



Arizona Medical Board

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DRAFT MINUTES FOR REGULAR SESSION MEETING

Held on April 15, 2019

And on April 16, 2019

1740 W. Adams St., Board Room A • Phoenix, Arizona

Board Members

R. Screven Farmer, M.D., Chair
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M., Vice-Chair
Edward G. Paul, M.D., Secretary
Jodi A. Bain, M.A., J.D., LL.M.
Bruce A. Bethancourt, M.D., F.A.C.P.
David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.
Teresa L. Connolly, D.N.P., R.N., N.E.A.-B.C.
Laura Dorrell, M.S.N., R.N.
Gary R. Figge, M.D.
Pamela E. Jones
Lois E. Krahn, M.D.

Monday, April 15, 2019

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Farmer called the meeting to order at 8:00 a.m.

B. ROLL CALL

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

ALSO PRESENT

Present among Board staff include: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Amy Skaggs, Staff Investigational Review Committee ("SIRC") Coordinator; Raquel Rivera, Investigations Manager; Michelle Robles, Board Operations Manager; and Andrea Cisneros, Projects/Meeting Specialist. Additionally present: Carrie Smith, Assistant Attorney General ("AAG"); and, Anne Froedge, AAG.

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

- Update on Budget
- Update on IT Concerns
- Update on Pending Legislation including, but not limited to:
 - HB2569 Occupational Licensing, Reciprocity
 - HB2118 Unauthorized Practice, Health Professions
 - HB2463 Occupational Regulations; Licenses; Communications; Notice

- Update on Staff and Personnel Issues

Ms. McSorley informed the Board that the budget needs to be submitted to the Office of Strategic Planning and Budgeting by September 1, 2019. With regard to the IT concerns, Ms. McSorley stated that she does anticipate that the Board will be asking for an appropriation in order for the Board to update its IT processes. She further reported that staff continues to work on any risks identified with a preventative ongoing analysis. Additionally, Ms. McSorley informed the Board of changes in staff, including the hiring of two new investigators.

Ms. Fredericksen updated the Board regarding pending legislation. She explained that HB 2463 was signed into law by the Governor and will become effective 90 days after the end of the legislative session. Board members were informed that this Bill included provisions that require state agencies to post notices in a specified location advising the rights of an individual to challenge the Agency if they are in disagreement with any occupational regulation or rule. Ms. Fredericksen reported that HB 2118 is still working its way through the House and Senate. She explained that this Bill, if passed, would require health professional regulatory boards to regulate the unauthorized practice of the health profession. The Bill would also involve record retention, website postings, as well as the requirement to report any verified complaints of the unauthorized performance to the appropriate entities. AAG Smith clarified that this would compel the Board to take certain actions when in receipt of a complaint alleging the unauthorized practice of medicine. Board members noted that the passing of this Bill would not have a large impact on the Agency as it is currently the practice of Board staff to report to and work with law enforcement in these matters, and that the Board does not see these type of complaints often. HB 2569, which is not yet in effect, was described as a licensing reciprocity Bill that may require the Board to review and update its policies and procedures. AAG Smith reported that the Attorney General's Office is currently working in a collective effort to provide agencies with legal advice regarding this legislation.

E. CHAIR'S REPORT

- Upcoming FSMB Annual Meeting

Dr. Farmer reported that he would be attending the Annual FSMB Meeting along with staff. Dr. Farmer presented Dr. Gillard with a plaque in recognition of his distinguished service as Chairman of the Board.

F. LEGAL ADVISOR'S REPORT

- Report of Memorandum Decision in CA-CV 18-0079 *Ruben v. Arizona Medical Board*, by the Arizona Court of Appeals.
- *Planned Parenthood of Arizona, Inc., et. al., v. Arizona Medical Board et. al.*
- Legal Advice Memorandum Re: Modification of ALJ Decisions
- Legal Advice Memorandum Re: Board member qualified immunity and defense

Regarding *Ruben v. Arizona Medical Board*, AAG Smith reported that the Court issued a decision in the Board's favor and upheld the Board's Order. The Court did comment that the physician had raised concerns regarding the Board's Order not adequately explaining the decision to modify the Administrative Law Judge's Recommended Order. AAG Smith stated that the Court offered some helpful commentary, noting that the statute changed from the time the Board made its decision to the time that the case was heard by the Court of Appeals. AAG Smith explained that the standard is now more exacting with regard to explaining why the Board is modifying a Recommended Order. Additionally during the Legal Advisor's Report to the Board, AAG Smith offered her assistance for any Board members that have questions regarding her legal memorandum concerning other matters listed for discussion.

G. APPROVAL OF MINUTES

- January 10, 2019 Special Teleconference
- February 4-5, 2019 Regular Session, including Executive Session
- March 7, 2019 Special Teleconference
- March 19, 2019 Emergency Teleconference, including Executive Session

MOTION: Dr. Gillard moved to approve the January 10, 2019 Special Teleconference; the February 4-5, 2019 Regular Session, including Executive Session; the March 7, 2019 Special Teleconference; and, the March 19, 2019 Emergency Teleconference, including Executive Session.

SECOND: Dr. Figge

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

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

MOTION PASSED.

LEGAL MATTERS

H. FORMAL INTERVIEWS

1. MD-18-0334A, VINAY PRABHAKARAN, M.D., LIC. #40421

Complainant SG addressed the Board during the Public Statements portion of the meeting. Dr. Prabhakaran was present with Attorney Bruce Crawford. Dr. Coffey summarized for the Board that SIRC found evidence of unprofessional conduct in that the physician failed to maintain adequate chart notes, and failed to further investigate pain complaints in an immunocompromised patient. Dr. Coffey pointed out that the Board had previously considered this matter and voted to offer the physician a Consent Agreement for Letter of Reprimand and Probation to complete CME as recommended by SIRC.

In his opening statements, Mr. Crawford questioned whether the Board's medical consultant ("MC") had reviewed all of the material provided during the course of the investigation. He added that the MC seemed to think that the physician placed undue emphasis on the MRI when in fact; the superior studies for potential abdominal pathologies had actually not found anything. Additionally, Mr. Crawford informed the Board that Dr. Prabhakaran has employed a scribe to prevent future documentation issues. Dr. Prabhakaran addressed the Board, stating that he respectfully disagreed with the reviewer's findings in that there was no evidence to support the pursuance of an investigation into abdominal issues. The physician assured the Board that he has a low threshold of performing abdominal investigations in geriatric patients. Dr. Prabhakaran explained that the patient became sick after transfer of her care, and that the other providers involved in this patient's care also did not suspect abdominal issues.

Board members questioned Dr. Prabhakaran's decision to discharge the patient to a sub-acute rehabilitation center, noting that the chart notes of other providers indicated the ongoing complaint of abdominal pain. Dr. Prabhakaran explained that the patient was transferred for the purposes of resection, and not due to continued complaints of abdominal discomfort. He added that he was there with the family each day and checked on the patient on a regular basis for the three days that he was involved in her care.

Dr. Gillard expressed concern regarding the use of 'boiler plate' notes in the patient's chart, noting that five consecutive chart entries were identical in terms of the abdominal examination. Dr. Prabhakaran acknowledged his charting errors and stated that he has taken steps to address this concern. Mr. Crawford pointed out that the abdominal examinations were documented in such a way due to the fact that the examination resulted in the same findings that there was no acute abdomen.

In closing, Mr. Crawford stated that it would not make sense to discharge a patient with an acute abdomen, and he pointed out that the patient had to be cleared by the facility

prior to the transfer of care to a sub-acute rehab facility. Dr. Prabhakaran reiterated that examinations ruled out the diagnosis of an acute abdomen, and that he acknowledged he could have done a better job in terms of his documentation.

Dr. Gillard stated that he agreed with SIRC's findings of unprofessional conduct for quality of care and medical recordkeeping concerns. Dr. Beyer spoke against sustaining a violation of A.R.S. § 32-1401(27)(r), stating that he did not find a quality of care violation in this case. Specifically, Dr. Beyer found that there was no evidence in the medical record that the patient's abdominal pain had worsened under Dr. Prabhakaran's care. Dr. Bethancourt agreed with Dr. Beyer's comments, and stated that he did not support the finding of a quality of care violation based on the chart notes that describe exam findings of mild abdominal distention without rebound or tenderness. Dr. Figge stated that the sparseness of the medical record documentation made it difficult to determine whether a quality of care violation had occurred in this case.

MOTION: Dr. Gillard moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) for reasons as stated by SIRC.

SECOND: Dr. Paul

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

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

MOTION PASSED.

Dr. Gillard also agreed with SIRC's recommended sanction, particularly the requirement for the physician to complete CME in recordkeeping.

MOTION: Dr. Gillard moved for a draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation to complete the CME recommended by SIRC.

This motion was not seconded; therefore, the motion failed.

MOTION: Dr. Figge moved to issue an Advisory Letter and Order for Non-Disciplinary CME 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. Gillard

Dr. Figge stated he found that the evidence in the case did not support a disciplinary outcome. He added that there was compelling evidence in the medical record showing that there was no acute abdomen upon initial exam at the facility accepting the patient's transfer.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Paul. The following Board member abstained from the vote: Dr. Farmer. The following Board members were absent: Ms. Bain and Dr. Krahn.

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

MOTION PASSED.

