



Arizona Medical Board

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FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING Held on Thursday, March 8, 2018 1740 W. Adams St., Board Room A • Phoenix, 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 6:03 p.m.

B. ROLL CALL

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

The following Board members were absent: Ms. Bain.

ALSO PRESENT

Present among Board staff include: Carrie Smith, AAG; Patricia E. McSorley, Executive Director; Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Kathleen Coffey, Medical Consultant, Raquel Rivera, Investigations Manager, Mary Bober, Board Operations Manager; and Michelle Robles, Board 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. APPROVAL OF MINUTES

MOTION: Dr. Bethancourt moved to approve the minutes for the January 31, 2018 Special Teleconference.

SECOND: Dr. Krahn.

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

MOTION PASSED.

CONSENT AGENDA

E. CASES RECOMMENDED FOR DISMISSAL

1. MD-17-0387A, AMNON I. KAHANE, M.D., LIC. #23948

Dr. Gillard summarized that the case was initiated after receiving an alert from another agency regarding the physician's pattern of prescribing of benzodiazepines and stimulants concurrently however, the medical consultant Medical Consultant (MC) found the rationale for prescribing within the standard of care.

Board members discussed handling of interagency referrals.

Ms. McSorley noted that there are ongoing discussions regarding how to handle interagency referrals for prescribing cases.

Dr. Farmer opined parameters need to be set to define an appropriate referral so that there is not an overabundance of unnecessary complaints may affect the Board's case load.

MOTION: Dr. Farmer moved to dismiss.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

Dr. Farmer requested Board staff develop a mechanism for feedback for interagency referrals.

F. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Paul moved to issue an Advisory Letter in item numbers 5, 6, 7 and 10.

SECOND: Ms. Jones.

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

MOTION PASSED.

1. MD-17-0759A, SOHEILA L. NOURI, M.D., LIC. #31390

Counsel Michelle Thompson addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Gillard summarized that the MC found issues with the medical records however recommended dismissal of the case, after corrections were made to the records.

Board staff noted that the MC found obvious deviations from the standard of care including incomplete history taking and documentation.

MOTION: Ms. Jones moved to issue an Advisory Letter for failure to review the CSPMP for an at-risk patient, for failure to properly counsel a patient, and for inadequate medical records. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

2. MD-17-0492A, WENDY J. MC LAUGHLIN, M.D., LIC. #24740

Dr. Bethancourt summarized that the complaint is due to a misread of a pathology report resulting in an unnecessary surgery. Ms. Jones opined that a diagnosis of cancer and an unnecessary surgery could have caused the patient undue stress.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter for failing to clinically correlate pathology findings with the referring physician. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Krahn.

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

MOTION PASSED.

3. MD-17-0840A, JOHN W. KING, M.D., LIC. #15483

Dr. Bethancourt summarized that the physician was charged with a DUI. The physician has a medical diagnosis which resulted in symptoms resembling impairment and

therefore the charge was dismissed. Dr. Gillard noted that per statute the physician was required to report the arrest within ten days regardless of the charge being dismissed.

Ms. Jones requested that a reminder of reporting requirements set by statute be sent to physicians via the newsletter. Board staff noted that the requirements are on the Board's website.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter for failure to report a DUI to the Board within ten days as required by statute. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Salter.

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

MOTION PASSED.

4. MD-17-0648A, THEODORE S. HALEY, M.D., LIC. #41538

Dr. Haley and Counsel Steve Myers addressed the Board during the Public Statements portion of the meeting.

Dr. Farmer commented that this is a case of an inadequate hernia repair versus recurrent hernia. The MC found evidence that this is a surgical failure and not a breach of the standard of care.

Board staff commented that this was a case of a recurrent hernia resulting in multiple procedures.

MOTION: Dr. Farmer moved to dismiss.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

5. MD-17-0267A, JANET P. WARNER, M.D., LIC. #28036

RESOLUTION: Issue an Advisory Letter for improper management of labor. There is insufficient evidence to support disciplinary action.

6. MD-17-0467A, TAMIR M. MOSHARRAFA, M.D., LIC. #32605

H.B. and J.B. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Issue an Advisory Letter for failing to document a complete physical exam prior to surgery and for failing to fully document the name of the procedure being consented to on the surgical consent form. There is insufficient evidence to support disciplinary action.

7. MD-17-0913A, HOSSAIN SAHLOLBEI, M.D., LIC. #35016

RESOLUTION: Issue an Advisory Letter for action taken by the State of California. There is insufficient evidence to support disciplinary action.

8. MD-17-0019A, ASHISH SADHU, M.D., LIC. #38180

Ms. Jones expressed concern regarding this case, noting that the patient was referred to a cardiologist on January 2018 and then three days later died from a pulmonary embolism. Ms. Jones also noted that the records were inadequate.

