



**ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY**

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**Board Members**  
Scott Steingard, D.O., Pres  
Douglas Cunningham, D.O., V.P.  
Gary A. Erbstoesser, D.O.  
Jerry G. Landau, J.D.  
Martin Reiss, D.O.  
Lew Riggs, Ed.D.  
Vas Sabeeh, D.O.

**Governor**  
Janice K. Brewer

**Executive Director**  
Jenna Jones

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**MINUTES OF THE PUBLIC BOARD MEETING OF  
THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY**

**Saturday, November 22, 2014**

**BOARD MEMBERS PRESENT:**

Scott Steingard, D.O. President  
Douglas Cunningham, D.O., Vice-President (absent 3:48 p.m.)  
Gary A. Erbstoesser, D.O.  
Martin Reiss, D.O.  
Vas Sabeeh, D.O.  
Lew Riggs, Ed.D.

**BOARD MEMBERS ABSENT:**

Jerry G. Landau, J.D.

**STAFF / OTHERS PRESENT:**

Jenna Jones, Executive Director  
Barbara Meyers, Deputy Director  
Barbara Prah, D.O., Medical Consultant  
John O'Hair-Schattenberg, Investigator  
Kathy Fowkes, Admin. Asst. II, Licensing Division  
Jeanne Galvin, Assistant Attorney General  
Robin Jasper, RPR, Ottmar & Associates

**1. CALL TO ORDER**

Dr. Scott Steingard, Board President, called the meeting to order at 8:15 a.m.

**2. ROLL CALL AND REVIEW OF AGENDA**

The Executive Director took the roll. Six board members were present, establishing quorum for the meeting. The Executive Director reviewed the agenda.

**3. CALL TO THE PUBLIC**

- A. Dr. Steingard welcomed the Medical Students from Arizona College of Osteopathic Medicine at Midwestern University, Kirksville College of Osteopathic Medicine and A.T. Still University School of Osteopathic Medicine in Arizona.
- B. The Board's custom is to ask members of the public to speak when the agenda item of interest to the person is called. Members of the public who wanted to address the Board on an issue not on the agenda were invited to speak prior to the adjournment.

**4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES**

September 20, 2014 Open Session

**MOTION:** Dr. Cunningham moved to approve the minutes. Dr. Reiss seconded.

**VOICE VOTE:** The motion carried 6-0.

September 20, 2014 Executive Session

**MOTION:** Dr. Cunningham moved to approve the minutes. Dr. Sabeeh seconded.

**VOICE VOTE:** The motion carried 6-0.

October 20, 2014 Teleconference Session

**MOTION:** Dr. Cunningham moved to approve the minutes. Dr. Reiss seconded.

**VOICE VOTE:** The motion carried 6-0.

**5. REVIEW, DISCUSSION, AND ACTION ON CASE REVIEWS OF ALLEGATIONS OF UNPROFESSIONAL CONDUCT A.R.S. § 32-1855 (C through F).**

Case Reviews

A. Aaron DeGroot, D.O. Case No. DO-14-0093A License No. 4105

The Investigator reviewed the case. This case involved a patient who was unable to reach the respondent after he closed his practice and was having trouble obtaining her medical records. After discussion and consideration, it was determined there was no statutory violation.

**MOTION:** Dr. Steingard moved for **Dismissal**. Dr. Cunningham seconded.

**VOICE VOTE:** The motion carried unanimously.

B. Aaron DeGroot, D.O. Case No. DO-14-0199A License No. 4105

The Investigator reviewed the case. This case involved a patient who was unable to reach the respondent after he closed his practice and was having trouble obtaining her medical records. After discussion and consideration, it was determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for **Dismissal**. Dr. Steingard seconded.

**VOICE VOTE:** The motion carried unanimously.

C. Vinus Patel, D.O. Case No. DO-14-0039A License No. 3731

The Investigator reviewed the case. This case involved a complaint alleging a patient was discharged from the respondent's practice and was unable to obtain refills of her prescriptions. The respondent explained the patient had not been discharged; the respondent's contract with the patient's insurance was ending. As a courtesy, the practice notified the patient. Just prior to this the patient had been notified that lab work was needed in order to refill her prescriptions. However, the respondent did fill the patient's prescriptions the same day the complaint was filed. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for **Dismissal**. Dr. Sabeeh seconded.

