



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Wednesday, August 23, 2017

9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M., Chair

R. Screven Farmer, M.D., Vice-Chair

Jodi A. Bain, Esq., Secretary

Bruce A. Bethancourt, M.D., F.A.C.P.

Teresa L. Connolly, D.N.P., R.N., N.E.A.-B.C.

Gary R. Figge, M.D.

Pamela E. Jones

Lois E. Krahn, M.D.

Edward G. Paul, M.D.

Wanda J. Salter, R.N.

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Gillard called the meeting to order at 5:30 p.m.

B. ROLL CALL

The following Board Member was present: Dr. Gillard. The following Board members participated telephonically: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr Connolly, Dr Figge, Ms. Jones, Dr. Krahn and Ms. Salter.

The following Board member was absent: Dr. Paul.

ALSO PRESENT

Present among Board staff include: Carrie Smith, Assistant Attorney General ("AAG"); Patricia E. McSorley, Executive Director; Kristina Fredericksen, Deputy Director, William Wolf, M.D., Chief Medical Consultant; Kathleen Coffey, M.D., Medical Consultant, Andrea Cisneros, Staff Investigational Review Committee ("SIRC") Coordinator; Raquel Rivera, Investigations Manager; Mary Bober, Board Operations Manager; Michelle Robles, Board Coordinator; Heather Foster, Public Records Coordinator.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals who addressed the Board during the Public Statements portion of the meeting appear beneath the matter(s) referenced.

D. EXECUTIVE DIRECTOR'S REPORT

- Discussion Regarding Scheduling for 2017 and 2018 Board Meeting Calendar
Ms. McSorley reported that given the high volume of cases; as a result, two-day meetings will be needed for October and December of this year and will be scheduled throughout the 2018 calendar. Ms. McSorley noted that the majority of Board members expressed a

preference for Monday and Tuesday dates which is reflected on the proposed 2018 calendar.

Dr. Farmer commented that the teleconference structure helps with the case load and allows more dedication to the formal interviews during the regular session board meetings. Ms. Jones opined that the teleconference is not as beneficial for members of the public as the speakers do not get to visually see the Board members who are present.

- **2016-2017 Annual Report**
Ms. McSorley reported that the Annual Report, Budget and Strategic Plan are all due September 1st. The Board is not required to vote on the reports however; Ms. McSorley provided drafts of the reports for the Board's review and recommendations.
- **FY2019 Budget**
Ms. McSorley reported that two memos were provided to the Board regarding State agency budgeting processes. Ms. McSorley opined that after reviewing the Budget there is no need for a decision packet at this time. Ms. McSorley noted that the budget and its policies are constantly being reviewed and streamlined.
- **FY2018-2022 Strategic Plan**
- **Response to Executive Order 2017-02**
Ms. McSorley noted that Governor Ducey requested that all licensing agencies meet with stakeholders to receive public comments regarding unnecessary rules. Meetings scheduled by Board staff did not result in a large response. Ms. McSorley stated that Board staff believes that the low response rate was due to the fact that the Board had already engaged the stakeholder community when revising the Board's licensing rules and processes. Ms. McSorley commented that she is continuing to revise draft the response.
- **Update on Agency Relocation**
Ms. McSorley reported that the Board is scheduled to move to the new location by January 4 and 5 and that there are no delays anticipated at this time.
- **Update on Temporary License, Compact License and Fee Waiver**
Ms. McSorley reported that the Temporary License is now available for applicants and Board staff is working with the Governor's office to establish a fee waiver form and process.

E. CHAIR'S REPORT

Dr. Gillard reported that the Dr. Gillard, Ms. McSorley and Dr. Wolf are working with the Arizona Department of Health Services and Governor's Regulatory Review Council (GRRC) on the opioid epidemic and that the deadline for guideline recommendations to the Governor's office is September 5, 2017.

F. LEGAL ADVISOR'S REPORT

- **2016-2017 Legislative Session Advice Memorandum**
Ms. Smith reported that she provided a memo for the Board's review and reported that most of the statutory changes create administrative changes, rather than policy decisions. Ms. Smith noted SB 1452, HB 2271 and SB 2290 as they may require policy decisions to be made by the Board for implementation. Ms. Smith discussed policy implications related to the three bills.

G. REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE REQUEST TO REVIEW RULEMAKING BY THE PHARMACY BOARD

Ms. McSorley reported that the Board received a request from the Pharmacy Board and the Governor's Regulatory Review Counsel regarding the Pharmacy Board's proposed rulemaking

related to prescribing and dispensing medications in assisted living facilities. Ms. McSorley stated that most of the proposed changes do not appear to relate to the Medical Practice Act or any of the Board's Rules. Ms. McSorley requested the board's opinion on a change that would allow an assisted living facility manager to call in prescriptions issued by facility physicians.