Dr. Gillard commented that an EKG is a poor indicator of a pulmonary embolism and that it is hard to diagnose. Dr. Bethancourt opined that the physician should have had some suspicion. Dr. Farmer agreed with the MC that the patient was deteriorating and more workup should have been completed. Ms. Jones opined that CME may be appropriate regarding medical recordkeeping.

MOTION: Ms. Krahn moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to obtain a complete history of present illness and for inadequate medical records. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

9. MD-17-0887A, AARON M. PETERSEN, M.D., LIC. #32807

Dr. Petersen and Counsel Scott King addressed the Board during the Public Statements portion of the meeting.

Ms. Jones opined that it is egregious for a patient to undergo an additional surgery due to a surgical error. Dr. Gillard noted that an employee of the clinic put a wrong calculation on the patient's chart. Ms. Jones noted that the medical record indicated a male patient when the physician was operating on a female.

Board staff noted that the MC was quite clear that error should have been caught by the ophthalmologist.

MOTION: Ms. Jones moved to issue an Advisory Letter for failure to properly manage cataract surgery. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Paul.

Dr. Bethancourt requested that the clinic be reported to the Department of Health.

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

MOTION PASSED.

10. MD-17-1116A, JOHN R. ROBINSON, M.D., LIC. #22730

RESOLUTION: Issue an Advisory Letter for action taken by the State of Florida. There is insufficient evidence to support disciplinary action.

11. MD-17-0448A, MOSHE D. ENGEL, M.D., LIC. #23102

Counsel Steve Myers addressed the Board during the Public Statements portion of the meeting on behalf of the physician.

Dr. Farmer summarized that the diagnosis was missed however; the patient was seen multiple times. Dr. Gillard noted this was a very difficult and rare diagnosis and noted the MC's comment that the outcome may not have been different even with more observation. Dr. Farmer opined that this was a case of hindsight and that there was no evidence of a bad pattern of care.

MOTION: Dr. Farmer moved to dismiss.

SECOND: Dr. Krahn.

Dr. Figge commented that if a patient is well enough to go home it is not realistic to admit the patient for observation or order an MRI/MRA of the head and neck.

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

MOTION PASSED.

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

1. MD-17-0390A, NAVTEJ S. TUNG, M.D., LIC. #30264

Board staff commented that the second MC had found that, in her opinion, Dr. Tung had adjusted and remains consistent with the standards of care for opioid prescribing as they evolved.

Dr. Krahn opined that the standard of care regarding opioids has been a changing standard and that the standard of care for when the treatment was provided must be taken into account. Dr. Gillard commented that the documentation did not contain the rationale for the concurrent prescribing of opioids and benzodiazepines.

MOTION: Ms. Jones moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate documentation and for allowing concurrent prescribing of opioids and benzodiazepines without addressing possible risk mitigation. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Krahn.

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

MOTION PASSED.

2. MD-17-0408A, JOHN E. HENSLER, M.D., LIC. #5346

Dr. Gillard commented that this case resulted from a 2014 malpractice settlement and opined that the CME may not be necessary. Dr. Gillard noted that Levaquin is a commonly prescribed medication with a known complication of tendon rupture. Dr. Bethancourt expressed concern regarding the amount of steroid injections that were administered in a short period of time.

Board staff noted that the physician's license has expired and he has not submitted an application for renewal.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter for the inappropriate prescribing of Levaquin and administration of systemic corticosteroids resulting in tendon rupture. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Figge.

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

MOTION PASSED.

3. MD-17-0803A, WILLIAM L. SUN, M.D., LIC. #33617

MOTION: Dr. Farmer moved to issue an Advisory Letter and Order for Non-Disciplinary CME for writing two controlled substance prescriptions to a patient without first performing an examination or establishing a doctor-patient relationship, and for inadequate medical records. There is insufficient evidence to support disciplinary action. Within six months, complete no less than 15 of Board staff pre-approved Category I CME in an intensive, in-person course regarding ethics. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

H. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Krahn moved to uphold the dismissal in item numbers 2 and 3.

SECOND: Dr. Paul.

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

MOTION PASSED.

1. THIS ITEM HAS BEEN PULLED FROM THE AGENDA.

2. MD-17-0268A, SAMUEL A. NELSON, M.D., LIC. #7590

L.K. addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismissal upheld.

