



Governor
Douglas A. Ducey

**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.

Executive Director
Jenna Jones

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

Saturday, November 21, 2015

BOARD MEMBERS PRESENT:

Scott Steingard, D.O. President
Douglas Cunningham, D.O. Vice-President
Jerry G. Landau, J.D.
Lew Riggs, Ed.D.
Vas Sabeeh, D.O.
Gary A. Erbstoesser, D.O.
Martin Reiss, D.O.

STAFF / OTHERS PRESENT:

Jenna Jones, Executive Director
Linda Kiesler, Investigations Manager
John O'Hair-Schattenberg, Investigator
Kathy Fowkes, Licensing Administrator
Jeanne Galvin, Assistant Attorney General (morning)
Mary Williams, Assistant Attorney General (afternoon)
Robin Jasper, RCR, Ottmar & Associates (morning)
Cindy Backman, RCR, Ottmar & Associates (afternoon)

1. CALL TO ORDER

Dr. Scott Steingard, Board President, called the meeting to order at 8:06 a.m. and read the Board's mission statement.

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the roll. Seven 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, A.T. Still 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.

Jeffrey Baird, DO arrived later and asked to address the Board. He was given this opportunity at 10:51 a.m. Dr. Baird expressed his opinion that the Board made up standards of care out of thin air regarding requirement to have electrocardiogram equipment in a primary care doctor's office as well as standards of care regarding treatment of family members and friends. He accused the Board of passing laws that prevented him from treating his daughter with osteopathic manipulation.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

- A. October 24, 2015 Open Session (Continued)
- B. October 24, 2015 Executive Session (Continued)

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

Case Reviews

- A. Jerry Olshan, D.O. (continued) Case No. DO-15-0054A License No. 1376

Reviews of Executive Director Dismissals

- A. Jeffrey A. Becker, D.O. Case No. DO-14-0287A License No. 3180

The Respondent was not present. The Complainant was present and addressed the Board. After discussion and consideration, the Board agreed the record showed Respondent met the standard of care in this case.

MOTION: Dr. Sabeeh moved to uphold the **Executive Director Dismissal**. Dr. Cunningham seconded.
VOICE VOTE: Motion carried 7-0.

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

- A. Christine Walker, D.O. Case No. DO-15-0199A License No. 006029

The Respondent was present with attorney Steven Myers and was sworn in by the court reporter. The Executive Director reviewed the case. This case was opened due to non-compliance with Board orders and multiple failures to report for testing. Respondent addressed the Board and apologized for her previous non-compliance. She stated she has implemented practices to prevent any future non-compliance. Mr. Myers provided details of these preventative measures.

The Board expressed concern regarding the Respondent's long record of non-compliance without being able to provide a reason for her failure to comply. The Board expressed concern about Respondent's fitness to practice medicine.

Dr. Cunningham moved to enter Executive Session to obtain legal advice. Mr. Riggs seconded. The Board entered Executive Session at 8:43 a.m. and returned to Open Session at 9:01 a.m.

Dr. Steingard moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Cunningham seconded. The Board entered Executive Session with Dr. Walker and Mr. Myers at 9:01 a.m. and returned to Open Session at 9:34 a.m.

MOTION: Mr. Landau moved for a finding of **Unprofessional Conduct** for violation of A.R.S. 32-1854(25), for violating a formal order, failing to test, file quarterly reports from health care providers and failure to obtain Board approval of her treating physician.

ROLL CALL VOTE: Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

The Board discussed a **Consent Agreement for Suspension of License** with the following terms:

1. New psychiatric evaluation performed by a psychiatrist other than the previous physician and approved by the Executive Director;
2. Undergo a PACE/CPEP practice assessment with updated neuropsychological evaluation;
3. Minimum six (6) month suspension;
4. Full compliance with Board orders;
5. Respondent will begin seeing a dietician approved by the Executive Director; and
6. Psychiatric treatment on a weekly basis.

The Respondent and Mr. Myers stated they were amenable to a Consent Agreement. This case was continued to December 8, 2015 at which time the Consent Agreement would be considered.

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

This case was heard in conjunction with DO-14-0208A and DO-15-0100A.

C. S. Foster Easley, D.O. Case No. DO-14-0208A License No. 3212

This case was heard in conjunction with DO-13-0135A and DO-15-0100A.

D. S. Foster Easley, D.O. Case No. DO-15-0100A License No. 3212

This case was heard in conjunction with DO-13-0135A and DO-14-0208A. These cases involved complaints of inappropriate prescribing and over-prescribing, poor record keeping, failure to respond to test results and make referrals to specialists, and failure to respond appropriately to drug seeking behavior. The

Executive Director reviewed the revised Consent Agreement which included all three cases. Mr. Myers addressed the Board.