2. THIS CASE WAS MOVED TO AGENDA ITEM N #5.

I. FORMAL INTERVIEWS

1. MD-17-1005A, CHARLES M. ARAKAKI, M.D., LIC. #48611

Dr. Arakaki was present with Attorney Steve Myers. Dr. Haas summarized that four patients' charts were reviewed for appropriateness of testosterone treatment. SIRC reviewed the matter and determined that discipline is appropriate based on Dr. Arakaki's inadequate documentation to support his prescribing, and the failure to ensure coordination of care with primary providers. SIRC also determined that there was inadequate supervision of midlevel providers, resulting in the inappropriate use of testosterone and failure to inform other treating providers of increased hematocrits.

In his opening statement to the Board, Dr. Arakaki briefly summarized his medical training and background. He explained that he became the Medical Director at UMC in 2012-2013, serving in a role to ensure delivery of quality care to patients. Mr. Myers noted that the Board's MC was critical of Dr. Arakaki's care of three patients for which he provided coverage for another provider. Mr. Myers stated he believed the MC reached his conclusions based on the entirety of the patients' care, and reiterated that Dr. Arakaki had been providing coverage for these patients while their treating provider was unavailable. Mr. Myers further stated that the MC did not provide literature to support his contention that Dr. Arakaki, as Medical Director, has some level of responsibility for the treatment of a fully licensed physician.

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

SECOND: Dr. Paul

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

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

MOTION PASSED.

The Board entered into Executive Session to receive legal advice at 1:33 a.m.

The Board returned to Open Session at 1:40 p.m.

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

Dr. Arakaki explained that his duties as Medical Director involve identifying staff needs when opening new clinics, the hiring of new staff, and provision of general leadership and counsel when needed. He explained that not every clinic has a physician on site, but that some of the clinics are staffed by mid-level providers, where allowable. Dr. Arakaki also discussed that the patient's presenting to his clinic are typically self-referred, and that very few are actually referred by their primary care physicians. Board members noted that coordination of patient care was also identified as a concern in the patient cases. Dr. Arakaki stated that he does write correspondence to the patients' primary care physicians when they are not self-referred.

Dr. Figge expressed concern with the lack of testing performed prior to administration of testosterone therapy, noting that the standard of care would require at least two tests showing low testosterone levels. Dr. Arakaki reported to that the Board that as of last year, the clinics discontinued this type of practice. Dr. Gillard pointed out that while the CSPMP identified the four patients reviewed for quality of care, but that the physician had only treated the patients while covering for another provider and was not involved in the treatment from start to finish.

Dr. Bethancourt spoke in favor of the findings made by SIRC, with the exception of the alleged violation of A.R.S. § 32-1401(27)(jj). Dr. Bethancourt commented that based on the physician's testimony, it appears he is more involved at an operational level versus direct patient care.

MOTION: Dr. Bethancourt moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r), for reasons as stated by SIRC.

SECOND: Dr. Paul

Board staff informed the Board that the matter had been referred to the Nursing Board for review of the allegations made against the nurse practitioner in the initial complaint.

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

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

MOTION PASSED.

Dr. Bethancourt stated that this appeared to be more of a systems issue versus a direct physician problem. He spoke in favor of a non-disciplinary sanction with the requirement to complete in-person CME in the prescribing of testosterone.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter and Order for Non-Disciplinary CME for inappropriate use of testosterone and inadequate medical records. 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 an intensive, in-person course regarding prescribing testosterone. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Figge

Dr. Beyer expressed concern with the issues identified that involve the prescribing of medication to patients without first establishing a diagnosis, and noted that Dr. Arakaki's Board history includes the prior issuance of a Letter of Reprimand. Dr. Figge recalled the physician's testimony that this type of practice was discontinued as of last year. Dr. Beyer noted that another concern in the case involved the lack of coordination of patient care. Dr. Beyer opined that when a physician makes himself part of the patient's care team, it is common medical practice to notify other physicians caring for the patient of major changes made in the patient's medications.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Paul. The following Board members voted against the motion: Dr. Beyer and Ms. Jones. The following Board member abstained from the vote: Dr. Farmer. The following Board members were absent: Ms. Bain and Dr. Krahn.

VOTE: 6-yay, 2-nay, 1-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-18-0231A, BRYAN K. MATANKY, M.D., LIC. #22110

Dr. Matanky was present with Attorney Russel Skelton. Dr. Vandenheede summarized for the Board that SIRC found that Dr. Matanky failed to provide appropriate patient care when he was on-call for the hospital and identified medical recordkeeping concerns. In his opening statement, Mr. Skelton stated that Dr. Matanky did what he thought was best for the patient in this case, and that the physician has performed fasciotomies prior to and after this incident occurred. Dr. Matanky addressed the Board stating that when he discussed the patient with the ER physician over the phone, it was his understanding that the patient would be transferred. Dr. Matanky explained that he believed that the patient was transferred by the ER staff and that it seemed that the patient should not be his responsibility at that moment. He also stated that there are no guidelines in the medical literature for what to do after a 12 hour window for a patient with compartment syndrome. He stated the decision is not clear to do fasciotomy more than 24 hours after presentation.

Dr. Figge led the questioning, and noted that Dr. Matanky was not contacted at the time of the patient's initial presentation to the ER. Dr. Gillard noted that upon presentation and initial examination, the patient's complaints were disproportionate to any physical findings. Dr. Wolf pointed out that counsel had asserted during opening statements that this was a classic presentation of acute compartment syndrome; however, it was noted that pressures are not required prior to proceeding to fasciotomy in classic cases. Dr. Vandenheede stated that she places more weight on the physician personally examining the patient versus relying solely on striker pressure kits.

Dr. Beyer noted that there were discrepancies between Dr. Matanky and the ER physician with regard to the phone call discussing the patient. Dr. Matanky stated that it was his assumption that the patient would be transferred based on him and the ER physician agreeing to do so during the phone call. In closing, Dr. Matanky stated that the standard of care was carried out in this case and that what was best for the patient was considered during the decision making process in this case.

Dr. Vandenheede re-addressed the Board, stating that the records demonstrate that the patient's condition did not seem extreme, as typically seen in such cases involving compartment syndrome. However, she stated that it is unclear whether rendering care at an earlier time in this case would not have brought benefit to this patient. Dr. Wolf commented that compartment syndrome and the suspicion of compartment syndrome are surgical emergencies. He stated that to argue that the window has passed to proceed with compartment fasciotomy is surprising at best.

Dr. Figge stated that he did find unprofessional conduct violations involving A.R.S. § 32-1401(27)(e) and (r) for inadequate documentation and the potential for patient harm.

MOTION: Dr. Figge moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r) for reasons as stated by SIRC.

SECOND: Dr. Gillard

Dr. Figge stated that he believes that there was potentially a missed opportunity to help this patient, and that it may never be clear as to whether earlier intervention would have changed the outcome in this case. Dr. Figge stated that if what the physician had testified to did actually occur, then the care was appropriate. However, Dr. Figge stated that the issue would be easily addressed had there been contemporaneous notes of the phone call that occurred between Dr. Matanky and the ER physician. Dr. Beyer spoke in favor of sustaining a violation of A.R.S. § 32-1401(27)(e) for recordkeeping concerns, but stated that he was not sure a violation of A.R.S. § 32-1401(27)(r) had occurred.

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

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

MOTION PASSED.

Dr. Figge stated that while he feels there was a missed opportunity to intervene in this patient's care, he did not find that the matter rises to the level of disciplinary action by the Board.

MOTION: Dr. Figge moved to issue an Advisory Letter for failure to examine a patient with compartment syndrome and inadequate documentation. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Gillard

Dr. Gillard recognized the bad outcome in this case, but stated that mitigating circumstances exist that mitigate the need for discipline. Dr. Farmer stated it is very clear in this case that an opportunity was missed, but noted that several issues factor into consideration of transferring a patient from a rural hospital versus taking the patient to the operating room.

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

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

MOTION PASSED.

CONSENT AGENDA

J. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Gillard moved to dismiss the investigation in item numbers 1, 3 and 4.

SECOND: Ms. Jones

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

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

MOTION PASSED.

1. MD-18-0393A, LORI-ANN TRACY, M.D., LIC. #46500

RESOLUTION: Dismiss.

2. MD-18-0038A, JONATHAN B. MURPHY, M.D., LIC. #44962

Dr. Beyer pulled this case for discussion and expressed concern that the patient may not have been fully informed of all the treatment options available. He stated that he did not feel as though the physician sufficiently addressed the patient's health problem; specifically, the lack of a discussion regarding the consequences of not pursuing care with appropriate therapy. Dr. Beyer stated that it is clear from the record that the patient wished to pursue alternative treatment; however, he explained that his concerns involve the failure of the physician to sit the patient down and have a real conversation regarding her options for treatment and the potential risks.

Board members were informed that this matter was considered and dismissed by the Homeopathic Board in March of 2018.

Dr. Beyer stated that based on his review of the medical record documentation, he felt that there was no evidence of a sincere attempt to sway the patient to appropriate care. Dr. Gillard pointed out that there were two medical consultant reviews in the file that found the patient to have been well informed, though both consultants did agree that the ongoing alternative treatment was not of any benefit to the patient. Dr. Beyer found that further investigation was warranted and spoke against the proposed dismissal.

MOTION: Dr. Beyer moved to return the case for further investigation for consideration of a potential violation of A.R.S. § 32-1401(27)(e) and (r) in light of the Board members' discussion.

SECOND: Dr. Figge

Dr. Figge spoke in favor of the motion and stated that further review is needed. Dr. Beyer stated that there appeared to be a lot of missed opportunities for positive intervention in this case. Dr. Paul recognized that Dr. Murphy is dually licensed by both the Medical Board and the Homeopathic Board. He recalled the physician's prior case that resulted in a citation in 2016, and noted that the Board had struggled at that time as to what was

inappropriate. He stated that additional review may elucidate that further, and spoke in favor of the motion.

