

**MEDICAL LICENSING BOARD OF INDIANA
INDIANA GOVERNMENT CENTER SOUTH
402 WEST WASHINGTON STREET
ROOM W064
INDIANAPOLIS, INDIANA 46204**

MINUTES OF MARCH 23, 2017

Kirk Masten, D.O., President, called the meeting to order at 8:35 a.m. A quorum was declared in accordance with IC 25-22.5.

Members Present: Kirk Masten, D.O., President
John Strobel, M.D., Vice President
Bharat Barai, M.D., Secretary
Scott Green, M.D., Member
Rebecca Mueller, M.D., Member (arrived at 9:05 a.m.)
Victoria McCann, J.D., Member

Staff Present: Darren R. Covington, J.D., Board Director
Professional Licensing Agency
Kimberly A. Letko, Assistant Board Director
Professional Licensing Agency
James Schmidt, Deputy Attorney General
Office of the Attorney General

The Board voted to adopt the agenda.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann

Barai/Strobel, 5/0/0
Motion carries

The Board voted to adopt the minutes of the February 23, 2017 meeting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann

Barai/Strobel, 5/0/0
Motion carries

APPLICATION REVIEW

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Rebecca Mueller, M.D., Victoria McCann

Betti Ressler, M.D.

Dr. Ressler graduated from the American University of the Caribbean in 1982 before it was on Indiana's approved foreign medical school list. American University of the Caribbean was not added to the approved foreign medical schools list until 1984.

After discussion, the Board moved to DENY Dr. Ressler's application for medical licensure.

Strobel/Masten, 6/0/0
Motion carries

Yousif Shareef, M.D.

Dr. Shareef graduated from the University of Science and Technology, College of Medical Sciences in Jawlat Madbah, Yemen. This school is an unapproved foreign medical school.

After discussion, the Board requested that Dr. Shareef appear before them at the next Board meeting on April 27, 2017.

Strobel/Barai, 6/0/0
Motion carries

Michael Kaster, M.D.

Dr. Kaster is currently completing his second year of post-graduate training at St. Vincent Hospital. Dr. Kaster graduated from Ross University located in Dominica in the West Indies. Indiana requires all foreign medical school graduates to complete two years of post-graduate training in order to apply for full medical licensure. Dr. Kaster's two years of post-graduate training will be completed on July 1, 2017. Dr. Kaster requested the Board waive the two years of post-graduate training so that he may have his full license prior to completing his second year of post-graduate training at St. Vincent.

After discussion, the Board moved to TABLE discussion of Dr. Kaster's application until the June 22nd Medical Board Meeting.

Masten/Barai, 6/0/0
Motion carries

DISCUSSION

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Rebecca Mueller, M.D., Victoria McCann

Rule Updates

Director Covington advised the Board that the revisions to the Acupuncture Referral Rule and High Breast Density Guideline Rule were currently under review with the Governor's Office. He also advised the Board that the Certified Direct Entry Midwife rule was under review with the Attorney General's Office.

Retirement/Surrender Requests

Anne Klokow, M.D., 01074413A

After discussion, the Board moved to APPROVE Dr. Klokow's request to retire her Indiana Medical License.

McCann/Green, 6/0/0
Motion carries

Probationary Terms

The Board reviewed the use of a list of commonly imposed probationary terms to include in their Board materials for use during deliberations following disciplinary hearings.

Healthcare Volunteer Registry Location Application Review

Mollie Wheat Memorial Clinic, Terre Haute, IN

After review and discussion, The Board DENIED the APPLICATION, for failure to submit all required documents.

Strobel/Green, 6/0/0
Motion carries

Realife Media, Inc., dba The Warehouse, Bloomington, IN

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann

After review and discussion, The Board APPROVED the APPLICATION.

Green/Barai, 5/0/0
Motion carries

Motion to Amend the Minutes of the Medical Licensing Board of Indiana

Dr. Steenbergen requested that the Board amend the March 24, 2016 minutes regarding his disciplinary hearing.

After review of the March 24, 2016 minutes and the final disciplinary order, the Board moved to DENY Dr. Steenbergen's MOTION TO AMEND. The Board found that the minutes accurately reflected the substance of the disciplinary proceedings held in this matter.

McCann/Green, 6/0/0
Motion carries

PERSONAL APPEARANCES

Pamela Cheney, M.D. – Initial Application – Length of time since last practiced

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D.

Dr. Cheney appeared before the Board requesting a provisional medical license that would allow her, in her current position as a clinical director for Humana, to review commercial insurance claims regarding medical necessity.

