ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY
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Scott Steingard, D.O., Pres
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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

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

Saturday, January 24, 2015

BOARD MEMBERS PRESENT:
Scott Steingard, D.O. President
Gary A. Erbstoesser, D.O.
Jerry G. Landau, J.D.
Martin Reiss, D.O.
Vas Sabeeh, D.O.

BOARD MEMBERS ABSENT:
Douglas Cunningham, D.O., Vice-President
Lew Riggs, Ed.D.

STAFF / OTHERS PRESENT:
Jenna Jones, Executive Director
Linda Kiesler, Investigations Manager
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Kathy Fowkes, Admin. Asst. II, Licensing Division
Jeanne Galvin, Assistant Attorney General
Mary L. Davis, 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. Five 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.

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4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

November 22, 2014 Open Session

MOTION: Dr. Reiss moved to approve the minutes. Dr. Erbstoesser seconded.

MOTION: Dr. Reiss moved to amend the minutes at section 8, item A to correct "The Board directed staff to obtain a written opinion from the Attorney General's office…." to "The Board directed staff to refer this case to the Attorney General's office for possible criminal action or investigation". Dr. Erbstoesser seconded.

VOICE VOTE-amendment: Motion carried 4-0-1. Mr. Landau abstained.

VOICE VOTE-approval of minutes: Motion carried 4-0-1. Mr. Landau abstained.

November 22, 2014 Executive Session

MOTION: Dr. Sabeeh moved to approve the minutes. Dr. Reiss seconded.
VOICE VOTE: Motion carried 4-0-1. Mr. Landau abstained.

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

Case Reviews

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

Dr. Wallach was not present. The Investigator reviewed the case. This case involved a request for medical records which was not fulfilled for more than a year. The Board briefly discussed the case.

MOTION: Mr. Landau moved for an **Investigative Hearing** for a possible violation of A.R.S. § 32-1854 (28) and (35) and to dismiss statutory allegation A.R.S. § 32-1854 (36). Dr. Erbstoesser seconded.
VOICE VOTE: Motion carried unanimously.

B. Brian Gallman, D.O. Case No. DO-14-0046A License No. 004061

Dr. Gallman was not present. The Investigator reviewed the case. This case involved an allegation of answering falsely on an application for privileges at a health care facility. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

C. Keikhosrow Mosallie, D.O. Case No. DO-14-0201A License No. 4455

Dr. Mosallie was not present. The Medical Consultant reviewed the case. This case involved a complaint regarding an epidural injection for pain. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Reiss moved for **Dismissal**. Dr. Erbstoesser seconded.
VOICE VOTE: The motion carried unanimously.

D. Mary Jo Kutler, D.O. Case No. DO-14-0168A License No. 2633

Dr. Kutler was not present. The Medical Consultant reviewed the case. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Sabeeh seconded.
VOICE VOTE: The motion carried unanimously.

E. Michael Seivert, D.O. Case No. DO-14-0202A License No. 2109

Dr. Seivert was not present. The Medical Consultant reviewed the case. This case involved an allegation of failure to diagnose a rare form of vascular cancer. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Sabeeh seconded.
VOICE VOTE: The motion carried unanimously.

F. Mark Tosca, D.O. Case No. DO-14-0061A License No. 4273

Dr. Tosca was not present. The Medical Consultant reviewed the case. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Sabeeh seconded.
VOICE VOTE: The motion carried unanimously.

Reviews of Executive Director Dismissals:

A. Bradley Becker, D.O. Case No. DO-14-0151A License No. 3803

The complainant was not present.

MOTION: Mr. Landau moved to uphold the **Executive Director Dismissal**. Dr. Erbstoesser seconded.
VOICE VOTE: The motion carried unanimously.

B. Robert Lock, D.O. Case No. DO-14-0114A License No. 2523

The complainant was not present.

MOTION: Mr. Landau moved to uphold the **Executive Director Dismissal**. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

C. Kimberly Diana-Brooks, D.O. Case No. DO-14-0242A License No. 3355

The complainant was not present.

