



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

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

Saturday, October 24, 2015

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Douglas Cunningham, D.O., Vice-President

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
Anne Froedge, Assistant Attorney General (2:06 p.m.)
Debra Mitchell, RCR, Ottmar & Associates (morning)
Mary Davis, RCR, Ottmar & Associates (afternoon)

1. CALL TO ORDER

Dr. Scott Steingard, Board President, called the meeting to order at 8:05 a.m. and read the Board's mission statement.

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 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. No one requested to speak.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

A. September 19, 2015 Open Session

MOTION: Dr. Reiss moved to approve the minutes. Mr. Riggs seconded.
VOICE VOTE: Motion carried 6-0.

B. September 19, 2015 Executive Session

MOTION: Dr. Erbstoesser moved to approve the minutes. Dr. Reiss seconded.
VOICE VOTE: Motion carried 6-0.

C. October 6, 2015 Teleconference Open Session

MOTION: Dr. Erbstoesser moved to approve the minutes. Dr. Reiss seconded.
VOICE VOTE: 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. Jerry Olshan, D.O.

Case No. DO-15-0054A

License No. 1376

Respondent was not present. The Executive Director reported that no response to the complaint was received from Dr. Olshan. The Board directed the Investigator to make a personal visit to Dr. Olshan's address of record to deliver a subpoena.

MOTION: Mr. Landau moved for an **Investigative Hearing**. Mr. Riggs seconded.
VOICE VOTE: Motion carried 6-0.

B. William Stonecipher, D.O.

Case No. DO-15-0118A

License No. 0468

Respondent was not present. The Executive Director reviewed the case. The complaint alleged inappropriate pain management and poor record keeping.

MOTION: Dr. Steingard moved for an **Investigative Hearing**. Mr. Landau seconded.
VOICE VOTE: Motion carried 6-0.

C. Ryan Proctor, D.O.

Case No. DO-15-0126A

License No. 006043

Respondent was not present. The Investigator reviewed the case. The complaint involved notice of violation of Rules by Arizona Radiation Regulatory Agency (ARRA) which documentation subsequently verified was resolved to ARRA's satisfaction. ARRA took no action.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Erbstoesser seconded.
VOICE VOTE: Motion carried 6-0.

Reviews of Executive Director Dismissals:

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

Respondent was not present. The Executive Director reported that the Complainant had communicated a desire to be present but was unable to arrange transportation. The Board continued the case to the November meeting in order to give the Complainant the opportunity to be present.

- B. Lawrence A. Czarnecki, D.O. Case No. DO-15-0172A License No. 3546

Neither Respondent nor Complainant were present. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Mr. Landau moved to uphold the Executive Director **Dismissal**. Dr. Steingard seconded.

VOICE VOTE: Motion carried 6-0.

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

- A. Caren Borjeson, D.O. Case No. DO-14-0067A License No. 3117

Respondent was present with attorney Russell Skelton and was sworn in by the court reporter. The Executive Director reviewed the case. The complaint alleged post-operative complications of the abdominal area. Respondent answered the Board's questions. Mr. Skelton addressed the Board and reported the findings of an expert's review of the case and Respondent's treatment timeline. After discussion and consideration, it was determined there was no violation of statute.

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

VOICE VOTE: Motion carried 6-0.

- B. Robin MacDougall, D.O. Case No. DO-15-0090A License No. 2830

Respondent was present and was sworn in by the court reporter. The Investigator reviewed the case. The complaint alleged knowingly prescribing a controlled substance for a canine. Respondent answered the Board's questions.

MOTION: Mr. Landau moved for a non-disciplinary **Letter of Concern** for prescribing a controlled substance for a canine. Dr. Steingard seconded.

ROLL CALL VOTE: Motion failed 3-3.

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

The Board resumed discussion of the case.

MOTION: Mr. Landau moved for a non-disciplinary **Letter of Concern** for prescribing a controlled substance for a canine. Dr. Reiss seconded.

ROLL CALL VOTE: 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	0		X					

C. Kathleen Cahoon, DO

Case No. DO-15-0068A

License No. 4279

Respondent was present with attorney William Cahoon and was sworn in by the court reporter. The Investigator reviewed the case. This case involved the self-report of a DUI conviction at the time Respondent renewed her license. The Board expressed concern that Respondent did not report the arrest for DUI within 10 days of its occurrence in accordance with statute.

Dr. Steingard moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Reiss seconded. The Board entered Executive Session with Dr. Cahoon and Mr. Cahoon at 11:01 a.m. and returned to Open Session at 11:13 a.m.

MOTION: Dr. Sabeeh moved for Dismissal. Mr. Riggs seconded.
 After discussion the motion was withdrawn without a vote.

MOTION: Dr. Sabeeh moved for a non-disciplinary **Letter of Concern** for failure to notify the Board of the DUI arrest within 10 days. Mr. Landau seconded.

ROLL CALL VOTE: 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	0		X					

D. Lance Ashworth, D.O.

Case No. DO-15-0041A

License No. 006275

Respondent was present with attorney Yvette Ashworth and was sworn in. The Investigator reviewed the case. The complaint alleged respondent took blood pressure medication from the practice's sample medicine cabinet without authorization or prescription as well as taking medications from a patient and consuming them as a means of self-treatment. Respondent answered the Board's questions.