Dr. Cheney received her M.D. Degree from Tufts University School of Medicine in Boston Massachusetts in 1994. She completed her residency at the Brigham and Women's Center for Metabolic and Bariatric Surgery. The last time she saw a patient in a clinical setting was in 2005.

Since 2007, Dr. Cheney has been teaching and serving as a clinical director of Humana. At the time she started working for Humana, she applied for a license in the state of Massachusetts. The Massachusetts Medical Board granted her a provisional license with the conditions that she would not clinically practice medicine without completing a re-entry program and submitting it to the Board, and she would surrender her DEA registration.

After discussion, the Board moved to GRANT Dr. Cheney a PROVISIONAL LICENSE with the restriction that she would not practice clinically involving patient care without first completing a Board approved re-entry program and submitting it to the Board for review. Dr. Cheney must reappear in March 2018 for review of the provisional license.

Strobel/Barai, 5/0/0
Motion carries

David H. Marcowitz, D.O. – Initial Application – Positive Response

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D.

Dr. Marcowitz answered yes to:

1. Has disciplinary action ever been taken regarding any health license, certificate, registration or permit you hold or have held?
2. Have you ever been denied a license, certificate, registration or permit to practice medicine, osteopathic medicine or any regulated health occupation in any state (*including Indiana*) or country, or surrendered your license?
4. Have you ever been the subject of an investigation by a regulatory agency concerning your license?
8. Have you ever had a malpractice judgment against you or settled any malpractice action?

The Illinois Department of Financial and Professional Regulation and Dr. Marcowitz agreed to a consent order on January 2, 2014, which placed Dr. Marcowitz's license on immediate suspension for 30 days and subsequently ordered Dr. Marcowitz to place his Illinois medical and controlled substance licenses on permanent inactive status as well as pay a three thousand dollar (\$3000.00) fine. This order was the result of information that had come to the attention of the Illinois Board that between 2008 and 2011, Dr. Marcowitz had prescribed controlled substances to patients and staff in his Illinois practice and failed to produce medical records after the Board requested the information via a subpoena. Dr. Marcowitz subsequently surrendered his Illinois license and controlled substance registration, and started practicing in Iowa.

On March 3, 2014 the Iowa Board of Medicine received notification from the Federation of State Medical Boards that Respondent was disciplined by the State of Illinois due to concerns about his prescribing practices and failure to produce medical records in response to a subpoena. The Board received a copy of the Illinois Complaint and Consent Order. After confirming that the Illinois Consent order was properly served on Dr. Marcowitz, the Iowa Board of Medicine ordered an Indefinite Suspension on Dr. Marcowitz's Iowa license as well as completing a Mental Health Evaluation within 60 days of the order, a Competency Evaluation through CPEP within 90 days of the order, complete a Professional/Problem Based Ethics or PROBE through CPEP within 120 days of the order, and pay a civil penalty within 20 days of the order of three thousand dollars (\$3,000.00).

The Board requested to see the CPEP evaluations and mental health evaluation from Dr. Marcowitz but he had failed to supply the Board with copies of the evaluations.

After discussion, the Board moved to TABLE Dr. Marcowitz's appearance for the April 27, 2017 Board meeting in order to give Dr. Marcowitz time to provide the Board with the evaluations for their review.

Masten/McCann, 5/0/0
Motion carries

Sanjay Kuber, M.D. – Initial Application – Waiver Request

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Rebecca Mueller, M.D., Victoria McCann, J.D.

Dr. Kuber seeks a waiver of the USMLE 3rd Attempt Rule. Dr. Kuber passed the USMLE Step II, CK and Step III on the fourth attempt.

Dr. Kuber received his medical degree from American University of the Caribbean, Saint Maarten on October 25, 1997. He completed his post graduate training at Indiana University from 2001 through 2005. He is licensed in Kentucky, Michigan and North Carolina. He is Board eligible from the American Board of Anesthesiology.

Andy Brown, Group Practice Manager of the Richard Roudebush V.A. Hospital accompanied Dr. Kuber as his employer. Mr. Brown stated that even though Dr. Kuber has been working without a contract at the VA for 10 years under a North Carolina license, Mr. Brown would send in annual reports for the next three years regarding Dr. Kuber's progress. Mr. Brown also stated that the Richard Roudebush V.A Hospital is an underserved area due to the lack of hospitals that treat veterans in the state of Indiana and the amount of veterans who come from all over to receive care at their facility.

After discussion, The Board moved to APPROVE Dr. Kuber's WAIVER with the condition that his employment be limited to the Richard Roudebush V.A. Hospital for three years and the submission of annual reports by his employer.