MOTION: Mr. Landau moved to uphold the **Executive Director Dismissal**. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

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

A. S. Foster Easley, D.O. (continued) Case No. DO-13-0135A License No. 3212

B. Richard Rosengard, D.O. (continued) Case No. DO-13-0196A License No. 2056

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

This case was heard after 1: 00 p.m. Dr. Mosburg was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved an allegation that the patient was improperly discharged from care. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Reiss seconded.
ROLL CALL VOTE: Motion carried 4-1.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	**4**	**X**		**X**		**X**		**X**
NO	**1**				**X**			
ABSTAIN/RECUSE	**0**							
ABSENT	**2**		**X**				**X**	

D. Steven Horrocks, D.O. (continued) Case No. DO-13-0144A License No. 005062

E. Justin Woodruff, D.O. (continued) Case No. DO-13-0204A License No. 006133

F. Robert Wiruth, D.O. Case No. DO-13-0205A License No. 005514

Dr. Wiruth was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved an allegation of inappropriate prescribing. Dr. Wiruth answered the Board's questions. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Reiss moved for **Dismissal**. Dr. Erbstoesser seconded.
VOICE VOTE: The motion carried unanimously.

G. John Weidner, D.O. Case No. DO-13-0208A License No. 4035

Dr. Weidner was present with attorney Sara Agne and was sworn in by the court reporter. The Investigator reviewed the case. Dr. Weidner answered the Board's questions.

Dr. Sabeeh moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session with Dr. Weidner and Ms. Agne at 10:12 a.m. and returned to Open Session at 10:24 a.m.

The Board entered Executive Session at 10:30 am to obtain legal advice and returned to Open Session at 10:37 am.

The case was continued until Dr. Weidner and Ms. Agne reviewed documents.
The Board returned to this case later in the morning after Dr. Weidner and Ms. Agne had a chance to review the records. Ms. Agne requested the matter be continued.

Mr. Landau moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session with Ms. Agne and Dr. Weidner at 11:34 a.m. and returned to Open Session at 11:45 a.m.

DRAFT

MOTION: Dr. Sabeeh moved to approve the Interim Order consistent with the Executive Session and continue the case until the March 2015 meeting. Dr. Erbstoesser seconded.
ROLL CALL VOTE: The Motion carried 5-0.

	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**	

H. Joel Mascaro, D.O. Case No. DO-14-0002A License No. 3250

Dr. Mascaro was present and was sworn in by the court reporter. The Investigator reviewed this case. The case involved an allegation of failure to fulfill a request for medical records in a timely manner. Dr. Mascaro stated the patient was not his patient and the records have been available for months but the patient had not picked them up. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

I. Joel Mascaro, D.O. Case No. DO-14-0084A License No. 3250

Dr. Mascaro was present and was sworn in by the court reporter. The Investigator reviewed this case. The case involved an allegation of failure to fulfill a request for medical records in a timely manner. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Reiss moved for **Dismissal**. Dr. Sabeeh seconded.
VOICE VOTE: The motion carried unanimously.

J. Laura Skrocki, D.O. Case No. DO-13-0152A License No. 005118

Dr. Skrocki was present with attorney Lauren Weinzweig and was sworn in by the court reporter. The Medical Consultant reviewed the case. This case involved an allegation of over-prescribing. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

The Board recessed for lunch at 12:59 p.m. and resumed Open Session at 1:32 p.m.

Cases will be called after 1:00 p.m.
AGENDA ITEMS IN THIS SHADED BLOCK ARE SCHEDULED TO BE CALLED AFTER THE SPECIFIED TIME. ALL OTHER AGENDA ITEMS MAY BE CALLED AT ANY TIME DURING THE MEETING.

K. Rodolfo Jimenez, D.O. Case No. DO-14-0004A License No. 2763

Dr. Jimenez was present and was sworn in by the court reporter. The Investigator reviewed the case. This case involved a charge of domestic violence. The charges were dismissed after Dr. Jimenez participated in a court ordered program. Dr. Jimenez answered the Board's questions.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Erbstoesser seconded.
ROLL CALL VOTE: Motion carried 5-0.

	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**	

L. Christine Walker, D.O. Case No. DO-14-0014A License No. 006029

Dr. Walker was present and was sworn in by the court reporter. The Investigator reviewed the case. This case involved a felony conviction of theft.