Dr. Gillard spoke against additional review, stating that he did not feel a third review by a medical consultant was warranted. He proposed returning the case to notify the physician of the concerns and violations discussed by the Board members and to reagentize the case for an Advisory Letter. Dr. Bethancourt directed Board members to a progress note in the file that related the patient's desire to continue therapy in Mexico, her refusal to see oncology and prior refusal to undergo axillary node dissection. Dr. Beyer stated he recognized that the patient was predisposed to wanting a specific therapy, but that it was the physician's responsibility to adequately articulate what the patient needs and to find a way consistent with that patient's belief system to get them the care that is more beneficial to their health.

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

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

3. MD-17-0583A, SEYED M. S. TAKIEH, M.D., LIC. #33949
Dr. Takieh addressed the Board during the Public Statements portion of the meeting.

RESOLUTION: Dismiss.

4. MD-18-0600A, JEFF C. HOEHNER, M.D., LIC. #46508
RESOLUTION: Dismiss.

K. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Ms. Jones moved to issue an Advisory Letter in item numbers 5, 6, 8, 11, 15, 16 and 17.

SECOND: Dr. Paul

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

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

1. MD-18-0421A, MITCHELL S. PARKER, M.D., LIC. #11647
Dr. Gillard stated that he knows Dr. Parker, but it would not affect his ability to adjudicate the case. Dr. Gillard observed that the MC who reviewed the case did not sustain the patient's allegations and did not find issues with the physician's treatment. He stated that based on the standard of evidence, he did not find that there was clear and convincing evidence to support a statutory violation in this case.

**MOTION: Dr. Gillard moved for dismissal.
SECOND: Dr. Bethancourt**

Ms. Jones recalled the patient's comments of having felt very uncomfortable during her visit with Dr. Parker. She noted that Dr. Parker indicated in his correspondence with the Board that he always offers the patient a female chaperone, but there was no evidence that the patient was offered that option in this case. Dr. Beyer commented that he typically would not have a chaperone present for a back and/or lung examinations, and that there was not a way for the physician to predict that the patient would be sensitive to this style of care. Dr. Farmer recognized that the patient in this case is a young female

undergoing difficult endocrine therapy, and stated that the comment allegedly made by Dr. Parker was clearly insensitive. He stated that the physician in this case may not have empathized well with this patient. Dr. Farmer summarized that the issues in this case are whether the endocrine care was appropriate, and whether there was a sexual boundaries violation as alleged by the patient. Dr. Farmer stated that the allegations are not supported. Ms. Jones stated that the communication issue in this case could have been resolved with a simply apology on the physician's part when the patient expressed her feelings of uncomfortableness. Dr. Farmer stated he is hopeful that the physician has learned from this case, and that the patient recognizes that the Board has compassion for her experience.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Dr. Gillard, and Dr. Paul. The following Board member voted against the motion: Ms. Jones. The following Board member abstained from the vote: Dr. Farmer. The following Board members were absent: Ms. Bain and Dr. Krahn.

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

MOTION PASSED.

2. MD-18-0409A, IMANI N. WILLIAMS-VAUGHN, M.D., LIC. #32653

Complainant DA addressed the Board during the Public Statements portion of the meeting. Dr. Beyer pulled this case for discussion. He observed that three days after having been seen by Dr. Williams-Vaughn, the patient sustained a cardiac event resulting in the death of the patient. Dr. Beyer opined that the physician could not have predicted the catastrophic event that occurred subsequent to having seen the patient, and spoke in favor of dismissal.

MOTION: Dr. Beyer moved for dismissal.

SECOND: Dr. Paul

Dr. Figge stated it was his understanding from the complainant's allegations that the concern was that the overall care of this patient should have been raised to a higher level of care. Dr. Figge stated that elevating the level of care for this patient may not have changed the ultimate outcome. Other Board members noted that the complainant additionally alleged that there was a lack of referral to other specialists. Dr. Paul noted that the medical record included at least ten referrals over the course of years, and stated that he found the care was conscientious.

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

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

MOTION PASSED.

3. MD-18-1150A, STEPHEN A. SHILLER, M.D., LIC. #50950

Ms. Jones pulled this matter for discussion, and proposed adding a Non-Disciplinary CME Order to the proposed Advisory Letter to address the findings that the physician signed blank prescription forms. Dr. Gillard noted that the prescriptions were used to obtain analgesic cream from a supplier, and that they were not provided to the patients.

Board staff clarified that the physician had pre-signed his name on the blank script for use as a master copy in his office where his staff would enter the patient information on the signed forms, and send the forms to the patient's pharmacy. Board members stated that all physicians should be aware that signing a blank prescription form is inappropriate, regardless of the circumstances. Dr. Gillard stated he believed that having gone through the experience of a Board investigation, the physician is well aware of his error and that adding the requirement to complete CME is not warranted in this case.

MOTION: Dr. Gillard moved to issue an Advisory Letter for signing blank prescriptions. While the licensee has demonstrated substantial compliance through rehabilitation or 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.

SECOND: Dr. Paul

Dr. Beyer spoke in favor of the motion and stated that he did not find that further education is needed in this case.

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

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

MOTION PASSED.

4. MD-18-0632A, MUFID N. KHOURY, M.D., LIC. #29530

Attorney Scott King addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Ms. Jones pulled this case for discussion and expressed concern that the physician did show any contrition in his response to the Board's investigation, but rather, seemed to be more concerned with the way in which the pharmacist addressed the patient's mother. Ms. Jones proposed adding a Non-Disciplinary CME Order to the recommended Advisory Letter, and suggested the CME involve the practice of prescribing medications to children. Dr. Figge observed that Dr. Khoury's correspondence to the Board explained his reliance on the checks and balances practice of pharmacy technicians catching any medication errors. Dr. Figge spoke in favor of adding the CME requirement, and stated that pharmacy technicians should not be solely relied upon to avoid medication errors. Board members noted that Dr. Khoury had indicated that the prescribing of Promethazine to children was covered in his 1995 resident training program, and noted that this was common practice for some time prior to the black box warning in 2000. Board members questioned whether the physician had been keeping up to date on prescribing guidelines for his specific patient population, and whether the physician understood the seriousness of this issue. The Board also noted that Dr. Khoury acknowledged in his correspondence that he incorrectly prescribed an adult dose for the patient.

The Board discussed the type of CME courses available to address the concerns identified in this case, and considered recommending courses involving the prescribing of controlled substances, pharmacology, or pediatric-specific education. Board members also discussed requiring the physician to complete a risk management course, and whether the courses should be completed in person.

MOTION: Ms. Jones moved to issue an Advisory Letter and Order for Non-Disciplinary CME for prescribing Promethazine to a pediatric patient under the age of two. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 5 hours of Board staff pre-approved Category I CME in prescribing medications to pediatric patients, including the management of nausea/vomiting in pediatric patients. The CME hours shall be in addition to the hours required for license renewal. Additionally, the Board directed staff to provide a copy of the minutes to the physician with the Advisory Letter.

SECOND: Dr. Figge

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Krahn.
VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

5. MD-18-0620A, VLADIMIR KAYE, M.D., LIC. #30319
RESOLUTION: Issue an Advisory Letter for action taken in another jurisdiction. While the licensee has demonstrated substantial compliance through rehabilitation or 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.
6. MD-18-1103A, EDGAR J. PRINGLE, M.D., LIC. #12528
RESOLUTION: Issue an Advisory Letter for failure to identify all relevant findings on an abdominal CT scan. There is insufficient evidence to support disciplinary action.
7. MD-18-0754A, GERALD R. SHOCKEY, M.D., LIC. #20274
Ms. Jones pulled this case for discussion, noting that it stemmed from a referral from the ARBoPA and involved the failure to timely update the delegation agreement with Dr. Shockey's PA. She observed that there was a three month delay in having the document executed after the PA was hired. Board members recognized that this was an administrative error and noted that there were mitigating circumstances present. Ms. Jones recommended dismissal.

MOTION: Ms. Jones moved for dismissal.
SECOND: Dr. Gillard

Dr. Gillard spoke in favor of the motion, stating that the issue stemmed from an administrative error that he is convinced will not happen again.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Krahn.
VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

8. MD-18-1155A, CHARLES T. ELLIS, M.D., LIC. #52247
Attorney Jessica Miller addressed the Board during the Public Statements portion of the meeting on behalf of the physician.
RESOLUTION: Issue an Advisory Letter for action taken by another jurisdiction. There is insufficient evidence to support disciplinary action.
9. MD-18-0588A, MICHAELA LESSLER, M.D., LIC. #34049
Dr. Paul pulled this case for discussion, noting that the patient alleged that the physician did not address his concerns. Dr. Paul disagreed with the findings that the physician failed to address complaints of cough during her work-up of the patient, and that her cardiology referral was inappropriate. Dr. Paul stated he found that this physician's work-up of this patient was appropriate for a pulmonologist, and spoke in favor of dismissal.

MOTION: Dr. Paul moved for dismissal.
SECOND: Dr. Gillard

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

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

10. MD-18-0627A, CYNTHIA R. FALLHOWE, M.D., LIC. #47518

Attorney Mandi Carvis addressed the Board during the Public Statements portion of the meeting on behalf of the physician. Dr. Beyer recalled the comments made during the Public Statements, where it was stated that Dr. Fallhowe served in the capacity as the Chief Medical Officer; however, according to the information in the charts reviewed, Dr. Fallhowe had been listed as the Medical Director.