Dr. Gillard stated that he had no concern regarding this rule and stated that it appeared to fall within guidelines. Ms. McSorley noted that the Pharmacy Board reported that this is standard operating procedure for assisted living facilities. Ms. Jones expressed concern regarding the administrators' roles in calling in a prescription and how the pharmacy would know who is authorized to call in a prescription. Dr. Gillard suggested having the Board's medical consultants review the rule and make a recommendation to the Board.

H. APPROVAL OF MINUTES

MOTION: Ms. Jones moved to approved the June 7, 2017 Regular Session; Including Executive Session; and the June 23, 2017 Special Teleconference.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

CONSENT AGENDA

I. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Bethancourt moved to issue an Advisory Letter in items 1,2, 8 and 9.

SECOND: Dr. Krahn.

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

MOTION PASSED.

1. MD-17-0357A, MICHAEL C. CHEN, M.D., LIC. #24791

RESOLUTION: Issue an Advisory Letter for committing a misdemeanor involving moral turpitude and failure to timely report the matter to the Board. While the licensee has demonstrated substantial compliance through remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

2. MD-16-1504D, DAVID C. DUNCAN, M.D., LIC. #5803

F.S. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Issue an Advisory Letter for failing to ensure a physical examination was completed and documented in the medical record. There is insufficient evidence to support disciplinary action.

3. MD-17-0072A, EDGAR A. SUTER, M.D., LIC. #28552

Mr. Myers addressed the Board during the Public Statements portion of the meeting.

Board members opined that records were faxed in a timely manner and that an Advisory Letter was not appropriate. Dr. Gillard noted that Board staff initially found that Dr. Suter had not treated the patient.

Board staff confirmed that Dr. Suter had not seen the patient when he submitted paperwork for diabetic shoes however; there was insufficient evidence to support the need for the shoes.

MOTION: Dr. Farmer moved to dismiss.

SECOND: Ms. Jones.

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

MOTION PASSED.

4. MD-17-0222A, DAVID L. REX, M.D., LIC. #45033

Dr. Figge noted that this was a case of a radiologist who reported he was issued a non-disciplinary CME Order by the Wisconsin Board. The West Virginia Board did not investigate and the Virginia Board dismissed the case. Due to mitigating factors and the element of hindsight dismissal is appropriate.

MOTION: Dr. Figge moved to dismiss.

SECOND: Dr. Farmer.

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

MOTION PASSED.

5. MD-16-1082A, JARED A. GREEN, M.D., LIC. #46369

Ms. Jones noted that the physician admitted to the medication error but opined that there may be a systemic issue at the clinic. Dr. Gillard found it troubling that the physician did not draw his own medication and opined CME may be appropriate. Dr. Figge noted that the Board has no jurisdiction over a systemic issue within a facility but it is the physician's responsibility to ensure he administers the correct medication.

Board members requested that the case be referred to the Arizona Department of Health Services.

MOTION: Ms. Salter moved to Issue an Advisory Letter and Order for Non-Disciplinary CME for inappropriate administration of ketamine instead of lidocaine. There is insufficient evidence to support discipline. Within six months, complete no less than 2 hours of Board staff pre-approved Category I CME in emergency room procedures. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Ms. Jones.

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

MOTION PASSED.

6. MD-17-0246A, ROBERT K. TRUESDALE, M.D., LIC. #34085

Board staff confirmed the timelines for the prescriptions and that handwritten prescriptions were written under the physician's name when the Board Order was in effect. The physician stated he was unaware that his Board Order was effective and that the refill prescriptions were written under his name by pharmacy staff.

MOTION: Ms. Jones moved to issue an Advisory Letter for continuing to prescribe controlled substances after his September 16, 2016 Board Order became effective. While there is insufficient evidence to support discipline, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: Dr. Krahn.

Dr. Krahn noted that a physician is made aware when their case is scheduled for a Board meeting and therefore needs to be held accountable for knowing when action is taken against their license.

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

MOTION PASSED.

7. MD-16-1193A, SUNIL KURUP, M.D., LIC. #42903

Dr. Kurup addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard noted that this case is based on a malpractice payment but found it mitigating that the lesions were missed by other practitioners as well.

Board staff summarized that prior to her last visit the patient did complain of lower back pain and that her legs had felt weak and that she had fallen. Subsequent workup was completed to include gait testing but no strength testing.

MOTION: Dr. Gillard moved to dismiss.

SECOND: Dr. Bethancourt.

Dr. Figge noted that gait testing was done and the patient appeared to have recovered.

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

MOTION PASSED.