**VOICE VOTE:** The motion carried unanimously.

D. Derek DeTemple, D.O. Case No. DO-14-0098A License No. 3763

Dr. DeTemple was present with attorney DeeDee Holden. The Medical Consultant reviewed the case. This case involved a complaint of failure to diagnose sepsis in a timely manner in an elderly patient. Dr. DeTemple addressed the Board and answered the Board’s questions. The complainant was also present and addressed the Board. After discussion, the Board expressed concern regarding the respondent’s failure to document his communication between himself and the patient’s family.

**MOTION:** Dr. Cunningham moved to offer a consent agreement for a non-disciplinary **Letter of Concern** with 20 hours of non-disciplinary **Continuing Medical Education** in the area of physician/patient communication and crisis management communication between family members and physician at the expense of the respondent, to be approved by the Executive Director and completed within six months. If the physician does not accept the Consent Agreement the matter will be moved to an Investigative Hearing. Dr. Reiss seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

E. James Bates, D.O. Case No. DO-14-0065A License No. 1897

The Medical Consultant reviewed the case. This case involved a complaint of chronic pain following sclero therapy. The outside reviewer found treatment did not fall below the standard of care but noted there was no consent agreement in the medical record. The complainant addressed the Board. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for staff to obtain a consent form and **Dismissal** if a consent form is located. If no consent form is available the matter will be moved to an Investigative Hearing. Reiss seconded.

**VOICE VOTE:** Motion passed unanimously.

Reviews of Executive Director Dismissals:

A. Brian Prebil, D.O. Case No. DO-14-0029A License No. 3772

The respondent and complainant were present. The Medical Consultant reviewed the case. This case involved a complaint that a hernia repair was not performed properly. The respondent answered the Board’s questions. The complainant addressed the Board. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved to uphold the **Executive Director Dismissal**. Dr. Reiss seconded.

**VOICE VOTE:** Motion passed unanimously.

6. REVIEW, DISCUSSION AND ACTION ON INVESTIGATIVE HEARINGS PURSUANT TO A.R.S. § 32-1855 (E) ONLY.

A. Charles Clinch, D.O. Case No. DO-13-0187A License No. 1901

The respondent was present with attorney Rick Delo and was sworn in by the court reporter. The Medical Consultant reviewed the case. The respondent answered the Board's questions. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for **Dismissal**. Dr. Reiss seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

- B. John Battersby, D.O. Case No. DO-13-0169A License No. 2209

The respondent was present with attorney William R. Jones, Jr. and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved a complaint of using OMT on a patient with cervical stenosis. The Board expressed concern that the respondent used manipulation on a patient presenting with possible neurologic symptoms. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for **Dismissal**. Dr. Sabeeh seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

- C. Steven Wallach, D.O. Case No. DO-13-0197A License No. 2113

Dr. Wallach was not present.

**MOTION:** Dr. Cunningham moved to return this to case review. Dr. Steingard seconded.

**VOICE VOTE:** The motion carried unanimously.

- D. Theodore Collins, D.O. Case No. DO-13-0074A License No. 4753

Dr. Collins was present with attorney Charles Hover and was sworn in by the court reporter. The Medical Consultant reviewed the case which involved a medical malpractice settlement. The respondent answered the Board's questions. The Board acknowledged this case was complicated by an unfortunate series of events beyond the respondent's control. The Board recommended the respondent improve his documentation in the medical record. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Sabeeh moved for **Dismissal**. Dr. Cunningham seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

E. Ty Endean, D.O. Case No. DO-13-0076A License No. 3953

Mr. Riggs recused himself from this case.

Dr. Endean was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved a complaint that care of a wrist fracture was mismanaged and resulted in a need for surgery. The respondent answered the Board's questions.

**MOTION:** Dr. Sabeeh moved for a non-disciplinary **Letter of Concern** for timely follow up and management of a wrist fracture. Dr. Reiss seconded.

**ROLL CALL VOTE:** The motion carried 5-0-1.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	5	X	X	X		X		X
NO	0							
ABSTAIN/RECUSE	1						X	
ABSENT	1				X			

F. Carl Ferguson, D.O. Case No. DO-13-0058A License No. 2244

Dr. Ferguson was present with attorney Eric Jackson and was sworn in by the court reporter. The Investigator reviewed the case. This case involved a complaint about a dating relationship between Dr. Ferguson and a patient. Respondent answered the Board's questions.

The Board entered Executive Session to obtain legal advice at 10:32 a.m. and returned to Open Session at 10:37 a.m.

After discussion, the Board found that the respondent was prescribing controlled substances to a patient he was dating and that he had a lack of understanding of boundary issues.