Dr. Vandenheede summarized that the Board received a complaint regarding Dr. Fallhowe serving as the Medical Director for the facility responsible for providing healthcare to the prisoners. Dr. Gillard noted that the care provided in the case was provided by mid-level providers, and that Dr. Fallhowe became involved in this patient's care later into her treatment at the prison. Board members recognized that Dr. Fallhowe attempted to speed the patient's progress through what seemed to be a very difficult multi-level situation, and questioned if more could have been done, and whether it would have changed the outcome. Dr. Beyer found that the one encounter between Dr. Fallhowe and the patient involved appropriate care, and stated he was not sure if Dr. Fallhowe should have, or could have, fixed the entire system. For these reasons, Dr. Beyer spoke in favor of dismissal.

**MOTION: Dr. Beyer moved for dismissal.
SECOND: Dr. Gillard**

Board staff informed the Board that system issues are addressed by the Department of Health Services, and reported that the facility identified in this case is no longer contracted with the State of Arizona, as of January of 2019. AAG Smith indicated that she believes there is a new provider for the Department of Corrections inmates, and that the system wide issues are being examined on a number of different levels, including court-ordered management. Ms. Jones spoke against the motion, and commented that if there was a systems issue and Dr. Fallhowe had the ability to expedite the process while serving as the Chief Medical Officer, an Advisory Letter should be issued in this case to place the physician on notice of those system issues.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Figge, Dr. Gillard and Dr. Paul. The following Board member voted against the motion: Ms. Jones. The following Board member abstained from the vote: Dr. Farmer. The following Board members were absent: Ms. Bain and Dr. Krahn.

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

11. MD-18-0627B, MURRAY F. YOUNG, M.D., LIC. #52177

Complainant SW addressed the Board during the Public Statements portion of the meeting. AL and RD also addressed the Board during the Public Statements portion of the meeting, in support of the complainant.

RESOLUTION: Issue an Advisory Letter for inadequate documentation and an incomplete patient examination performed for a patient presenting with multiple somatic complaints and weight loss. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

12. MD-18-0553A, THOMAS R. WRONA, M.D., LIC. #14194

Dr. Beyer pulled this case for discussion and stated that he did not find that the allegations in this case were supported. Specifically, Dr. Beyer observed that the patient

appeared to have been surprised to learn of the osteoporosis diagnosis, while there is a long history of interactions documented in the patient's chart discussing exams and risk factors. Dr. Gillard agreed with Dr. Beyer's comments and stated that it appeared that the patient was prescribed medications to address the osteoporosis diagnosis and she elected to stop taking them.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Bethancourt

Dr. Bethancourt spoke in favor of the motion, noting that the physician respected the patient's wishes to discontinue the medication.

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

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

MOTION PASSED.

13. MD-18-0567A, JOHN C. MEDLEN, M.D., LIC. #12924

Drs. Farmer, Figge, and Gillard stated that they know Dr. Medlen, but it would not affect their ability to adjudicate the case. Dr. Medlen addressed the Board during the Public Statements portion of the meeting. Dr. Gillard pulled this case for discussion and spoke in favor of dismissal based on the finding that Dr. Medlen appeared to have thoroughly addressed each of the patient's issues.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

14. MD-17-1175A, CARLOS G. DIAZ, M.D., LIC. #44137

Ms. Jones pulled this case for discussion and expressed concern regarding the physician's lack of chart completion after receiving multiple chances to do so by his employer. She noted that even at the time of his termination from employment, Dr. Diaz still had 18 incomplete charts. For these reasons, Ms. Jones proposed adding an Order for Non-Disciplinary CME in medical recordkeeping to the recommended Advisory Letter.

MOTION: Ms. Jones moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failure to maintain adequate 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

Ms. Jones reiterated that based on the physician repeated offenses of not completing his chart documentation, the CME should be completed in an intensive, in-person course.

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

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

MOTION PASSED.

15. MD-19-0009A, RUSSELL P. GOLLARD, M.D., LIC. #26515
RESOLUTION: Issue an Advisory Letter for action taken by another jurisdiction. While the licensee has demonstrated substantial compliance through rehabilitation or 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.
16. MD-18-0211A, RAYMOND J. FACCO, M.D., LIC. #37386
RESOLUTION: Issue an Advisory Letter for failure to carry out a biopsy of a highly suspicious breast mass. There is insufficient evidence to support disciplinary action.
17. MD-18-0654A, JOSEPH A. HARDWICK, M.D., LIC. #15107
RESOLUTION: Issue an Advisory Letter for premature discharge of a patient with tachycardia and for incomplete evaluation of a wound with extended contamination in a second patient. There is insufficient evidence to support disciplinary action.

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

MOTION: Dr. Gillard moved to issue Advisory Letters with Non-Disciplinary CME Orders in item numbers 1 and 2.

SECOND: Dr. Paul

VOTE: The following Board members voted in favor of the motion:

The following Board members voted against the motion:

The following Board members were absent:

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

MOTION PASSED.

1. MD-18-0021A, STEPHEN C. REMOLINA, M.D., LIC. #45477
RESOLUTION: Issue an Advisory Letter and Order for Non-Disciplinary CME for failing to monitor labs and significant medication side effects, failing to monitor vital signs, and failing to document coordination of care monitoring. 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 psychiatric medication prescribing, side effects, and lab monitoring. The CME hours shall be in addition to the hours required for license renewal.
2. MD-18-0601A, JEAN LETARTE, M.D., LIC. #19277
RESOLUTION: Issue an Advisory Letter Order for Non-Disciplinary CME for prescribing multiple controlled substances to a family member without appropriate documentation, evaluation, or monitoring. While there is insufficient evidence to support disciplinary action, the board believes that continuation 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 regarding professional boundaries. The CME hours shall be in addition to the hours required for license renewal.

M. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Figge moved to uphold the Executive Director Dismissal in item numbers 1-5.

SECOND: Dr. Paul

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Paul.

The following Board members were absent: Ms. Bain and Dr. Krahn.

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

MOTION PASSED.

1. MD-18-0290A, YULIUS MUSTAFA, M.D., LIC. #31828

RESOLUTION: Dismissal upheld.

2. MD-18-0313A, SYLVAIN SIDI, M.D., LIC. #8458

Dr. Farmer stated that he knows Dr. Sidi, but it would not affect his ability to adjudicate the case.

RESOLUTION: Dismissal upheld.

3. MD-18-0570A, HIMAL R. SHAH, M.D., LIC. #36976

RESOLUTION: Dismissal upheld.

4. MD-18-0687A, ROBERT M. GARCIA, M.D., LIC. #13761

RESOLUTION: Dismissal upheld.

5. MD-18-0933A, ROBERT B. CRAVENS, M.D., LIC. #20145

Dr. Figge stated that he knows Dr. Cravens, but it would not affect his ability to adjudicate the case.

RESOLUTION: Dismissal upheld.

N. PROPOSED CONSENT AGREEMENTS (Disciplinary)

MOTION: Dr. Beyer moved to accept the proposed Consent Agreements in item numbers 1-4, and 6.

SECOND: Ms. Jones

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

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

MOTION PASSED.

1. MD-16-0589A, MD-18-1057A, MD-19-0081A, JOHN J. SEARS, M.D., LIC. #27392

RESOLUTION: Accept the proposed Consent Agreement for Surrender of License.

2. MD-17-0998A, SHEL-DON J. LEGARRETA, M.D., LIC. #25100

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand Two Year Probation to participate in PHP. Respondent's Probation shall be retroactive to February 15, 2019. Once the physician has complied with the terms of Probation, he must affirmatively petition the Board to request that the Probation be terminated.

3. MD-17-1195A, ALLEN A. AGAPAY, M.D., LIC. #24148

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand.

4. MD-19-0187A, DIVYESH G. MEHTA, M.D., LIC. #30158

RESOLUTION: Accept the proposed Consent Agreement for Surrender of License.

5. MD-18-0384A, SUSAN B. GREGER, M.D., LIC. #47822

Ms. Jones pulled this case for discussion and stated that she noted a date discrepancy on the signature page of the document. Board staff clarified that the document was generated in 2018, and that the date will be corrected when executed by the Executive Director.

MOTION: Ms. Jones moved to accept the proposed Consent Agreement for a Letter of Reprimand and Practice Restriction with Minimum Five Year Probation to

participate in PHP with terms consistent with the PHP Contractor's recommendations. Dr. Greger is restricted from prescribing any form of treatment including prescription medications. The physician shall not request modification or termination of the Practice Restriction without, at a minimum, providing proof of having undergone comprehensive fitness for duty evaluation and/or competency evaluation with a Board-approved facility, a subsequent assessment with a Board-approved PHP Contractor and enrollment with the PHP for five years. If the evaluation or PHP Contractor identify additional treatment and/or therapy, Dr. Greger shall comply with any recommendations from the evaluation or assessment, subject to approval by the Board or its staff. Once the physician has complied with the terms of Probation, she must affirmatively petition the Board to request that the Probation be terminated.

SECOND: Dr. Figge

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

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

MOTION PASSED.

6. MD-18-0134A, MD-18-0606A, SCOTT J. ELLIS, M.D., LIC. #27064

RESOLUTION: Accept the proposed Consent Agreement for a Letter of Reprimand and Two Year Probation. Within six months, complete no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course regarding controlled substance prescribing; and, no less than 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course for medical recordkeeping. The CME hours shall be in addition to the hours required for license renewal. Within thirty days, enter into a contract with a Board-approved monitoring company to perform periodic chart reviews. The chart reviews shall commence after proof of completion of the CME, and shall involve patient care rendered after completion of the CME. After two consecutive favorable chart reviews, the licensee may petition the Board to request termination of the Probation.