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

ROLL CALL VOTE: Motion failed 1-5.

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

The Board discussed its concern at Respondent's lapse in judgment and stated the mishandling of prescription drugs is a serious matter.

MOTION: Dr. Sabeeh moved for a non-disciplinary **Letter of Concern** for mishandling prescription drugs and twenty (20) hours **Continuing Medical Education** in medical ethics and prescription writing. Mr. Landau seconded.

ROLL CALL VOTE: 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	0		X					

The Board recessed for a short break at 9:40 a.m. and returned to Open Session at 9:55 a.m.

- E. Scott Markham, D.O. Case No. DO-14-0258A License No. 4498

Respondent was present and was sworn in by the court reporter. The Executive Director reviewed the case. The complaint alleged the patient was steered into buying a more expensive focal implant which led to a poor outcome. Dr. Markham answered the Board’s questions. After discussion and consideration, the Board determined there was no statutory violation.

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

VOICE VOTE: Motion carried 6-0.

- F. Danny McClure, D.O. Case No. DO-15-0045A License No. R2252

Dr. McClure was present and was sworn in by the court reporter. The Investigator reviewed the case. This case involved the self-report of an arrest for domestic dispute and assault. Documentation indicated Respondent is in compliance with court requirements. The case remains pending while Respondent completes a diversion program consisting of a 26-week domestic violence course. Upon completion the Court’s stated intention is to dismiss the case.

The Board continued the case until notice of the court’s dismissal has been received.

- G. Christine Walker, D.O. (continued) Case No. DO-15-0199A License No. 006029

- H. Norman Gramstad, D.O. Case Nos. DO-13-0175A, DO-14-0124A, DO-14-0212A License No. 3181

Respondent was present with attorney Steven Perlmutter, MD and was sworn in by the court reporter. The Executive Director reviewed the case. This hearing was a follow up to last month’s investigative hearing and a proposed Consent Agreement signed by the Respondent was reviewed. The Board amended the Consent Agreement. Dr. Gramstad agreed to the amendments.

MOTION: Mr. Landau moved to approve the Consent Agreement with amendments. Dr. Sabeeh seconded.

ROLL CALL VOTE: 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	0		X					

The Board spoke with the medical students and dismissed them at 12:06 p.m.

The Board recessed for lunch at 12:06 p.m. and returned to Open Session at 1 p.m.

Cases called after 1:00 p.m.

- I. S. Foster Easley, D.O. Case Nos. DO-13-0135A, DO-14-0208A License No. 3212

Respondent was present with attorney Stephen Myers and was sworn in by the court reporter. The Executive Director reviewed the proposed interim Consent Agreement for Suspension of Respondent’s license. The Board expressed concern regarding the language.

Mr. Landau moved for Executive Session for the purpose of legal advice. Mr. Riggs seconded. The Board entered Executive Session at 1:27 p.m. and returned to Open Session at 1:37 p.m.

The Board discussed amendments to the proposed Consent Agreement. Mr. Myers requested the proposed Consent Agreement be amended to include all currently open complaints against Dr. Easley.

Dr. Sabeeh moved for Executive Session for the purpose of legal advice. Dr. Reiss seconded. The Board entered Executive Session at 1:51 p.m. and returned to Open Session at 1:56 p.m.

The Board continued the case until the next meeting and requested staff to include the third open investigation of a complaint against Respondent and add it to the November agenda along with the proposed Consent Agreement.

Jeanne Galvin, A.A.G. departed the meeting at 2:06 p.m. and was replaced by Anne Froedge, A.A.G.

- J. Bryan Glick, D.O. Case No. DO-15-0072A License No. 005257

Respondent was present and was sworn in by the court reporter. The Investigator reviewed the case. The complaint alleged false or misleading advertising and inappropriate billing. Respondent answered the Board’s questions.

The Board directed staff to research whether or not it is standard billing practice to bill a participant’s private insurance for clinical studies. This case was continued until the requested information could be obtained.

The Board recessed for a short break at 2:57 p.m. and returned to Open Session at 3:04 p.m.

K. Aaron Love, D.O. Case No. DO-13-0061A License No. 4373

Respondent was present and was sworn in by the court reporter. The Executive Director reviewed the case. The complaint alleged inappropriate prescribing of Cialis to a female patient. This case was heard in conjunction with DO-13-0207A.

L. Aaron Love, D.O. Case No. DO-13-0207A License No. 4373

Respondent was present and remained sworn in. The Investigator reviewed the case. The complaint involved self-report of a prescription drug DUI conviction for which Respondent was sentenced to a three-year probation.

Mr. Landau moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Sabeeh seconded. The Board entered Executive Session with Dr. Love at 3:15 p.m. and returned to Open Session at 3:24 p.m.

Dr. Steingard moved for Executive Session for the purpose of legal advice. Mr. Landau seconded. The Board entered Executive Session at 3:25 p.m. and returned to Open Session at 3:35 p.m.