**MOTION:** Dr. Cunningham moved for a non-disciplinary **Letter of Concern** and 20 hours of **Continuing Medical Education** in the area of boundary issues with patients at the respondent's expense, to be approved by the Executive Director and completed within six (6) months. Dr. Reiss seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

The Board recessed for lunch at 12:14 p.m. and returned to Open Session at 12:45 p.m.

G. Melchiorra Mangiaracina, D.O. Case No. DO-13-0170A License No. 005983

Dr. Mangiaracina was present with attorney Robert Chelle and was sworn in by the court reporter. The Investigator reviewed the case. This case involved self-reporting of a DUI. The respondent answered the Board's questions.

The Board entered Executive Session to obtain legal advice at 1:00 p.m. and returned to Open Session at 1:02 a.m.

The Board felt this was an isolated incident and the respondent has complied with the court's requirements.

**MOTION:** Dr. Reiss moved for **Dismissal**. Dr. Erbstoesser seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

H. Richard Waldrop, D.O. Case No. DO-12-0072A License No. 3686

Dr. Waldrop was present with attorney Robert Chelle and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved a complaint regarding inappropriate prescribing and poor medical record keeping. This case was originally heard in April 2012, at which time the Board required Dr. Waldrop complete a neuropsychiatric evaluation, PACE evaluation, and restricted his prescribing privileges. This interim order was effective April 10, 2012. Dr. Waldrop requested to have the prescribing restriction lifted and to know what further steps the Board would like him to take. The Board asked if the recommendations of the PACE evaluation were followed. Dr. Waldrop acknowledged that he has not yet done all the recommendations. The Board suggested he pursue completing the recommendations, then returning to the Board at a future meeting.

The Board continued the case.

I. Brian Prebil, D.O. Case No. DO-12-0169A License No. 3772

Dr. Prebil was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved a complaint regarding thyroid surgery. Dr. Prebil answered the Board's questions. The Board expressed concern

regarding documentation of the intended procedure in the medical record and communication of the respondent's intention to the patient. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for **Dismissal**. Dr. Sabeeh seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

- J. Kevin McKeown, D.O. Case No. DO-13-0164A License No. 005863

Dr. McKeown was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. The respondent answered the Board's questions. This case involved a complaint of failure to obtain appropriate imaging and misdiagnosis. After discussion and consideration, the Board determined there was no statutory violation.

**MOTION:** Dr. Cunningham moved for **DISMISSAL**. Dr. Erbstoesser seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

- K. Abigail Isakson, D.O. Case No. DO-13-0133A License No. 3840

Dr. Isakson was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved inappropriate prescribing. Dr. Isakson answered the Board's questions. The Board expressed concern that the respondent was providing treatment beyond her medical expertise as a psychiatrist.

**MOTION:** Dr. Reiss moved for a non-disciplinary **Letter of Concern** for inappropriate prescribing and 20 hours of non-disciplinary **Continuing Medical Education** in the area of drug interaction and psychopharmacology at the respondent's expense, to be approved by the Executive Director and completed within six (6) months. Dr. Cunningham seconded.

**ROLL CALL VOTE:** The motion carried 5-1.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	5	X	X	X		X	X	
NO	1							X
ABSTAIN/RECUSE	0							
ABSENT	1				X			

L. Jeramy Mosburg, D.O. Case No. DO-13-0217A License No. 005155

This case was continued.

M. Richard Rosengard, D.O. Case No. DO-13-0196A License No. 2056

This case was continued.

**7. CONSIDERATION AND ACTION ON COMPLIANCE WITH TERMS OF BOARD ORDERS AND REQUESTS TO MODIFY OR TERMINATE ORDERS, PURSUANT TO A.R.S. §32-1855 (E) AND (I).**

A. John Manning, D.O. Case No. DO-12-0028A License No. 0935

Dr. Manning was present. The Executive Director reviewed the current status of the order. Dr. Manning is in compliance with the Board order. The Board answered Dr. Manning's questions and encouraged him to take a prescribing course as are offered by CPEP and PACE. Dr. Manning was invited to report on his progress in six months. No action was taken.

B. Donald Fruchtman, D.O. Case No. DO-12-0162A License No. 2874

Dr. Fruchtman was present with attorney Steve Myers. The Executive Director reviewed the current status of the order. Dr. Fruchtman is in compliance with the Board order. Dr. Fruchtman requested to have his probation terminated.