8. MD-17-0261A, SUREKHA BANDLAMURI, M.D., LIC. #31764
RESOLUTION: Issue an Advisory Letter for inappropriate administration of an unjustified extra dose of HPV vaccine, and for inadequate records. There is insufficient evidence to support disciplinary action.
9. MD-17-0531A, ALAN D. WAMBOLDT, M.D., LIC. #17046
RESOLUTION: Issue an Advisory Letter for failure to annually update a PA delegation agreement. There is insufficient evidence to support disciplinary action.
10. MD-16-1518A, ANDREW J. ROUNSEVILLE, M.D., LIC. #33757
Dr. Bethancourt summarized that this patient had a bicycle accident and came in complaining of shoulder pain. The patient underwent x-rays were multiple fractures were found and she was transferred to a higher level of care. Once she was transferred the patient complained of neck pain and a CT scan showed a C2 fracture.

Board staff reported that although there was no initial complaint of neck pain there was multiple pain medications given throughout her stay and given the patient's presentation a neck CT should have been completed.

Board members agreed that when treating trauma patients a physician should rule out a cervical fracture especially given the distracting injuries and being administered multiple pain medications.

MOTION: Dr. Figge moved to issue an Advisory Letter for failure to immobilize the cervical spine after blunt force trauma to the torso and obtain imaging of the cervical spine. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Farmer

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

MOTION PASSED.

J. CASES RECOMMENDED FOR ADVISORY LETTERS WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION ORDERS

MOTION: Ms. Bain moved to issue an Advisory Letter and Order for Non-Disciplinary CME in item numbers 1-3.

SECOND: Dr. Krahn.

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

MOTION PASSED.

1. MD-17-0039A, RAMSEY K. UMAR, M.D., LIC. #35904
RESOLUTION: Issue an Advisory Letter and Order for Non-Disciplinary CME for failing to promptly evaluate for a perforation by radiographic means after performing a colonoscopy when there was a high index of suspicion for perforation. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in the recognition and management of colonoscopy complications. The CME hours shall be in addition to the hours required for license renewal.
2. MD-16-1404A, KAN YU, M.D., LIC. #36498
RESOLUTION: Issue an Advisory Letter and Order for Non-Disciplinary CME for improper management and prescription of controlled substances. While the licensee has demonstrated substantial compliance through remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course for prescribing

controlled substances. The CME hours shall be in addition to the hours required for license renewal.

3. MD-16-0915A, MARK S. BESSETTE, M.D., LIC. #18835
RESOLUTION: Issue an Advisory Letter and Order for Non-Disciplinary CME for improper controlled substance prescribing. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 15 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing. The CME hours shall be in addition to the hours required for license renewal.

K. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. MD-17-0160A, MARSHALL W. JONES, M.D., LIC. #4192

MOTION: Dr. Krahn moved to accept the Proposed Consent Agreement for Surrender of License.

SECOND: Dr. Farmer.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Ms. Salter. The following Board members were absent: Dr. Paul.

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

MOTION PASSED.

L. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

MOTION: Dr. Farmer moved to approve the license application, grant the waiver and licensure in item numbers 1-6.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

1. MD-17-0292A, ALAN S. MURAKI, M.D., LIC. #N/A
RESOLUTION: Approve the license application, grant the waiver and licensure.
2. MD-17-0724A, SUTINI NGADIMAN, M.D., LIC. #N/A
RESOLUTION: Approve the license application, grant the waiver and licensure.
3. MD-17-0576A, JAMES M. BENNETT, M.D., LIC. #N/A
RESOLUTION: Approve the license application, grant the waiver and licensure.
4. MD-17-0647A, HERIBERTO PENA, M.D., LIC. #N/A
RESOLUTION: Approve the license application, grant the waiver and licensure.
5. MD-17-0579A, ANTHONY L. JACKSON, M.D., LIC. #N/A
RESOLUTION: Approve the license application, grant the waiver and licensure.
6. MD-17-0587A, DANIEL A. MACKAY, M.D., LIC. #N/A
RESOLUTION: Grant the license. **RESOLUTION:** Approve the license application, grant the waiver and licensure.
7. THIS ITEM WAS PULLED FROM THE AGENDA.
8. MD-16-0324A, SUSAN M. KUNKEL M.D., LIC. #N/A
Dr. Kunkel and counsel Ms. Alarcon addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard summarized that Dr. Kunkel has completed an internship and has a letter of support from said internship, has passed the USMLE part three and has passed PACE satisfactorily.

MOTION: Dr. Farmer moved to grant the license.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSE REACTIVATION AND RECOMMENDED ADVISORY LETTER

1. MD-17-0500A, STEPHEN C. PAULK, M.D., LIC. #18062

Dr. Gillard summarized that Arizona has a statute that states a physician cannot practice in another state when their license is on an inactive status.

MOTION: Ms. Jones moved to grant the license reactivation and issue an Advisory Letter for practicing medicine in another jurisdiction with an inactive Arizona license. The violation was minor or technical that is not of sufficient merit to warrant discipline.

SECOND: Dr. Krahn.