Dr. Sabeeh moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session at 2:04 p.m. and returned to Open Session at 2:14 p.m.

The Board entered Executive Session to obtain legal advice at 2:14 p.m. and returned to Open Session at 2:35 p.m.

Dr. Sabeeh moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session with Dr. Walker at 2:35 p.m. and returned to Open Session at 2:51 p.m.

MOTION: Mr. Landau moved for a finding of unprofessional conduct for violating A.R.S. § 32-1854(2) for a felony conviction and A.R.S. § 32-1854(25) by violating a formal confidential Order number DO-12-0191A issued by the Board on February 27, 2013.
ROLL CALL VOTE: Motion carried 5-0.

	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**	

MOTION: Mr. Landau moved for a five (5) year **Probation** and practice restriction of a maximum of 32 hours of work per week with terms as discussed in Executive Session and additional terms to include but not limited to the following:

- Respondent shall not be On Call,
- Quarterly reports shall be submitted to the Board from all of Respondent's healthcare providers,
- Respondent shall comply with all terms as described in the monitoring program,
- Respondent shall obtain annual physical exams and have verification sent to the Board,
- Respondent shall appear before the Board once every four (4) months for the duration of the probation,
- Respondent shall be responsible for all expenses related to the Probation Order, and

- Respondent shall supply a copy of this order to all potential and actual employers, owner/operators and physicians in charge of any facility at which she may practice, intend to practice or apply for privileges.

Dr. Erbstoesser seconded.
ROLL CALL VOTE: Motion carried 5-0.

	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**	

M. Gerald Pass, D.O. Case No. DO-13-0006A License No. 2974

Dr. Pass was present. Due to a miscommunication between Dr. Pass' attorney and Dr. Pass, the Board continued the case.

N. Gerald Pass, D.O. Case No. DO-14-0241A License No. 2974

Dr. Pass was present. Due to a miscommunication between Dr. Pass' attorney and Dr. Pass, the Board continued the case.

O. Lester Melnick, D.O. Case No. DO-14-0008A License No. 1906

Dr. Melnick was present and was sworn in by the court reporter. The Investigator reviewed the case. This case involved a criminal charge of supplying alcohol to a minor. The charges were dismissed after Dr. Melnick participated in a court ordered diversion program. Dr. Melnick answered the Board's questions. The Board discussed the case.

MOTION: Dr. Reiss moved for **Dismissal**. Dr. Erbstoesser seconded.
ROLL CALL VOTE; Motion carried 3-2.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	**3**			**X**		**X**		**X**
NO	**2**	**X**			**X**			
ABSTAIN/RECUSE	**0**							
ABSENT	**2**		**X**				**X**	

P. Molly Finley, D.O. Case No. DO-14-0044A License No. 4457

Dr. Finley was present and was sworn in by the court reporter. The Investigator reviewed the case. This case involved two DUI incidents.

Dr. Sabeeh moved to enter Executive Session to receive legal advice. The Board entered Executive Session at 3:41 pm and returned to Open Session at 3:46 pm.

DRAFT

Dr. Sabeeh moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session with Dr. Finley at 3:47 p.m. and returned to Open Session at 4:13 p.m.

MOTION: Dr. Sabeeh moved for an Interim Order per discussion in Executive Session.
ROLL CALL VOTE: Motion carried 5-0.

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

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 Greg Robinson. The Executive Director reviewed the application. This application review was continued from the previous Board meeting in November 2014. Due to the ongoing investigation by D.P.S., Mr. Robinson stipulated to put the application in abeyance and toll the timeframes until the investigation is concluded. The Board agreed to Mr. Robinson's request. This case was tabled until further notice.

B. John Hulshoff, D.O. Case No. DO-14-0298A Application No. 006542

This application review was held during the course of the morning.

Dr. Hulshoff was present with Dennis R. Scribner, MD and both doctors were sworn in by the court reporter. The Executive Director reviewed the license application. Verification of his third year of residency indicated Dr. Hulshoff had been put on probation. Dr. Hulshoff had been aware of being required to do remediation but was not told at the time or since that he had ever been put on probation during this residency. Dr. Hulshoff presented a letter to the Board from a physician who was able to corroborated Dr. Hulshoff's sequence of events regarding his third year of residency. For his fourth year of training, Dr. Hulshoff transferred to a different program. D r. Scribner, an attending assigned as Dr. Hulshoff's advisor during his fourth year of residency, testified to Dr. Hulshoff's success in his fourth year of training in the new program.