MOTION: Dr. Cunningham moved to approve the **Consent Agreement for Suspension of License**. Dr. Erbstoesser seconded.

ROLL CALL VOTE: Motion carried 6-1.

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

E. Hesham Sahawneh, D.O. Case No. DO-14-0286A License No. 3194

The Respondent was present and was sworn in by the court reporter. The Executive Director reviewed the case. The complaint involved alleged misdiagnosis and mismanagement of disease as well as failure to remove a camera endoscopy capsule retained in patient's intestines. The Respondent answered the Board's questions, explained his course of treatment and that he had discussed retention of the capsule with the patient. The Board acknowledged standard of care was to avoid performing abdominal surgery on a patient with Crohn's disease unless there is absolutely no choice due to the likelihood of catastrophic outcome and it is unlikely for an endoscopy capsule to cause harm to a patient even if retained for years.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Cunningham seconded.

VOICE VOTE: Motion carried 7-0.

The Board recommended the Respondent review his consent form and provide more information about potential complications to the patient.

The Board recessed for a short break at 10:32 a.m. and returned to Open Session at 10:51 a.m.

F Alphonse Ambrosia, D.O. Case No. DO-14-0068A License No. 2705

The Respondent was present with attorney Peter Wittekind and was sworn in by the court reporter. The Medical Consultant reviewed the case. This complaint alleged failure to recognize and treat a retroproteneal bleed which resulted in the patient's death. The Respondent answered the Board's questions. The Board expressed concern that a vascular surgery consultation was not obtained early on when there was a suspicion of retroproteneal bleed. The Respondent explained that the nurse did not call him when the patient began to deteriorate.

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

VOICE VOTE: The motion carried 7-0.

- G. William Stonecipher, D.O. Case No. DO-14-0264A License No. 0468

The Respondent was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged inappropriate prescribing. After discussion and consideration, the Board determined there was no statutory violation. The Board recommended Respondent obtain CME in opioid prescribing and pain management.

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

VOICE VOTE: The motion carried 7-0.

- H. William Stonecipher, D.O. Case No. DO-15-0118A License No. 0468

The Respondent was present and remained sworn in. The Medical Consultant reviewed the case. The complaint alleged over-prescribing and abandonment of a patient. The Respondent answered the Board's questions. The Respondent explained it had been necessary to dismiss the patient from the practice due to the patient's harassment of his staff. He stated he provided refills of her medications for 30 days to give her time to find a new primary care physician. The Board expressed concern that only one of her medications had been refilled according to the Respondent's medical records.

The Complainant was present and answered the Board's questions. The Board thanked the complainant for bringing his concerns to the attention of the Board.

The Board expressed concern about Respondent's opioid prescribing practices and dismissing the patient without insuring she had sufficient medications for the period of time it would take for her to find a new primary care physician.

Dr. Sabeeh moved to enter Executive Session to obtain legal advice. Dr. Steingard seconded. The Board entered Executive Session at 11:58 a.m. and returned to Open Session at 12:08 p.m.

The Board directed staff to conduct a chart review. The Board discussed a Consent Agreement to include practice restriction in prescribing scheduled drugs and a PACE or CPEP practice assessment. The Respondent agreed to transition his pain patients to other physicians and discuss a Consent Agreement. The Board continued the case until December 8, 2015 at which time the Consent Agreement would be considered.

- I. James L. Gross, D.O. Case No. DO-15-0122A License No. 2146

The Respondent was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged Respondent ordered EMTs to remove a patient's spine board before Respondent examined the patient. The Respondent answered the Board's questions. He stated the most recent literature indicates more movement in the spine while on spine boards than when immediately removed upon arrival in the ER. He stated while he hadn't yet examined the patient, he saw the patient being wheeled in and the patient was not in extremis. The Respondent explained since this complaint he and the nursing staff have agreed to ask the EMTs to assist them in removing the spine board rather than ordering the EMTs to violate a protocol which they are required to follow.

MOTION: Mr. Landau moved for **Dismissal**. Dr. Cunningham seconded.

VOICE VOTE: The motion carried 7-0.

J. James L. Gross, D.O. Case No. DO-14-0112A License No. 2146

The Respondent was present and remained sworn in.

Mr. Landau moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Cunningham seconded. The Board entered Executive Session with Dr. Gross at 12:53 p.m. and returned to Open Session at 1:10 p.m.

MOTION: Dr. Steingard moved to **amend the Consent Agreement** per discussion in Executive Session. Mr. Landau seconded.