**MOTION:** Dr. Cunningham moved to **terminate** the probation. Dr. Sabeeh seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

**8. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS FOR LICENSURE PURSUANT TO A.R.S. § 32-1822; PERMITS PURSUANT TO A.R.S. § 32-1829; AND RENEWALS OF LICENSES PURSUANT TO A.R.S. § 32-1825 (C-D) AND A.A.C. R4-22-207.**

A. Lynne Pirie, D.O. Case No. DO-14-0049A Application No. 006370

Dr. Pirie was present with attorney Paul Giancola and was sworn in by the court reporter. The Executive Director reviewed the case.

The Board entered Executive Session for legal advice at 3:15 p.m. and returned to Open Session at 3:25 p.m.

The Board expressed concern regarding a report received from the Arizona Department of Public Safety that Dr. Pirie had been practicing medicine after her license was revoked. The report indicated Dr. Pirie’s name remained on the prescription pad and prescriptions were written by providers in her office using her prescription pad; she was in the office and in the room with patients; provided medical histories to medical providers while in the exam rooms; dictated notes into medical records; and she performed OMT on patients in the office. Dr. Pirie answered the Board’s questions. Dr. Pirie admitted to doing OMT, being in the exam rooms and being involved in patient care but denied practicing medicine.

**MOTION:** Dr. Steingard moved to refer the possible prescription violations to the Pharmacy Board and Glen Alan Porter, RN to the Pharmacy Board and the Nursing Board for facilitating someone to practice medicine without a license and writing a prescription on someone else’s prescription pad who is unlicensed. Dr. Cunningham seconded.

**ROLL CALL VOTE:** The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	6	X	X	X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	1				X			

The Board directed staff to obtain a written response from the Pharmacy Board regarding use of prescription pads and a written opinion from the Attorney General’s office regarding possible criminal action.

This case was continued.

Dr. Cunningham absented himself from the meeting at 3:48 p.m.

B. Jennifer Peterson, D.O. Case No. DO-14-0234A Application No. 006541

Dr. Peterson was present. The Executive Director reviewed her application. Dr. Peterson answered the Board’s questions.

**MOTION:** Dr. Cunningham moved to grant Dr. Peterson an unrestricted license. Dr. Sabeeh seconded.

**VOICE VOTE:** Motion carried unanimously.

C. Edward Hagen, D.O. Case No. DO-14-0235A Application No. 006508

Dr. Hagen was present. The Executive Director reviewed the license application. Dr. Hagen answered the Board’s questions. The Board was concerned Dr. Hagen has not seen a patient in two (2) years and two (2) months.

**MOTION:** Dr. Steingard moved to have re-entry evaluation and practice assessment for his specialty with the CPEP and complete PALS certification. Dr. Reiss seconded.

**ROLL CALL VOTE:** The motion carried 5-0, with two Board members absent.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	5	X		X		X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	2		X		X			

D. James Prickett, D.O. Case No. DO-14-0256A Application No. 006510

Dr. Prickett was present with attorney Chris Smith. The Executive Director reviewed the application. Dr. Prickett answered the Board's questions.

**MOTION:** Dr. Sabeeh moved to grant Dr. Prickett a license. Dr. Reiss seconded.

**VOICE VOTE:** The motion carried unanimously.

**9. REPORTS FROM EXECUTIVE DIRECTOR, BOARD MEMBERS, and ASST ATTORNEY GENERAL**

A. Report on ED Dismissed Complaints

Ms. Jones submitted her monthly report for review. There were no questions.

B. President & Board Member reports

Dr. Steingard reported that the opioid seminars are going well and we have two more scheduled; one will be held December 6, 2014 in Tucson and another on January 31, 2015 in Phoenix.

C. Executive Director Report

A. Financial Report

The monthly financial report was presented to the Board.

B. Other News

Ms. Jones asked for a February 21, 2015 meeting to address the large number of outstanding investigative hearings and to hold a planning session.

D. Board may review, discuss and take action on proposed legislation.

Ms. Jones reported that a bill folder has been opened for the next legislative session.

E. Board may review, discuss and consider action on dispensing registration.

The Board referred this for further information and discussion in February 2015.

F. Board may determine attendees for the FSMB meeting in Ft. Worth, Texas, April 24-26, 2015.

Dr. Sabeeh and Mr. Riggs expressed interest in attending.

G. Board may review, discuss and take action on board member training in accordance with HB2087.

Ms. Jones reported that there is a training course available January 26, 2015 from 8 a.m. to 5 p.m. All Board members are required to have 12 hours by January 2016. The cost is \$250 per Board member and she requested for each member to attend, if possible. She and Ms. Galvin can supplement the additional training during the year.

## 10. ADJOURNMENT

The meeting adjourned at 4:38 p.m.

DRAFT