and opioid requirement with concurrent decrease in functionality, and failed to follow up on markedly abnormal results of urine drug testing. Dr. Hatch informed the Board that he treated patient VN for a period of three years. He stated that VN was a very reliable patient and that he did not believe she was a drug seeking patient. Dr. Lefkowitz stated that Dr. Hatch should have investigated VN's abnormal urine drug test results. Dr. Hatch explained that he did not trust the lab who reported the results and that he did not repeat the lab as he discussed the test results with VN. Dr. Lee stated that if he truly believed the lab was in error, he should have ordered a repeat lab immediately. Dr. Lee found that Dr. Hatch ordered the urine drug test unnecessarily since he did not trust the lab. Dr. Hatch agreed and admitted that he made a mistake in not repeating the test. Dr. Hatch admitted that he failed to document the etiology of VN's chronic back pain. Dr. Martin questioned whether Dr. Hatch was familiar with the Board's guidelines regarding the use of controlled substances for the treatment of chronic pain as he only obtained one urine drug test over the course of three years. Dr. Hatch stated that he was aware of the guidelines and has incorporated them into his practice. Dr. Martin expressed serious concern for Dr. Hatch's failure to obtain a routine urine drug tests while treating VN. He stated that he did not cause any harm to VN and that he could have ordered a lot of different tests to monitor her, but it would not have changed the treatment or outcome. Dr. Lefkowitz found that Dr. Hatch engaged in unprofessional conduct.

MOTION: Dr. Lefkowitz 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: Ms. Ibáñez

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

MOTION PASSED.

MOTION: Ms. Ibáñez moved to enter into Executive Session to receive legal advice.

SECONDED: Dr. Martin

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

MOTION PASSED.

The Board went into Executive Session to receive legal advice at 2:44 p.m.

The Board returned to Open Session at 2:50 p.m.

No deliberations or discussions were made during Executive Session.

Dr. Lefkowitz found that Dr. Hatch failed to recognize a treatable etiology of increased pain with the potential for harm as it relates to perpetuation of noncompliant medication usage due to failure to address an unexpected urine drug test result.

MOTION: Dr. Lefkowitz moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and One Year Probation to obtain 10-15 hours of Board staff pre-approved Category I 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. Martin

Dr. Martin noted that the Board's guidelines do not mandate the frequency for obtaining drug screens when prescribing opiates for chronic nonmalignant pain and stated that it is at the physician's discretion which monitoring tool should be used in each patient. However, Dr. Martin opined that given the clinical situation, Dr. Hatch should have obtained more frequent drug screens. Dr. Pardo noted that the Staff Investigational Review Committee (SIRC) recommended the Board require Dr. Hatch to obtain CME in prescribing as Dr. Hatch's prior Board history includes an Advisory Letter in 1991 for inappropriate prescribing. Drs. Lefkowitz and Martin agreed to include the CME requirement in their motion along with Probation. Dr. Petelin spoke against the motion and stated that he did not believe that Dr. Hatch's actions rise to the level of discipline. Dr. Krishna agreed and stated that he should have followed up on the abnormal test result, but his conduct was not egregious enough to support discipline. Dr. Pardo agreed with Drs. Petelin and Krishna's concerns and stated that she found the matter does not rise to the level of discipline. Drs. Lefkowitz and Martin withdrew their motion.

MOTION: Dr. Lefkowitz moved to issue an Advisory Letter for failing to recognize the prominent urine drug test and within six months complete 10-15 hours of Board staff pre-approved Category I non-disciplinary CME in prescribing. The CME hours shall be in addition to the hours required for the biennial renewal of medical license.

SECONDED: Dr. Martin

Dr. Schneider commented that she believed that Dr. Hatch was blinded by feeling that he knew VN and she was a reliable patient, which led him to believe that the lab was wrong with regard to the urine drug test results. Dr. Schneider questioned whether Dr. Hatch would benefit from obtaining CME in boundaries.

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

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

MOTION PASSED.

NO.	CASE NO.	PHYSICIAN	LIC. #	RESOLUTION
4.		This matter was moved to Other Business item number 31.		

MOTION: Dr. Krishna moved to adjourn the meeting at 4:29 p.m.

SECONDED: Ms. Griffen

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

MOTION PASSED.



The meeting adjourned at 4:29 p.m.

Lisa S. Wynn, Executive Director