ROLL CALL VOTE: Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Reiss	Mr. Riggs	Dr. Sabeeh
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

K. Hudson Lee, D.O. Case No. DO-13-0218A License No. 4625

The Respondent was present and was sworn in by the court reporter. The Investigator reviewed the case. The complaint involved unavailability of medical records and failure to provide a copy of a patient's medical record in a timely manner. At a previous Board meeting, the Board directed staff to review Respondent's medical records storage. The Investigator reported the results of his on-site inspection and confirmed that Respondent's records were stored appropriately and accessible. The Respondent also provided the Investigator with the complainant's requested records.

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

VOICE VOTE: The motion carried 7-0.

L. Michael Kleven, D.O. Case No. DO-15-0022A License No. 4137

The Respondent was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint involved alleged failure to treat shingles with Valtrex. 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.

VOICE VOTE: The motion carried 7-0.

M. Charles Welly, D.O.

Case No. DO-15-0042A

License No. 2248

The Respondent and his Physician Assistant Nathaniel Welly were present and were sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged mismanagement of patient care. The Respondent answered the Board’s questions. The Board acknowledged a patient bears some responsibility for his own care and that Respondent properly referred patient to specialists and lab work, but patient was non-compliant and also did not disclose a previous diagnosis of Hepatitis C. After discussion and consideration, the Board determined there was no statutory violation.

MOTION: Dr. Cunningham moved for **Dismissal**. Mr. Riggs seconded.

VOICE VOTE: The motion carried 7-0.

N. Michael Darnell, D.O.

Case No. DO-15-0086A

License No. 005170

The Respondent was present with attorney John Drzakowski and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged Respondent misinterpreted an x-ray thereby missing an opportunity to perform a surgical correction at an early date. As a result, the patient developed complications and loss of motion. The Respondent answered the Board’s questions. The Complainant was present, was sworn in by the court reporter and answered the Board’s questions.

The Board expressed concern at the Respondent’s dismissive attitude toward the patient’s complaints of pain and failure to recognize the amount of displacement of the fracture. The Board recommended Respondent consider obtaining CME in the area of physician/patient communication. The Respondent agreed to improve his communication style.

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

ROLL CALL VOTE: Motion carried 5-2.

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

The Board recessed for a short break at 2:50 p.m. and returned to Open Session at 2:57 p.m.

O. Travis Stiegler, D.O.

Case No. DO-14-0226A

License No. 005517

This case was heard in conjunction with DO-14-0317A. The Respondent was present and was sworn in by the court reporter. The Medical Consultant reviewed the cases and reported the chart review results to the Board. The complaints involved alleged inappropriate prescribing and over-prescribing. The Board asked the Respondent about his background and training. The Respondent disclosed he resigned from his

residency in psychiatry in lieu of being terminated from the program after a positive drug screen. He stated he has one more year of residency to complete in order to be eligible for board certification. He entered practice with an Internal Medicine specialist practicing addictionology and pain management and was trained on the job in these areas of interest. He stated he is DEA certified in Suboxone and Subutex. He stated he is currently the medical director at a practice and is practicing primarily psychiatry and addictionology.

Dr. Steingard moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Cunningham seconded. The Board entered Executive Session with Dr. Stiegler at 3:27 p.m. and returned to Open Session at 3:36 p.m.

The Board expressed concern that Respondent is practicing in an area of medicine for which he is not qualified.

Dr. Cunningham moved to enter Executive Session to obtain legal advice. Dr. Reiss seconded. The Board entered Executive Session at 3:44 p.m. and returned to Open Session at 3:59 p.m.

MOTION: Dr. Cunningham moved for an **Interim Consent Agreement** to include:

1. Restriction from prescribing scheduled 2, 3, and 4 drugs;
2. Restriction from providing marijuana recommendations,
3. Restriction from prescribing Suboxone; and
4. Restriction from treating chronic pain or addiction.

Mr. Landau seconded.

VOICE VOTE: The motion carried 7-0.

The Board directed staff to obtain more information from his program about his residency and why he was asked to resign and to query his employer regarding his current practice. The Board continued the case to December 8, 2015 at which the Interim Consent Agreement would be considered.

P. Travis Stiegler, D.O. Case No. DO-14-0317A License No. 005517

This case was heard in conjunction with DO-14-0226A.

Q. David K. Chisholm, D.O. Case No. DO-14-0240A License No. 4283

The Respondent was present with attorney Vince Montel and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged failure to recognize a surgical complication and failure to obtain a surgery consult. The Respondent answered the Board's questions. The Board discussed the case.

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

ROLL CALL VOTE: The motion carried 6-1.