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

MOTION PASSED.

iii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING LICENSURE BY ENDORSEMENT PURSUANT TO A.R.S. § 32-1426(B) AND R4-16-201(F)

MOTION: Dr. Figge moved to grant licensure by endorsement in item numbers 1-3.

SECOND: Dr. Krahn.

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

MOTION PASSED.

1. DOUGLAS A. FRIESEN, M.D.

RESOLUTION: Grant licensure by endorsement.

2. JASON D. BARON, M.D.

RESOLUTION: Grant licensure by endorsement.

3. ANIL P. RAJANI, M.D.

RESOLUTION: Grant licensure by endorsement.

*****END OF CONSENT AGENDA*****

OTHER BUSINESS

M. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-14-0906A, THOMAS R. HANSEN, M.D., LIC. #18493

Dr. Hansen addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that this matter is before the Board to consider Dr. Hansen's request to terminate his probationary license and issue a full and unrestricted license. On August 2, 2017 Dr. Hansen sent the Board a copy of Utah's order reinstating his license. On August 9, 2017 Dr. Hansen confirmed his separation from Cobre Valley Medical Center. He further reported that the decision to leave the hospital was mutual. Board staff indicated that information received indicates that the hospital had some concerns regarding some patient deaths.

Dr. Gillard confirmed that per the Board Order, Dr. Hansen is only allowed to work at Cobre Valley.

Board staff requested that prior to considering any request to grant a full and unrestricted license, staff should be allowed to investigate whether Dr. Hansen violated his Board Order by failing to report his resignation and to better ascertain whether Dr. Hansen meets the requirements for a full and unrestricted license.

Dr. Farmer expressed concern regarding lifting probation when the physician did not inform the board of his hospital termination in writing and given the current investigation regarding the patient deaths.

MOTION: Dr. Farmer moved to deny Dr. Hansen's request to terminate the Board Order.

SECOND: Dr. Krahn.

Board staff confirmed that due to Dr. Hansen's resignation, he cannot practice medicine in the state of Arizona.

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

MOTION PASSED.

N. REQUEST FOR MODIFICATION OF BOARD ORDER

1. MD-15-0952A, DOUGLAS J. KRELL, M.D., LIC. #49982

Dr. Krell addressed the Board during the Public Statements portion of the meeting.

Board staff summarized that this matter is before the Board to consider Dr. Krell's request to modify the terms of the consent agreement for probationary licensure offered by the Board at the June, 2017 meeting. On July 24, 2017, Dr. Krell's attorney submitted a letter requesting that Dr. Krell be granted a one-year probationary license that will allow him to certify medical marijuana without restrictions or monitoring while he continues to attempt to obtain employment as an OB-GYN. Dr. Krell's attorney stated that Dr. Krell has not yet obtained a DEA registration which inhibits his ability to obtain employment as an OB-GYN. Board staff noted that Dr. Krell surrendered his DEA license in June, 2006 as a result of allegations that he failed to maintain required records and wrote post-dated prescriptions.

Ms. Smith clarified that the proposed modification request would allow the physician to be employed in other areas other than OB-GYN so that he is able to seek employment.

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

SECOND: Dr. Krahn.

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

MOTION PASSED.

The Board entered into Executive Session at 6:40 p.m.

The Board returned to Open Session at 6:51 p.m.

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

MOTION: Dr. Gillard moved to Grant the physician's request to modify the Consent Agreement to allow him to certify medical marijuana patients without restriction. The Practice Monitor requirements shall remain in effect for the practice of OB/GYN.

SECOND: Dr. Figge.

Dr. Bethancourt expressed concern with granting the physician's request when there is a concern regarding Dr. Krell's decision making. Dr. Figge commented that this modification allows the physician to work until he is able to reach his goal of practicing OB-GYN. Dr. Krahn expressed concern regarding his performance at the Drexel re-entry program. Dr. Farmer expressed concern over the multiple requests for modifications made by the physician. Dr. Farmer opined that if there are concerns with monitoring in one area of practice then there may be a concern with other areas of practice. Dr. Gillard commented that the physician requires an avenue to work and this allows him to do so. Dr. Figge opined that the Board's mission is to both protect the public and to allow a

physician the possibility to return to practice. Dr. Krahn stated it was concerning that marijuana can be used to treat patients with complaints of pain which is too close to issues exhibited in the physician's past.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard and Dr. Figge. The following Board members voted against the motion: Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Ms. Jones, Dr. Krahn and Ms. Salter. The following Board members were absent: Dr. Paul.

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

MOTION FAILED.

O. GENERAL CALL TO THE PUBLIC

No individuals addressed the Board during the General Call to the Public.

MOTION: Ms. Jones moved to adjourn the meeting.

SECOND: Dr. Krahn.

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

MOTION PASSED.

The meeting adjourned at 7:37 p.m.




Patricia E. McSorley, Executive Director