O. PROPOSED CONSENT AGREEMENTS (Non-Disciplinary)

1. MD-18-0308A, JOHN W. MOLINA, M.D., LIC. #20789

MOTION: Ms. Jones moved to accept the proposed Consent Agreement for Practice Limitation. Physician's practice is limited in that he shall not practice medicine in the State of Arizona and is prohibited from prescribing any form of treatment including prescription medications until the physician applies to the Board and receives permission to do so.

SECOND: Ms. Dorrell

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

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

MOTION PASSED.

P. LICENSE APPLICATIONS

i. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION

MOTION: Dr. Paul moved to grant the license in item numbers 1 and 3-8.

SECOND: Dr. Beyer

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

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

MOTION PASSED.

1. MD-19-0016A, ROHIT CHETTY, M.D., LIC. #N/A
RESOLUTION: License Granted.
2. THIS CASE WAS PULLED FROM THE AGENDA.
3. MD-18-0941A, MARIO C. GIUDICI, M.D., LIC. #N/A
RESOLUTION: License Granted.
4. MD-18-1049, WAN L. HORNG, M.D., LIC. #N/A
RESOLUTION: License Granted.
5. MD-18-1221A, MARVIN P. STEINER, M.D., LIC. #N/A
RESOLUTION: License Granted.
6. MD-19-0103A, ENYONAM S. M. AGAMASU, M.D., LIC. #N/A
RESOLUTION: License Granted.
7. MD-19-0199A, MICHAEL J. STYLES, M.D., LIC. #N/A
RESOLUTION: License Granted.
8. MD-19-0091A, ALLAMPBABHU S. PATIL, M.D., LIC. #N/A
RESOLUTION: License Granted.

ii. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OR DENY LICENSE APPLICATION, OR TO TAKE OTHER ACTION WITH STAFF RECOMMENDATION

1. MD-18-1125A, RAFID A. H. FADUL, M.D., LIC. #N/A
Attorney Steve Myers addressed the Board during the Public Statements portion of the meeting on behalf of physician.

Board members recalled the comments made during Public Statements, and voted to table the Board's discussion in this matter.

MOTION: Dr. Paul moved to table the discussion.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

2. THIS CASE WAS PULLED FROM THE AGENDA.

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

1. WILLIAM P. JOSEPH M.D., LIC. #N/A
Dr. Gillard stated that based on the information gathered in the file, he supported granting the applicant's request for waiver of the documentation requirement.

MOTION: Dr. Gillard moved to grant the request for waiver of documentation requirement.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

iv. CONSIDERATION OF LICENSE APPLICATION WITH RECOMMENDATION FROM THE EXECUTIVE DIRECTOR

1. JOHN S. BANERJI, M.D., LIC. #N/A

Dr. Gillard noted that the Board has the ability to determine whether a postgraduate training program is equivalent to an ACGME accredited program when considering a license application. Dr. Gillard stated that after reviewing the materials provided for review and consideration, he found that the applicant's medical training is equivalent to an ACGME approved program and spoke in favor of granting licensure.

MOTION: Dr. Gillard moved to grant the license.

SECOND: Ms. Jones

AAG Smith clarified that statute provides the Board discretion to approve programs other than specific ACGME accredited programs when considering an application for licensure. She referred Board members to the Executive Director's memo included in the Board's materials, and stated that granting of the license was the recommended action in this case.

VOTE: The following Board members voted in favor of the motion:

The following Board members voted against the motion:

The following Board members were absent:

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

MOTION PASSED.

ACTION ON CASE(S)

Q. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-18-0339A, SCOTT G. EDWARDS, M.D., LIC. #48056

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

SECOND: Ms. Jones

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

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

MOTION PASSED.

2. MD-18-0429A, FLOYD E. TRINIDAD, M.D., LIC. #33162

Dr. Trinidad and Attorney Steve Perlmutter addressed the Board during the Public Statements portion of the meeting. Dr. Monica Faria also addressed the Board during the Public Statements portion of the meeting in support of Dr. Trinidad.

AAG Smith clarified for the Board that the matter had been brought to the Board for approval of the draft Order. She stated that the Board is tasked with determining whether or not the draft accurately reflects the findings of the case, and that if the licensee wished to challenge the sanction, it would be more appropriate to do so after the Board's Order

has become effective. Board members noted that the physician will have an opportunity to file a Motion for Rehearing or Review after the Board votes on the Order.

MOTION: Dr. Figge moved to approve the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand with Two Year Probation to participate in PHP with terms consistent with the PHP Contractor's recommendations. Dr. Trinidad's PHP participation shall be retroactive to September 21, 2018. Once the physician has complied with the terms of Probation, he may petition the Board to request termination.

SECOND: Dr. Paul

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

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

MOTION PASSED.

OTHER BUSINESS

R. REQUEST FOR TERMINATION OF BOARD ORDER

1. MD-15-1223A, CHRISTOPHER A. REYNOLDS, M.D., LIC. #34330

Board members noted that the PHP Contractor recommended that early termination not be granted. Dr. Gillard stated that based on the PHP Contractor's recommendation, the request for early termination should be denied. Dr. Figge agreed and spoke in favor of denying the request.

MOTION: Dr. Figge moved to deny the request to terminate the April 6, 2017 Board Order.

SECOND: Dr. Paul

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

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

MOTION PASSED.

2. MD-16-0949A, JEFFREY M. TAFFET, M.D., LIC. #16326

Dr. Monica Faria addressed the Board during the Public Statements portion of the meeting.

Dr. Gillard noted that one PHP Contractor was in favor of granting the request for early termination of Dr. Taffet's PHP monitoring. However, Board members recalled the statements made by Dr. Faria during the Public Statements portion of the meeting, wherein she spoke against granting the request for early termination. The Board recognized that Dr. Faria is also a Board-approved PHP Contractor.

The Board discussed Dr. Taffet's correspondence to the Board, which included his plans to retire from the practice of medicine and move into a teaching role.

MOTION: Dr. Gillard moved to grant the request for early termination.

SECONDED: Dr. Figge

The Board discussed the differing opinions from the two Board-approved PHP Contractors, and whether the request for early termination should be granted.

MOTION: Dr. Figge moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(2) and (3).

SECOND: Ms. Jones

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Dr. Connolly, Ms. Dorrell, Dr. Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Krahn. VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent. MOTION PASSED.

The Board entered into Executive Session to receive legal advice at 11:50 a.m.
The Board returned to Open Session at 12:03 p.m.
No legal action was taken by the Board during Executive Session.

Dr. Gillard recommended tabling this matter until such time that the physician has had the opportunity to obtain another opinion from a Board-approved Assessor. Dr. Gillard explained that his recommendation is based on the differing opinions received regarding the physician's request for early termination. Drs. Gillard and Figge withdrew their motion to grant the request for early termination.

MOTION: Dr. Gillard moved to table the discussion and request that the physician obtain an evaluation by a Board-approved PHP Assessor.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

Dr. Gillard instructed Board staff to provide Dr. Taffet with a list of Board-approved PHP Assessors.

3. MD-14-1374A, ROHIT MALHOTRA, M.D., LIC. #33419

Dr. Gillard noted that Dr. Malhotra was previously issued a Letter of Reprimand and Probation that required the physician to complete CME. Dr. Gillard recognized that Dr. Malhotra submitted proof of compliance with the agreement and recommended granting the request to terminate the Probation.

MOTION: Dr. Gillard moved to grant the request to terminate the October 5, 2017 Board Order.

SECOND: Dr. Paul

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

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

MOTION PASSED.

S. CONSIDERATION OF DUAL JURISDICTION OF THE AMB AND THE ARIZONA HOMEOPATHIC BOARD

1. MD-19-0135A, RUTH TAN, M.D., LIC. #10737

Dr. Gillard noted that the Executive Director recommended that the Board cede jurisdiction to the Arizona Homeopathic Board in this matter.

MOTION: Dr. Gillard moved to cede jurisdiction to the Homeopathic Board.

SECOND: Ms. Jones

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

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

MOTION PASSED.

T. GENERAL CALL TO THE PUBLIC

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

U. ADJOURNMENT

MOTION: Ms. Jones moved to adjourn the meeting.

SECOND: Dr. Paul

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

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

MOTION PASSED.

The meeting adjourned at 3:05 p.m.

DRAFT

Tuesday, April 16, 2019

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Farmer called the meeting to order at 8:05 a.m.

B. ROLL CALL

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

ALSO PRESENT

Present among Board staff include: Kristina Fredericksen, Deputy Director; William Wolf, M.D., Chief Medical Consultant; Amy Skaggs, Staff Investigational Review Committee ("SIRC") Coordinator; Raquel Rivera, Investigations Manager; Andrea Cisneros, Projects/Meeting Specialist; and, Michelle Robles, Board Operations Manager. Additionally present: Carrie Smith, AAG; and, Anne Froedge, AAG.

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.

LEGAL MATTERS

D. FORMAL INTERVIEWS

1. MD-18-0454A, TIMOTHY J. GELETY, M.D., LIC. #21851

Dr. Gelety was present with Attorney Paul Giancola. Dr. Haas summarized for the Board that the Board's reviewer determined that Dr. Gelety misrepresented the planned procedure to the hospital, which the hospital considered experimental and resulted in the surgery being cancelled. Dr. Gelety was found to have deviated from the standard of care based on the inadequate follow-up from the cancelled procedure. Additionally, both Dr. Gelety and the patient reported that an office visit occurred the day the surgery was cancelled, but there was no note or documentation created to confirm what was discussed that day. During the course of the Board's investigation, Dr. Gelety was evaluated and found safe to practice, but it was recommended that he undergo psychotherapy sessions.