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

- R. Marc Grant, D.O. Case No. DO-14-0308A License No. 1609

The Respondent was present and was sworn in by the court reporter. The Investigator reviewed the case. The complaint alleged that for a period of three months the patient was unable to reach the doctor and obtain test results. Respondent answered the Board’s questions. Dr. Grant stated he had expected the patient to make an appointment to go over the test results. This did not occur. He also stated that though the patient stated he had called and spoken to Respondent’s billing company, in fact this would be impossible because Respondent does not have a billing company. His billing is done by office staff. The Respondent stated he has reached out to the patient and provided him with the test results.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Cunningham seconded.
VOICE VOTE: The motion carried 7-0.

- S. Bryan Glick, D.O. (continued) Case No. DO-15-0072A License No. 005257

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

The Respondent was present. The Executive Director reviewed Respondent’s letter. The Board discussed the matter with Respondent. No action was taken.

- B. E. Griffin Cipolla, D.O. Case No. DO-12-0073A License No. 2811

The Respondent was not present. The Executive Director reviewed the Respondent’s request to extend him more time to complete the non-disciplinary continuing medical education and reported Respondent has provided a request for preapproval for an appropriate course which will be held in February 2016. However, at this time the Board had extended the CME timeframe only to January 2016.

MOTION: Mr. Landau moved to grant the Respondent until the end of February 2016 to complete the non-disciplinary CME ordered by the Board in November 2013. If the CME is not completed by the end of February, a new case will be opened for non-compliance with a Board order. Dr. Erbstoesser seconded.
VOICE VOTE: Motion carried 6-1. Dr. Cunningham voted Nay.

- C. Ali Rajaei-Tehrani, D.O. Case No. DO-15-0069A License No. 4383

This case was heard during the course of the morning.

The Respondent was present with attorney Steven Myers. The Executive Director reviewed the case. The Respondent requested an amendment to the practice restriction currently in place in order to allow Respondent to return to work. The Board discussed a Consent Agreement to include a 5-year probation, monitoring and a gradual return back to a full time schedule. The case was continued to December 8, 2015 at which time the Board will consider the Consent Agreement.

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. Kevin Huffman Case No. DO-15-0211A Application No. 006722

The Applicant was not present. The Board discussed Dr. Huffman's application for licensure.

MOTION: Mr. Landau moved for a substantive review request for the applicant to appear before the Board and for further information to include documentation of CME completed in the last two years, status of his ACLS, and specialty board certification (if any).

VOICE VOTE: The motion carried 7-0.

9. REVIEW, CONSIDERATION AND ACTION ON REPORTS FROM EXECUTIVE DIRECTOR, BOARD MEMBERS, and ASST ATTORNEY GENERAL

- A. Report on ED Dismissed Complaints

The Board members had Ms. Jones' report and print out information in compliance with statutory requirements. There were 0 ED Dismissals between October 15, 2015 and November 10, 2015.

- B. President & Board Member reports

Dr. Steingard reported the National Board of Medical Examiners (NBME) is reconsidering phasing out the SPEX exam.

Dr. Steingard reported he and Ms. Jones along with others presented information to the AOMA's House of Delegates regarding the Interstate Compact earlier this month and it appeared to be well-received. He also reported the AOMA is in discussion with the Governor's office regarding Board consolidation.

Mr. Landau reported Senator Barto is introducing legislation which may affect all health professional licensing Boards: a requirement for fingerprinting and background checks for all applicants and for recording of all Board meetings.

- C. Executive Director Report

1. Financial Report

Ms. Jones reported that there will be a big “bump” in income this month due to the start of license renewals. However, the State’s new accounting system is continuing to cause a delay in reporting.

2. Other News- Current Affairs

No other news was discussed.

3. Legislation update

None were discussed.

D. Update on audit

Ms. Jones reported that the sunset audit is continuing.

E. Board member training

Ms. Jones reported this training was canceled due to scheduling conflicts.

F. Board may review, discuss and take action on Interstate Licensing Compact.

The Board discussed the history of the Interstate Compact. Dr. Steingard explained the Compact does not lower licensing standards but allows for portability, expediting the licensure process. It allows the Board to retain the ability to regulate physicians licensed and practicing medicine in the state of Arizona.

MOTION: Dr. Steingard moved to formally support the Interstate Compact. Mr. Landau seconded.

VOICE VOTE: The motion carried 7-0.

G. Board may review, discuss and take action on request for retired status from Robert Willcutt, D.O.

Ms. Jones reported Dr. Willcutt withdrew his request for retired status. The Board took no action.

10. ADJOURNMENT

The Board adjourned at 5:56 p.m.