MOTION: Mr. Landau moved for approval of the license. Dr. Sabeeh seconded.
ROLL CALL VOTE: Motion carried unanimously.

C. David Hadlock, D.O. Case No. DO-14-0283A Application No. 006513

This application review was held during the course of the morning.

Dr. Hadlock was present and was sworn in by the court reporter. The Executive Director reviewed the application. Dr. Hadlock answered the Board's questions.

Mr. Landau moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session with Dr. Hadlock at 12:13 p.m. and returned to Open Session at 12:37 p.m.

MOTION: Dr. Reiss moved to approve the license. Dr. Erbstoesser seconded.

After discussion by the Board, Dr. Reiss and Dr. Erbstoesser rescinded their motion.

DRAFT

MOTION: Dr. Sabeeh moved for approval of a single substantive review request consistent with the Executive Session. Dr. Reiss seconded.
ROLL CALL VOTE: Motion carried 5-0.

	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	

The Board dismissed the students at 4:46 p.m.

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 he attended an osteopathic meeting in California. He reported they are doing away with the three point grading system on the NBOME. Dr. Steingard also reported on a Resolution regarding PGY 1 and requested staff to determine if the Resolution was in harmony with Arizona's Medical Practice Act.

Dr. Steingard announced Mr. Landau is running for the Federation of State Medical Boards' (FSMB's) Board of Directors. The annual FSMB Meeting is being held in late April in Ft. Worth, Texas.

The Board moved the March meeting to April 11, 2015 due to conflicts for some Board members.

C. Executive Director Report

1. Financial Report

The monthly financial report was presented to the Board.

2. Other News –Staffing

The Board welcomed Linda Kiesler as the new Investigations Manager.

3. Sunset Review

Ms. Jones reported to the Board she expects the auditor general to begin the sunset audit sometime this summer.

4. Budget

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Ms. Jones reported the Board is within its appropriation. She reported the funding this year is tight and it is not helping that the expenses related to the opioids seminars have been taken out of the appropriations budget instead of the FSMB's grant.

5. Legislative Update

Ms. Jones reviewed bills presently before the legislature which relate to the osteopathic profession.

6. Information technology

Ms. Jones discussed Arizona Medical Board's interest in changing database vendors. The Board discussed the feasibility of remaining with its current vendor and investigating other options.

D. Board may review, discuss and take action on items for the February planning meeting.

Ms. Jones reviewed items on the February agenda and asked the Board for suggestions for other items they may want to add to the February agenda. The Board discussed ways to streamline the investigative hearing process, they would also like to discuss other options for resolving cases.

Dr. Sabeeh moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Steingard seconded. The Board entered Executive Session at 5:30 p.m.

E. Board may review, discuss and take action on Attorney General opinion regarding renewals.

This matter was discussed in Executive Session.

F. Board may review, discuss and take action on possible policy changes regarding renewals

This matter was discussed in Executive Session.

The Board returned to Open Session at 5:53 p.m.

G. Board may review, discuss and take action on requests for retired license status:

1. F.R. Frame, D.O. License No. 1091
2. Carlos Moe, D.O. License No. 3642
3. Michael Hartstein, D.O. License No. 4443

The Executive Director reviewed the above licensees' requests for retired status.

MOTION: Dr. Steingard moved to grant the requests for Retired license status for Dr. Frame, Dr. Moe and Dr. Hartstein. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

10. ELECTION OF OFFICERS PURSUANT TO A.R.S. §32-1802(B)

A. President

Mr. Landau nominated Dr. Steingard for President. Dr. Reiss seconded the motion. There were no other nominations and the motion carried unanimously.

B. Vice President

Mr. Landau nominated Dr. Cunningham for Vice President. Dr. Reiss seconded the motion. There were no other nominations and the motion carried unanimously.

11. ADJOURNMENT

The meeting adjourned at 6:15 p.m.

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