Barai/Masten, 6/0/0
Motion carries

ADMINISTRATIVE HEARINGS

Robert Ash, M.D., License No. 01041068A, Cause No. 2017 MLB 0036

Respondent did not appear in person but was represented by counsel, Joshua Burrese, regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Jessica Krug, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

On February 6, 2016, The State of Indiana, by Deputy Attorney General Jessica Krug, filed an Administrative Complaint with the Board against Respondent's medical license.

On that same date, the parties jointly filed a Proposed Settlement Agreement resolving the issues raised in the Administrative Complaint.

Per the agreement, the Respondent was placed on Probation with terms and conditions. The Respondent has now completed all of the terms and is requesting that the Board withdraw his probation.

After discussion, the Board moved to WITHDRAW Respondent's PROBATION.

Green/Strobel, 6/0/0
Motion carries

Craig Cohen, M.D., License No. 01074378A, Cause No. 2015 MLB 0036

Respondent appeared in person and with counsel, John P. Twohy, regarding a Motion for Reconsideration of Order scheduled before the Board. The State of Indiana was represented by Amelia Hilliker, Deputy Attorney General, Jessica Krug, Deputy Attorney General and Laura Josue, Supervising Deputy Attorney General. The court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

Dr. Cohen was previously suspended following a default hearing. Dr. Cohen sought reconsideration of the order claiming lack of proper service. The Board found that service was proper; however, it reopened the hearing due to the admission of newly discovered evidence. The State presented evidence that Dr. Cohen had previously disclosed the criminal action which gave rise to the State's Complaint and the Board's discipline, and that based on that disclosure, the Board voted to renew his license.

After discussion the Board moved to DISMISS the State's Complaint and VACATE the previous disciplinary order.

Barai/Strobel, 6/0/0
Motion carries

Ashwani Duggal, M.D., License No. 01047610A, Cause No. 2010 MLB 0006

Respondent appeared in person and with counsel, John Ittenbach, regarding a Petition to Modify Probation scheduled before the Board. The State of Indiana was represented by Amelia Hilliker, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

Respondent requested a modification of his probation which would allow him to work at Ball Memorial Hospital. Respondent has entered into a contract with Ball Memorial for 6 months. He is also trying to restore his California license.

Respondent admitted the following exhibits into evidence:

- Exhibit 1: Letter from East Central Indiana Pathologists, P.C. to Respondent
- Exhibit 2: Letter to Indiana Medical Board from Respondent requesting permission to do Short-term voluntary training at Ball Memorial Hospital
- Exhibit 3: Letters of reference on Respondent's behalf from, Thomas Kocoshis, M.D., Richard Pearson, M.D., Arum Softa, M.D., Yadagiri JONna, M.D., Harish Ardeshta, M.D., Mahesh Sehgal, M.D.

After discussion Board moved to APPROVE the PROBATION MODIFICATION.

Barai/Strobel, 6/0/0
Motion carries

Mark Jensen, M.D., License No. 01033577A, Cause No. 2017 MLB 0001

Respondent failed to appear in person or with counsel regarding a Disciplinary Hearing scheduled before the Board. The State of Indiana was represented by Laura Iosue, Supervising Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

The State requested that due to Respondent not appearing at the hearing that a Notice of Proposed Default should be issued.

After discussion, the Board moved to ISSUE a NOTICE OF PROPOSED DEFAULT to the Respondent.

Mueller/Green, 6/0/0
Motion carries

James K. McDonnel, M.D., License No. 01075236A, Cause No. 2017 MLB 0010

Respondent appeared in person and without counsel regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Stacy Oliver, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

Respondent is currently in treatment for alcoholism. Respondent was arrested for a DUI in 2008, and in 2009 he had an incident at work due to shaking from drinking. Respondent attended four (4) weeks of rehabilitation after the incident at work.

The State presented evidence to the Board that Respondent was charged in the Hancock Superior Court II with Criminal Recklessness with a Deadly Weapon on November 6, 2016. This case is still pending.

The State admitted the following exhibit into evidence:

Exhibit 1: Criminal Case Summary for James McDonnell, Case No. 30D01-1611-F6-001955

The State requested that the Board place Respondent's license in summary suspension until the criminal case has been resolved.

After discussion, the Board moved to PLACE Respondent's license on SUMMARY SUSPENSION for 90 days.

Barai/McCann, 6/0/0
Motion carries

David N. Ringel, D.O., License No. 02002578A, Cause No. 2017 MLB 0003

Respondent appeared in person and with counsel, Samuel Bollinger, regarding a Disciplinary Hearing scheduled before the Board. The State of Indiana was represented by Jessica Krug, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

A complaint was filed in 2013 against a Physician Assistant, who was being supervised by Respondent, for issuing prescriptions for Schedule II controlled substances, as well as, phentermine and phenmetrazine, by using pre-signed prescription blanks bearing the DEA Registration number and signature of the Respondent.