In his opening statement to the Board, Dr. Gelety stated that the patient was fully informed of the treatment options, and that there was no attempt by himself to misrepresent to the hospital regarding the planned procedure. Dr. Gelety stated that he accepted the recommendations made for therapy, and that he has gained insight into his actions and has improved his oral and written communications.

Board members noted that the patient had claimed that Dr. Gelety told her that the procedure had been cancelled due to hospital politics. Dr. Gelety did not recall making that statement to the patient, but recognized that the patient was very upset that the procedure had been cancelled. Board members also noted that the patient stated that she made several attempts to contact Dr. Gelety subsequent to the cancelling of the procedure, but her calls were not returned. Dr. Gelety stated that he was working on figuring out how to proceed with the hospital and did not want to respond to the patient until he had some answers. He added that he planned to discuss the issue further with the patient at her scheduled follow up appointment, but she did not return to his office and later requested her records. Ms. Jones noted that this had been a patient of Dr. Gelety for two years and was very well known to him, and that the patient was going through a trying time with attempting pregnancy. Dr. Gelety stated that he recognizes it was an obvious mistake that he did not call the patient back to reassure her that they were working to reconcile the problem.

The Board recognized that TMC classified the planned procedure as experimental and cancelled the operation the day it was scheduled to be performed. It was also noted that there have been no reports of similar cases at TMC since this incident, and that the hospital has not made a determination as to whether the procedure would be allowed at their facility given its rarity.

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

SECOND: Dr. Figge

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

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

The Board entered into Executive Session to receive legal advice at 8:44 a.m.

The Board returned to Open Session at 8:50 a.m.

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

The Board noted that Dr. Gelety completed the recommended evaluation, initiated therapy, and has submitted proof of completion of the recommended CME. In closing, Mr. Giancola pointed out that Dr. Gelety assumed that the hospital would treat the planned procedure as similar to procedures he had been performing there for many years since it involved both taking of a biopsy and the implantation of tissue from an outside lab. He stated that the hospital's main concern is not the nature of the procedure, but the involvement of bringing in the tissue from an outside lab. He added that in retrospect, there should have been documentation made regarding the discussion with the patient in the office after the procedure was cancelled. Mr. Giancola stated that Dr. Gelety has thoroughly reviewed this matter, has a lot of insight from it, and is doing what he can to correct his shortcomings in communication.

Dr. Bethancourt stated that he did find evidence of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r) for medical recordkeeping concerns as well as the potential for patient harm.

MOTION: Dr. Bethancourt moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r) for reasons as stated by SIRC.

SECOND: Ms. Jones

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

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

MOTION PASSED.

Dr. Bethancourt stated that he agreed with SIRC's recommendations for discipline in this case.

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

SECOND: Dr. Krahn

Dr. Gillard spoke against the motion for disciplinary action, noting that Dr. Gelety voluntarily completed a medical recordkeeping CME course and has been found on psychological evaluation to have normal functioning with regard to his ability to make decisions. Dr. Krahn spoke in favor of the motion, stating that the scenario of a patient who is accustomed to frequent contact to allow the opportunity to ask questions and understand the situation, who then found herself with no contact after a very difficult event is not consistent with the practice of medicine. Dr. Figge found it aggravating that

the physician has history with the Board, which also involved the requirement to complete CME.

Dr. Beyer spoke against the motion and stated that he did not find the physician's misjudgment to rise to the level of disciplinary action. Dr. Paul stated that he was impressed with the physician's awareness of the situation and that he has followed through with therapy and counseling, and stated that he was in favor of a non-disciplinary sanction. Ms. Jones spoke in favor of the motion, stating that the Board's mission is to protect the public from harm. She stated that this patient clearly suffered harm in this case. Dr. Krahn agreed with Ms. Jones' comments and stated that she is concerned that the medical decision making in partnership with the patient ceased when there was a technical issue at the hospital.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Ms. Dorrell, Dr. Figge, Ms. Jones, and Dr. Krahn. The following Board members voted against the motion: Drs. Beyer, Gillard, and Paul. The following Board member abstained from the vote: Dr. Farmer. The following Board members were absent: Ms. Bain and Dr. Connolly.

VOTE: 5-yay, 3-nay, 1-abstain, 0-recuse, 2-absent.

MOTION PASSED.

2. MD-17-0745A, GRANT W. HEINZ, M.D., LIC. #24590

Dr. Heinz was present with Attorney Peter Wittekind. Dr. Goldberg presented to the Board that Dr. Heinz deviated from the standard of care by performing a complicated and lengthy procedure under IV monitored anesthesia and by failing to recognize systemic medical issues and timely abort surgery and immediately transfer the patient to the hospital after an episode of presumed cardiac arrest. There was also concern raised that the physician did not disclose to the patient his part ownership of the surgery center.

In his opening statement, Dr. Heinz apologized for the resultant outcome in this case. He stated that after the case was completed, photographs were taken of the anesthesia monitor machine which did not correlate with the anesthesia record captured by the anesthesiologist. He testified that the anesthesiologist attempted to intubate the patient for a better airway, at which point Dr. Heinz excused himself for the room for a restroom break. Dr. Heinz stated that upon returning to the operating room, the anesthesiologist informed him that the patient had a vasovagal response and he agreed to proceed with finishing the case. Mr. Wittekind stated that the anesthesiologist testified that he expected the patient to make a full recovery and be discharged home the night of the procedure.

Board members noted that the anesthesiologist was previously reprimanded by the Board for his involvement in this case. It was also noted that Dr. Heinz did in fact have documentation that his part ownership of the surgery center was disclosed to the patient; however, the information was included in the chart and not on the official documentation prescribed by the Board. Dr. Heinz additionally stated that he was very confident in this anesthesiologist as he had work with him for at least three years and been very comfortable with him in the past. Board members questioned whether Dr. Heinz and other operating room staff had the ability to see the anesthesia monitor during the procedure, and whether any noise was coming from other machines being used during the scheduled case. Dr. Heinz reported that the anesthesiologist turned off the sound from the machines and had the monitor angled in such a way that others could not see what he was seeing.

The Board noted that the chart indicated that CPR was administered for the patient for a period of six minutes after showing an adverse response to the procedure, particularly when the anesthesiologist attempted to intubate the patient. Dr. Heinz reported that he was not there for the actual adverse event, and that the CPR administered to the patient seemed much shorter than what was documented in the chart. In closing statements to

the Board, Mr. Wittekind stated that it is unclear whether the Board's reviewer actually reviewed most of the material submitted for consideration. Dr. Heinz stated that he is remorseful for the situation and has made appropriate changes in his practice, including no longer performing long cases and no longer utilizes MAC anesthesia.

Dr. Goldberg re-addressed the Board, adding that the surgeon is responsible for stopping the procedure if concern is raised. He stated that if there is a concern, no surgeon could be faulted by obtaining a higher level of care to assess the situation. Dr. Goldberg pointed out that the standard of care when a code event occurs in the operating room during a non-emergency case requires the physician to finish the procedure as fast as possible and refer the patient for a higher level of care for evaluation. Dr. Wolf stated that he found it troublesome that this surgeon continues to assert that he did nothing wrong in light of testimony indicating that he was present during CPR and proceeded to continue the procedure for several hours thereafter.

Dr. Bethancourt opened the floor for other Board members to comment on whether there was a finding of unprofessional conduct, stating that had the physician been present in the operating suite at the time that the patient sustained the cardiac event, there would be no question that unprofessional conduct occurred. Dr. Krahn stated that the need for CPR to any degree during any operative procedure stands out as a major sign that something has happened to that patient's stability. Dr. Gillard opined that there was a team effort involved in this case, and the surgery has to trust the anesthesiologist to appropriately render care. Dr. Figge commented that entertaining the notion that the patient may have the chance to go home seems very far-fetched and unrealistic in a patient that has received multiple medications for resuscitation and continuing the case for several hours after the event occurred. Dr. Beyer opined that the surgeon should have stopped the procedure in order to have the patient evaluated. Dr. Bethancourt agreed and stated that there seemed to be too much reliance on the opinion of the anesthesiologist. Dr. Farmer commented that the extent of CPR in this case would be unusual for a vasovagal episode, and stated he believed it was incumbent upon the surgeon to weigh in on whether the procedure should have been stopped at that time.

MOTION: Dr. Bethancourt moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(r) for failing to abort the surgery and transfer the patient to an acute care hospital after an apparent cardiac and/or hypoxic event.

SECOND: Dr. Figge

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

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

MOTION PASSED.

Dr. Bethancourt recommended that Dr. Heinz complete CME in obtaining ACLS certification.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter and Order for Non-Disciplinary CME for failing to abort surgery and transfer the patient to an acute care hospital after an apparent cardiac and/or hypoxic event. There is insufficient evidence to support disciplinary action. Within six months, successfully complete and obtain certification in ACLS. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Gillard

Dr. Figge spoke in favor of the motion, stating that he struggled with whether this matter rises to the level of disciplinary action as it was ultimately the surgeon's decision whether or not to take care of the patient. Dr. Bethancourt stated that it is clear the physician feels great remorse for what happened in this case, and that he believes the physician has

learned from the experience. Dr. Beyer spoke for the motion, stating that the requirement for the physician to obtain ACLS certification is appropriate for this case. However, Dr. Beyer stated that he is not critical of the management of resuscitation, but rather the choice to proceed after CPR was administered. Dr. Beyer questioned whether the ACLS certification would address that specific issue. Dr. Farmer credited the physician for realizing that the situation was unusual, and stated that he found it mitigating that the anesthesiologist provided misinformation during the case.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Dr. Gillard, Ms. Jones, and Dr. Krahn Dr. Paul. The following Board member abstained from the vote: Dr. Farmer. The following Board members were absent: Ms. Bain and Dr. Connolly.