3. MD-17-1086A, MATTHEW E. KARLOVSKY, M.D., LIC. #33566
RESOLUTION: Dismissal upheld.

I. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. MD-17-0219A, SHARON D. HARGRAVES, M.D., LIC. #32527
Dr. Gillard summarized that this case was due to a malpractice settlement regarding Dr. Hargraves' care and treatment of a 38 year-old female patient alleging improper administration of sedative agents with subsequent patient death.
MOTION: Dr. Farmer moved to accept the Proposed Consent Agreements for a Letter of Reprimand.
SECOND: Dr. Figge.
ROLL CALL VOTE: Roll call vote was taken and the following Board members voted in favor of the motion: Ms. Salter, Dr. Paul, Dr. Krahn, Ms. Jones, Dr. Figge, Dr. Connolly, Dr. Bethancourt, Dr. Farmer and Dr. Gillard. The following Board members were absent: Ms. Bain.
VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

J. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

1. MITHUN G. SATTUR, M.D., LIC. #N/A
Dr. Sattur addressed the Board during the Public Statements portion of the meeting. Dr. Krahn recused herself from the case.

Dr. Gillard summarized that Dr. Sattur has passed all three parts of the USMLE and holds certification from the Education Council for Foreign Medical Graduates (ECFMG) however, the three years of graduate medical education is not accredited by the Accreditation Council for Graduate Medical Education (ACGME).

MOTION: Dr. Farmer moved to grant the license.

SECOND: Dr. Bethancourt.

Dr. Paul opined that Dr. Sattur's training meets the requirements for licensure.

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

MOTION PASSED.

2. MD-17-0679A GABRIEL U. OGBONNAYA, M.D., LIC. #N/A
Dr. Ogbonnaya addressed the Board during the Public Statements portion of the meeting.

Ms. Smith summarized that at the February 2018 Board meeting the Board moved to allow the physician to withdraw his license application within thirty days and if not withdrawn, issue an Order for license denial. Ms. Smith clarified that if the Board's order for denial is issued, the applicant would have an option to request a hearing at the Office of Administrative Hearings.

Dr. Gillard directed Board staff to explain the appeal options to the physician.

MOTION: Dr. Farmer moved to take no action at this time.

SECOND: Dr. Krahn.

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

MOTION PASSED.

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

1. KIRKA BUTLER, M.D., LIC. #N/A
Dr. Gillard summarized that the physician's Arizona license expired but he has current multiple state licenses with no adverse actions.

Board staff clarified that Dr. Butler's Arizona license expired in 2017.

MOTION: Dr. Farmer moved to grant the license.

SECOND: Dr. Bethancourt.

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

MOTION PASSED.

2. JOHN L. FERNANDES, M.D., LIC. #N/A

Dr. Gillard summarized that the physician has completed his training in Canada and has since be practicing fulltime in Canada.

MOTION: Dr. Krahn moved to grant the license.

SECOND: Dr. Paul

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

MOTION PASSED.

iii. **REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING APPLICANT'S REQUEST FOR WAIVER OF DOCUMENTATION REQUIREMENT**

1. ZULFIQAR ALI, M.D., LIC. #N/A

Dr. Gillard summarized that the physician is unable to get a primary source requirement from a previous employer but has multiple state licenses and is Board certified in radiology.

MOTION: Dr. Krahn moved to grant the request for waiver of documentation requirement and grant the license.

SECOND: Ms. Jones.

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

MOTION PASSED.

2. VIBHU DHAWAN, M.D., LIC. #N/A

Dr. Gillard summarized that the physician is unable to get a primary source requirement from a previous employer and is Board certified in internal medicine.

MOTION: Dr. Bethancourt moved to grant the request for waiver of documentation requirement and grant the license.

SECOND: Ms. Jones.

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

MOTION PASSED.

OTHER BUSINESS

K. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-11-1443A, EDGAR F. LIVINGSTONE, M.D., LIC. #31013

Dr. Gillard summarized that the physician has requested termination of his practice restriction requiring the presence of a female chaperone. Ms. Jones opined that the physician is not remorseful based on his inappropriate comments regarding the patient in his letter requesting termination. Ms. Jones suggested that he complete a neuro psychosexual evaluation. Dr. Krahn opined that in cases where the Board is unclear of the physician's judgement further information may be required.

MOTION: Dr. Krahn moved to continue the case to allow Dr. Livingstone the opportunity to obtain an evaluation from a Board approved provider and to return to the Board for consideration upon completion.

SECOND: Dr. Paul.

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

MOTION PASSED.

L. GENERAL CALL TO THE PUBLIC

Dr. Schulte addressed the Board during the General Call to the Public

M. ADJOURNMENT

MOTION: Ms. Jones moved to adjourn the meeting.

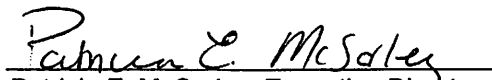
SECOND: Dr. Bethancourt.

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

MOTION PASSED.

The meeting adjourned at 8:07 p.m.




Patricia E. McSorley, Executive Director