On or about October 29, 2013, Respondent was charged in the Fayette Circuit Court with multiple felony counts relating to the actions described above. Respondent entered a plea of guilty on or about May 19, 2016, to one count of Forgery, a class C Felony. Respondent was sentenced to eight (8) years, with four (4) years executed on community corrections with the remaining time suspended to probation. Respondent was fined five thousand (\$5,000.00) dollars and as a condition of probation, Respondent was required to complete two thousand and eighty (2,080) hours of community service.

On or about September 30, 2016, Respondent was excluded from participation in the Medicare, Medicaid, and all other Federal health programs due to his conviction.

The State and Respondent agreed to a Settlement that included the following stipulations:

- Respondent's Indiana medical license will be Indefinitely Suspended for no less than four (4) years or for the length of his criminal probation, whichever is completed first.
- Respondent may not petition the Board to withdraw the Suspension of his license until he has completed the following:
 - a) A refresher/reentry program designed for the purposes of updating physician skills for those professionals returning to active clinical practice after a period of inactivity in the practice of medicine; and
 - b) 40 hours of CME focusing on the care and treatment of patients with addiction

After discussion, the Board moved to APPROVE the SETTLEMENT AGREEMENT.

Barai/Strobel, 6/0/0
Motion carries

After further discussion, The Board moved to IMPOSE a FINE of FOUR THOUSAND (\$4,000.00) DOLLARS payable before the end of criminal probation.

Strobel/McCann, 6/0/0
Motion carries

Kolala Vasudevamurthy, M.D., License No. 01026022A, Cause No. 2016 MLB 0045

Respondent appeared in person and without counsel regarding a Disciplinary Hearing and Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Patricia Gibson, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

In July of 2010, Respondent was placed on non-duty status effective immediately pending an investigation of patient care. Respondent was notified he was not permitted on medical center grounds without advance approval from his supervisor. In October of 2010, the VA declined to renew Respondent's clinical privileges for failing to meet clinical competency.

On June 3, 2011, Respondent submitted his renewal application for his Illinois physician license and did not disclose the revocation of his clinical privileges on his renewal application. On June 17, 2011, Respondent agreed to retire by June 27, 2011. On June 29, 2014 Respondent submitted a request to place his Illinois license on inactive status through the Illinois Department of Financial and Professional Regulation ("IDFPR").

On September 10, 2014, Respondent entered into a Consent Decree with IDFPR, in which he agreed to have his Illinois license placed on permanent inactive status, and that the Consent Decree was public discipline.

Respondent failed to disclose his July 2010 non-duty status and not being permitted on medical center grounds on his June 2011 application for Indiana medical licensure renewal. He also failed to disclose his 2014 Illinois consent decree on his September 2015 application for Indiana medical licensure renewal.

The State and Respondent presented a settlement agreement to the Board. The Settlement Agreement stipulates that the Respondent's license shall receive a letter of Reprimand and he shall be fined.

After discussion, the Board moved to ACCEPT the SETTLEMENT AGREEMENT.

Barai/McCann, 6/0/0
Motion carries

After further discussion, the Board moved to IMPOSE a FINE of SEVEN HUNDRED and FIFTY (\$750.00) DOLLARS payable within 90 days.

Barai/Mueller, 6/0/0
Motion carries

Roland Wilson, M.D., License No. 01035212A, Cause No. 2013 MLB 0019

Respondent appeared in person and without counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Timothy Weber, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Kirk Masten, D.O., Bharat Barai, M.D., John Strobel, M.D., Scott Green, M.D., Victoria McCann, J.D., Rebecca Mueller, M.D.

Respondent appeared before the Board requesting that the terms of probation on his license be withdrawn.


Respondent's Kentucky license is still restricted. Respondent completed CPEP and the program recommended retraining. The last time Respondent saw a patient was in 2013.

Respondent submitted a CME report showing the CME credits he completed from February 17, 2017 through March 6, 2017 to the Board for review.

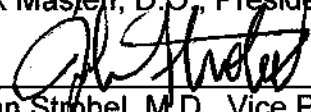
After discussion, the Board moved to DENY Respondent's PETITION TO WITHDRAW PROBATION.

Mueller/Green, 6/0/0
Motion carries

There being no further business the meeting adjourned at 3:35 p.m.



Kirk Masten, D.O., President



John Strobel, M.D., Vice President