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

MOTION PASSED.

3. MD-18-0010A, KIARASH L. MIRKIA, M.D., LIC. #51400

Dr. Mirkia was present without legal counsel. Ms. Rivera summarized for the Board that Dr. Mirkia was disciplined by the Nevada Board with stipulations that included CME in ethics and assessment of a fine. The Nevada Board found that Dr. Mirkia attempted to obtain a license by misrepresentation and violated a statute or rule of the Nevada Board based on Dr. Mirkia having prescribed a controlled substance to his wife without maintaining medical records and failure to disclose his 2013 suspension from a Nevada hospital on his Nevada renewal application. Board members noted that Wisconsin and Illinois also took action against the licensee based on the Nevada Board's sanction.

In his opening statement to the Board, Dr. Mirkia explained that he prescribed Phentermine to his wife during the initiation of a weight loss program and that upon being notified by the pharmacy that the medication is a scheduled drug, he stated that he immediately aborted that medication and did not prescribe it to his wife thereafter. Dr. Mirkia reported that during the process of a messy divorce, he was made aware through a number of sources that his now ex-wife had forged prescriptions in his name. He stated that this information was provided to the Nevada Board and the matter was investigated. With regard to the 2013 suspension, Dr. Mirkia stated that it was his understanding that the suspension was a precautionary measure taken by the hospital after receipt of a complaint of sexual misconduct. He stated that the hospital attempted to follow up with the complainant regarding the allegations, but was unsuccessful and lifted the precautionary suspension after a period of only two weeks. Dr. Mirkia further stated that after becoming aware that the suspension was reportable, he has been reporting it on applications from thereafter.

Ms. Jones observed that Dr. Mirkia completed an ethics course and that he currently practices medicine in Nevada without restriction. When asked why the physician did not report the suspension to the Board, Dr. Mirkia reiterated that based on his discussions with hospital staff, he did not believe it was reportable. He added that the Medical Staff Director informed him that the information would not be reported, but would be retained in his file at the hospital. Board members found that the application question is clear as to whether a suspension had occurred, and stated that regardless of the "precautionary" classification of the suspension, it should have been reported on his initial application for an Arizona license.

Ms. Jones stated that she agreed with the SIRC recommendations, and spoke in support of finding that unprofessional conduct occurred in this case.

MOTION: Ms. Jones moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(p) and (kk) for reasons as stated by SIRC.

SECOND: Dr. Krahn

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.
VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

Ms. Jones stated she found that this matter does not rise to the level of discipline and recommended the issuance of an Advisory Letter.

MOTION: Ms. Jones moved to issue an Advisory Letter for action taken in another jurisdiction and failure to disclose suspension of clinical privileges on the physician's initial Arizona application for licensure. While the licensee has demonstrated substantial compliance through rehabilitation or 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.

SECOND: Dr. Gillard

Ms. Jones stated that there were several mitigating factors involved in this case, including the temporary nature of the suspension and voluntary completion of CME in ethics. Dr. Beyer stated he was troubled by the physician's testimony indicating that he was not aware that the suspension should be reported on his application. Specifically, Dr. Beyer noted that the licensee disclosed a suspension that occurred during his training when he applied for licensure, but did not disclose the hospital suspension. Dr. Beyer stated that the question on the initial application is very straightforward that should have received a "yes" answer. Dr. Krahn echoed Dr. Beyer's concerns, and stated that the questions on the Board's application are quite simple.

Dr. Figge questioned the physician as to whether English is his first language. Dr. Mirkia reported that English is his third language. Dr. Figge stated that based on this information, he can understand where the confusion exists. Dr. Gillard agreed and pointed out that the hospital suspension lasted a brief period and there was no adverse outcome of their case. Ms. Jones agreed with the comments made and spoke in favor of the motion, stating that after hearing the physician's testimony during the Formal Interview, she no longer felt that discipline was warranted in this case. Dr. Mirkia re-addressed the Board, stating that he has complete comprehension of the English language. He explained that he believed the hospital suspension differed from his training suspension because his training program held a committee and allowed him to participate in the process, and that this did not occur in the case with the hospital.

VOTE: The following Board members voted in favor of the motion: Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Farmer, Dr. Figge, Dr. Gillard, Ms. Jones, Dr. Krahn and Dr. Paul. The following Board members were absent: Ms. Bain and Dr. Connolly.
VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.
MOTION PASSED.

E. APPEAL OF EXECUTIVE DIRECTOR'S INTERIM ORDER AND REQUEST FOR TERMINATION OF INTERIM CONSENT AGREEMENT FOR PRACTICE RESTRICTION

1. MD-19-0254A, NAPOLEON R. BRAVO, M.D., LIC. #42672

Dr. Bravo and Attorney Steve Perlmutter addressed the Board during the Public Statements portion of the Board's meeting.

Ms. Rivera summarized that the Board received a self-report from Dr. Bravo indicating that he was indicted on two felony counts of sexual abuse, and one misdemeanor count of harassment; and, that the physician pled not guilty to the charges. Based on the

allegations and information contained in the police report, Dr. Bravo was offered an Interim Consent Agreement for Practice Restriction to limit his practice while the matter is pending further investigation, as well as an Interim Order requiring the physician to undergo a psychosexual evaluation. Ms. Rivera reported that the physician submitted proof of having scheduled the evaluation for later in the month. She also explained that Dr. Bravo appealed the Interim Consent Agreement for Practice Restriction, which was denied by the Executive Director. According to the physician's counsel, the physician wished to appeal that denial to the Board to ensure the Board's support of the Order.

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

SECOND: Ms. Jones

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

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

MOTION PASSED.

The Board entered into Executive Session to receive legal advice at 11:18 a.m.

The Board returned to Open Session at 11:33 a.m.

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

Dr. Krahn expressed concern about the potential for risk in this situation, and stated that the Board needs to obtain as much information as possible to better understand the risk for the public. Therefore, she spoke in favor of denying the appeal of the Order and the Executive Director's decision to deny the previous request to lift the Practice Restriction.

MOTION: Dr. Krahn moved to deny Dr. Bravo's appeal of the Interim Order for Psychosexual Evaluation and the Executive Director's decision to deny his request to lift the Practice Restriction.

SECOND: Ms. Jones

Dr. Beyer stated that based on his review of the case file, he believed that an evaluation was mandatory in this case. Dr. Farmer clarified that the Board takes consideration of a licensee's status very seriously in these situations, as it is the Board's first responsibility to protect the public. Dr. Farmer further explained that the Board is compelled to investigate and obtain all professional input that it deems necessary prior to making a decision in these types of matters. Dr. Gillard pointed out that the physician would have the ability to return to the Board and request termination of the Practice Restriction following completion of the evaluation.

Dr. Gillard questioned at which point during the process the physician would have the ability to return to request termination of the Practice Restriction. Board staff reported that once the evaluation report is finished and submitted to the Board, the physician is also provided a copy of that report, which may potentially include recommendations for further evaluation/treatment.

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

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

MOTION PASSED.

F. FORMAL INTERVIEWS

1. THIS CASE WAS PULLED FROM THE AGENDA.
2. THIS CASE WAS MOVED TO AGENDA ITEM N #6 FOR APRIL 15, 2019.

G. RESCIND REFERRAL TO FORMAL HEARING AND ISSUE AN ADVISORY LETTER AND ORDER FOR NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION

1. MD-16-1250A, GARY M. PRINCE, M.D., LIC. #27475

Dr. Prince was not present during the Board's consideration of this matter. David Selden, The Cavanagh Law Firm, was present on Dr. Prince's behalf.

AAG Froedge presented on behalf of the State in this matter. AAG Froedge summarized that this matter involved the treatment of depression in a 19 year-old patient, for whom Dr. Prince provided medical management for approximately three years. The patient subsequently took his own life two months after his last medical visit with Dr. Prince. It was noted that the patient was also being treated by Ph.D. level psychologists prior to, during, and after Dr. Prince's involvement in this patient's care. AAG Froedge pointed out that Dr. Prince has been licensed by the Board for many years with no history of discipline, and that no complaints have been filed since this case occurred in 2015. She also stated that Dr. Prince's role in the treatment of this patient was fairly limited and that it appears from the records and the response of counsel, that the patient did not open up to Dr. Prince and that Dr. Prince was aware that the patient was being treated by Ph.D. level psychologists. AAG Froedge requested that the Board rescind the referral to Formal Hearing and accept the proposed settlement for an Advisory Letter and Order for Non-Disciplinary CME based on the mitigating factors in this case.

MOTION: Dr. Krahn moved to rescind the referral to Formal Hearing and issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate medical records and failure to perform an adequate suicide risk assessment. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete no less than 15 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. Gillard

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

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

MOTION PASSED.

H. RESCIND REFERRAL TO FORMAL HEARING AND ACCEPT ORDER FOR SURRENDER OF LICENSE AND CONSENT TO THE SAME / CONSIDERATION OF REQUEST TO WITHDRAW SURRENDER OF LICENSE

1. MD-17-0179A, DAVID A. RUBEN, M.D., LIC. #11382

Dr. Ruben was not present during the Board's consideration of this matter. AAG Froedge presented on behalf of the State. AAG Froedge summarized that on February 9, 2016, after eight days of Formal Hearing regarding inappropriate prescribing of opioids to multiple patients, the Board issued Dr. Ruben a Decree of Censure with Probation and Practice Restriction. She stated that the Board spent much time crafting the Practice Restriction portion of the Order in an effort to allow Dr. Ruben to continue to practice, and only restricted him from prescribing Schedule II medications for a period of two years. On April 6, 2017, the Board summarily suspended Dr. Ruben's Arizona medical license after receiving information that Dr. Ruben continued to prescribe Schedule II medications in violation of his Board Order, including Percocet, Norco, and Oxycodone. Following the suspension, the case was scheduled for Formal Hearing; however, criminal charges were

filed arising out of the same set of facts and the Board's case was stayed pending the outcome of the criminal case.

