



ARIZONA MEDICAL BOARD

1740 W. Adams St., Suite 4000 • Phoenix, Arizona 85007

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Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR SPECIAL TELECONFERENCE MEETING

Held on Thursday, August 30, 2018

1740 W. Adams St., Board Room 4100 • 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, M.A., J.D., LL.M., 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 5:17 p.m.

B. ROLL CALL

The following Board members were present telephonically: Dr. Gillard, Dr. Farmer, Ms. Bain, Dr. Bethancourt, Dr. Connolly, Dr. Figge, Ms. Jones, Dr. Krahn and Dr. Paul.

The following Board members were absent: Ms. Bain and Ms. Salter.

ALSO PRESENT

Present among Board staff include: Patricia McSorley, Executive Director; Raquel Rivera, Investigations Manager; Erinn Downey, Investigations Assistant Manager, Mary Bober, Board Operations Manager; and Michelle Robles, Board Coordinator. Additionally present: Carrie Smith, AAG

C. CALL TO THE PUBLIC

No individuals addressed the Board during the Public Statements portion of the meeting.

D. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED FY2020 BUDGET, INCLUDING PROPOSED DECISION PACKAGE

Ms. McSorley provided additional information for Board members to explain Board expenditures. Ms. McSorley explained that the purpose of the decision package is to provide additional funds for potential IT data enhancements and costs associated with the conversion to a cloud based platform.

MOTION: Dr. Bethancourt moved to approve the proposed FY2020 Budget, including the proposed decision package.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

LEGAL MATTERS

E. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING SUMMARY ACTION

1. MD-17-0774A, ERNEST K. MAR M.D., LIC. #34673

Board staff summarized that this case was initiated based on a Board Order for a Letter of Reprimand and Probation for chart reviews to begin following Dr. Mar's completion of Continuing Medical Education (CME) for controlled substance prescribing required by the Order. A Medical Consultant (MC) reviewed six randomly selected patient charts and found deviations from the standard of care in four of the cases. The deviations identified by the MC included failure to address aberrant urine drug screen results in two patients and the prescribing of opioid medications in conjunction with benzodiazepines in two patients. With regard to these two patients, the MC noted that one patient was prescribed multiple opioid medications, benzodiazepines and Soma; and the second patient was prescribed high-dose opioid medications while concurrently routinely using benzodiazepines. Further, the MC opined that there was the potential for patient harm in that all patients were at risk for overdose. Board staff recommended that Dr. Mar be offered an Interim Consent Agreement for Practice Restriction, prohibiting him from prescribing controlled substances while the matter is pending Board review. Dr. Mar disagreed with the offered interim consent agreement and therefore Board staff is requesting summary suspension of his medical license.

Dr. Mar explained that he was not the physician who originally prescribed these medications to the six patients under review and should not be held accountable. Dr. Mar stated that he cannot be held responsible for what patients do not disclose to him. Dr. Mar further stated that he is unable to force patients to reduce their opioid dosage if they are unwilling to. Dr. Mar stated that with regards to frequency of urine drug testing he is limited to insurance policies only allowing one test every three months. Dr. Mar provided a history of his care and treatment of the patients involved in this case.

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

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

The Board entered into Executive Session at 5:32 p.m.

The Board returned to Open Session at 5:45 p.m.

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

Dr. Mar reiterated his treatment of the patients who had a history of high dosages over years. Dr. Mar stated that attempts to decrease medication could be dangerous to the patient due to severe withdrawal side effects.

Board staff commented that although Dr. Mar's comments addressed his concern regarding decreasing dosages due to withdrawal he did not address the concerns regarding high pill count aberrancy urine drug screens. Board staff noted the CSPMP report that showed Dr. Mar continued to prescribe high dosages of opioids and opioids in combination with benzodiazepines and carisoprodol.

During deliberation, Board staff provided information on the PACE program for prescribing controlled substances that Dr. Mar completed. Dr. Paul disagreed with Dr. Mar's judgement that a physician lacks the ability to reduce patient medication when a patient disagrees. Board members expressed concerns in this case to include the physician's prescribing patterns and the lack of knowledge and understanding despite the completed CME course.

Ms. Smith clarified the scope of the restriction in the offered Interim Consent Agreement for Practice Restriction.

Dr. Farmer opined that due to the expressed concerns there is a real concern for public safety.

MOTION: Dr. Farmer moved to summarily suspend Dr. Mar's Arizona medical license based on the finding that the public health, safety, or welfare imperatively requires emergency action by the Board.

SECOND: Dr. Figge

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

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

MOTION PASSED.

F. ADJOURNMENT

MOTION: Ms. Jones moved to adjourn the meeting.

SECOND: Dr. Krahn.

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

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

MOTION PASSED.

The meeting adjourned at 6:06 p.m.



Patricia E. McSorley
Patricia E. McSorley, Executive Director