AAG Froedge further explained that evidence would show in this case that Dr. Ruben entered into a plea agreement in the criminal case; specifically, he pled guilty to Class 6 Undesignated offenses involving prescribing. Board members noted that the offenses are to be treated as felonies until such time as the Court designates them as misdemeanors. The staying of the Board's case was lifted after resolution of the criminal case and the Formal Hearing was set for March 12-13, 2019. Prior to the scheduled Hearing, Dr. Ruben's counsel advised that the physician wished to surrender his license in lieu of Formal Hearing. AAG Froedge stated that a Consent Agreement was negotiated for surrender of licensure, which was signed and returned to the Board's offices. Subsequently, Dr. Ruben's counsel submitted correspondence to the Board indicating that the physician did not want to surrender his license. Within days of the Board's meeting, staff received additional correspondence from Dr. Ruben's counsel indicating that the physician no longer wished to rescind his signing of the agreement to surrender his license. AAG Froedge requested that the Board approve the signed Consent Agreement for surrender of Dr. Ruben's Arizona medical license. She reported that if the Board were to reject the agreement, she was prepared to take the matter to hearing to request a recommendation of license revocation.

Dr. Krahn recalled a prior case where the Board encountered a similar situation wherein a licensee wished to rescind their signing of a consent agreement, and stated that once a consent agreement is signed and returned to the Board's offices, it cannot be rescinded.

MOTION: Dr. Krahn moved to rescind the referral to Formal Hearing and accept the Proposed Consent Agreement for Surrender of Licensure.

SECOND: Dr. Paul

Dr. Gillard spoke in favor of the motion, noting that the physician has signed the proposed Consent Agreement and has expressed his desire to surrender his license. Dr. Beyer also spoke for the motion and noted that Dr. Ruben's counsel was present at the time that he signed the Consent Agreement to surrender his license. Ms. Jones questioned whether the physician is currently practicing medicine. AAG Froedge reported that Dr. Ruben is currently not authorized to practice medicine in the State of Arizona.

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

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

MOTION PASSED.

I. REVIEW, DISCUSSION AND CONSIDERATION OF PROPOSED SETTLEMENT OFFER

1. MD-16-0594A, ROBERT S. MINDELL, M.D., LIC. #18971

Dr. Mindell was present with Attorney David Rubin. AAG Smith presented on behalf of the State. She summarized that this matter stemmed from a complaint of inappropriate prescribing of Phentermine and other medications that occurred at the medspa where Dr. Mindell served as the Medical Director. There was additionally information regarding an FDA investigation into the alleged ordering of non-FDA approved allergen medications for patients at that same facility. Dr. Mindell previously appeared before the Board for a Formal Interview at its regular meeting in October of 2018, during the course of which it was determined by the Board that the physician's practice warranted summary restriction of his prescribing ability. Subsequently, via counsel, Dr. Mindell requested a settlement conference, which resulted in the proposed settlement offer made by the physician. AAG

Smith clarified that the State took no position as to whether the settlement proposal should be accepted or rejected.

Mr. Rubin addressed the Board on behalf of Dr. Mindell, stating that the physician not only is remorseful for his failure to keep up with appropriate training and regulations with regard to prescribing, he is embarrassed about it as well. Mr. Rubin stated that his client has never perpetuated any of this activity for financial gain, and that he is before the Board to request that he have the ability to continue his contributions in his very narrow field of practice. Mr. Rubin informed the Board that Dr. Mindell has no plans to prescribe a controlled substance from this point forward. Dr. Mindell addressed the Board, stating that he is ridiculously embarrassed about the whole situation because he always held himself to a high standard. He stated that he was unaware that he was required to see the patient's prior to prescribing the medications.

Ms. Jones observed that in addition to the prescribing to patients without first seeing them, there was also a finding that the physician signed blank prescriptions. Dr. Krahn recalled that during the physician's Formal Interview, the physician had reported that he served as Medical Director for a large number of medspa facilities. Dr. Krahn questioned how the physician was able to ensure that the medical care provided under his supervision at those different sites is sufficient. Dr. Mindell stated that he knows all of the people involved, has had clients for as long as a decade, and knows how the staff thinks. He explained that he is consulted frequently via electronic means to provide input. Board members noted that Dr. Mindell's practice is currently restricted in that he cannot prescribe controlled substances. AAG Smith clarified that the proposed settlement is for the physician to enter into a permanent Practice Restriction, prohibiting the licensee from prescribing controlled substances, in exchange for the ability to continue to serve as Medical Director of the medspas. The Board noted that staff's prior recommendation for sanction involved, in part, the prohibition from serving as Medical Director for a period of two years.

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

SECOND: Ms. Jones

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

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

MOTION PASSED.

The Board entered into Executive Session for legal advice at 1:03 p.m.

The Board returned to Open Session at 1:17 p.m.

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

Dr. Krahn expressed concern that the proposed settlement speaks to one issue, while there were multiple issues identified as possible violations. Board members discussed requiring the physician to undergo a competency evaluation prior to resolving this case.

Mr. Rubin re-addressed the Board, stating that the physician submitted to all forms of interrogation with regard to the FDA allegations, and that no violation was found with no resultant filing of charges.

Dr. Krahn directed the Board members to review the alleged statutory violations in this case, including A.R.S. § 32-1401(27)(l), (r), (jj), and (ll). Dr. Krahn stated that the potential violations identified by SIRC go far beyond the prescribing concerns, and that she is concerned that the proposed settlement is not sufficient in addressing the Board's overall concerns with the physician's practice. Dr. Farmer questioned whether the proposal should be rejected to allow the case to proceed to Formal Hearing. Dr. Krahn spoke in

favor of and stated she would support a proposed settlement that required the physician to complete a neuropsychological evaluation, competency exam, and mandated CME in addition to the issuance of a Letter of Reprimand.

Mr. Rubin informed the Board that Dr. Mindell has precluded any spas for which he serves as Medical Director from engaging in any weight loss practices that involve the prescribing of scheduled drugs. Mr. Rubin reported that Dr. Mindell has also instituted a policy of only prescribing electronically from this point forward so that a prescription pad does not exist.

Dr. Krahn recommended that the proposed draft include the mandate of having all recommended evaluations/examinations completed and the data available for Board review prior to the completion of the CME requirement.

MOTION: Dr. Krahn moved for the Board to direct the AAG to draft a Consent Agreement with the information as discussed by the Board and work with opposing counsel to prepare a Consent Agreement for the Board's consideration at a future Board meeting.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

J. SALIM v. ARIZONA MEDICAL BOARD, et. al. (LC2019-000126), REVIEW, DISCUSSION AND CONSIDERATION TO RESCIND PRIOR BOARD ORDER AND ADOPT PROPOSED CONSENT AGREEMENT FOR AMENDED ORDER OR TAKE OTHER ACTION

1. MD-18-0556A, MUHAMMAD M. SALIM, M.D., LIC. #24008

AAG Smith summarized that at its last regular meeting, the Board voted to issue Dr. Salim an Advisory Letter and Order for Non-Disciplinary CME for medical recordkeeping concerns. She explained that in addition to requiring the additional education, the Board's Order also included a requirement that the physician complete the follow up program Performance Improvement Plan ("PIP"). AAG Smith further explained that the purpose of PIP is to ensure that the physician has incorporated the CME into the practice. Following the issuance of the sanction, Dr. Salim filed an appeal within the prescribed time frame, in addition to also filing a Special Action to Superior Court. Dr. Salim's counsel claimed in his filings that the Board lacks jurisdiction to require PIP in this instance. AAG Smith reported that a settlement was reached with the parties involved that would require the physician to complete the Board ordered CME without the follow up requirement to participate in PIP.

Dr. Farmer pointed out that the issue of CME has been subject to a lot of scrutiny in the medical community with regards to its effectiveness. He noted that some medical literature discusses the benefit of utilizing follow up programs after the completion of CME, including that the participation in follow up evaluation and follow up coaching is more effective.

Dr. Gillard noted that Dr. Salim's prior Board history included two previous Advisory Letters, both involving medical recordkeeping issues. He stated that the physician's history of documentation issues factored into the Board's decision to require the follow up program. Dr. Krahn stated that it is within the Board's scope of practice to require a licensee to complete CME and to require demonstration that the physician's practice has improved and is functioning at the expected level.

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

SECOND: Dr. Beyer

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

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

MOTION PASSED.

The Board entered into Executive Session for legal advice at 1:47 p.m.

The Board returned to Open Session at 1:56 p.m.

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

MOTION: Ms. Jones moved to rescind the Board's Order for Non-Disciplinary CME issued in MD-18-0556A on March 7, 2019 and adopt the proposed Amended Order for CME and Consent to Same. The Board directed the Executive Director to execute the consent agreement upon receipt of Dr. Salim's notice of Special Action dismissal and withdrawal of his appeal to the Office of Administrative Hearings.

SECOND: Dr. Krahn

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

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

MOTION PASSED.

K. GENERAL CALL TO THE PUBLIC

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

L. ADJOURNMENT

MOTION: Dr. Krahn moved to adjourn the meeting.

SECOND: Dr. Bethancourt

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

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

MOTION PASSED.

The meeting adjourned at 1:57 p.m.



Patricia E. McSorley, Executive Director