MOTION: Mr. Landau moved to continue the interim Consent Agreement now in place, to which Respondent agreed and to continue Case DO-13-0061A and DO-13-0207A until the April 2016 meeting. Mr. Riggs seconded.

ROLL CALL VOTE: 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	0		X					

M. Richard Donnini, D.O. Case No. DO-14-0321A License No. 4448

This case was continued.

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

Respondent was not present. The case was continued.

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

Respondent was not present. The case was continued.

P. Jonathan Tait, D.O. Case No. DO-15-0036A License No. 005503

Respondent was present and was sworn in by the court reporter. The Investigator reviewed the case. The complaint alleged charging or collecting an inappropriate fee. The Respondent answered the Board's questions and stated he does not set the fees for laboratory work; the fees are set by the laboratory. Documentation demonstrated Respondent waived over \$4,000 in fees the patient would otherwise have owed.

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

VOICE VOTE: Motion carried 6-0.

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

Respondent was present and was sworn in by the court reporter. The Investigator reviewed his inspection report. The Executive Director reviewed the chart review performed by the Medical Consultant. The Board was happy to hear that patient care was appropriately documented in the charts, but expressed concern that Respondent still did not have possession of all his medical records.

MOTION: Mr. Landau moved to require Respondent to see that all patient records were secured in his possession within one week and to have the Investigator visibly inspect that this has been done; also, that the records requested by the complainant be provided. Dr. Reiss seconded.

VOICE VOTE: Motion carried 6-0.

The case was continued pending the outcome of the Investigator's visit.

R. Molly Finley, D.O. Case No. DO-15-0099A License No. 4457

Respondent was present and was sworn in by the court reporter. The Executive Director reviewed the case. The complaint alleged failure to provide prescriptions for continuation of care. Respondent answered the Board's questions. The medical record showed a member of the practice's staff documented prescriptions were called in and contacted the patient. This staff member quit a week after this documentation. Respondent contacted the pharmacy after receiving the complaint and learned that the prescription was never called in. Respondent stated the patient did not follow through on the referral to a specialist and the Respondent judged the other medications the patient wanted were un-safe to prescribe due to the patient's prior medical history.

After discussion and consideration, the Board determined there was no statutory violation.

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

VOICE VOTE: Motion carried 6-0.

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).

There were no items on the agenda.

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. Michael Lacaze, D.O. Case No. DO-15-0195A Application No.: 006806

Dr. Lacaze was present. The Executive Director reviewed the application. Dr. Lacaze had answered “no” on the license application regarding adverse action during residency training but the verification received from the program indicated otherwise. Dr. Lacaze answered the Board’s questions.

Dr. Reiss moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Erbstoesser seconded. The Board entered Executive Session with Dr. Lacaze at 4:47 p.m. and returned to Open Session at 4:57 p.m.

Dr. Reiss moved for Executive Session for the purpose of legal advice. Mr. Landau seconded. The Board entered Executive Session at 4:57 p.m. and returned to Open Session at 5:04 p.m.

MOTION: Dr. Reiss moved to have Respondent obtain a psychiatric evaluation for fitness for duty to practice by a psychiatrist approved by the Executive Director.

VOICE VOTE: Motion carried 6-0.

- B. Neil Patel, D.O. Case No. DO-15-0212A Application No.: 006733

Dr. Patel was not present. This application review was continued.

- C. Nick Gabriel, D.O. Case No. DO-15-0220A Application No.: 006810

Dr. Gabriel was present. The Executive Director reviewed the application. Dr. Gabriel had answered “yes” regarding medical malpractice claim/suits settled or pending. Dr. Gabriel answered the Board’s questions.

MOTION: Dr. Sabeeh moved to approve the license application. Dr. Reiss seconded.

VOICE VOTE: Motion carried 6-0.

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 of information in compliance with statutory requirements. There were 63 cases dismissed between September 9, 2015 and October 14, 2015. The Board has resolved 86 cases in an average of 242 days.

- B. President & Board Member reports

Dr. Steingard reported the National Board of Medical Examiners (NBME) is phasing out the SPEX exam. The osteopathic equivalent of the SPEX exam is the CONVEX exam administered by the National Board of Osteopathic Medical Examiners (NBOME).

Dr. Steingard reported medical school applicants are up and there are more medical school slots, but residency program slots have not risen by the same margin.

Mr. Landau, who serves on the FSMB Board of Directors, reported regarding points of discussion at the FSMB’s meeting in July. The FSMB Board is considering adding a formal curriculum during medical school on how to sit on Boards. The Arizona Board of Osteopathic Examiners is the first Board in the U.S. to have medical students

attend Board meetings as an important part of their education. The Board briefly discussed implementing changes to make the students' attendance more meaningful.

C. Executive Director Report

1. Financial Report

Ms. Jones reported that the financial report is inaccurate at this time due to the State's change to a new accounting system. The change has required a learning curve and CSB's reports are delayed.

2. Other News, Current events

Ms. Jones reported the pending number of open investigations is at its lowest point in three years.

The Board's next meeting dates are November 21, 2015, January 23, 2016 and February 22, 2016.

3. Legislation update

Mr. Landau also reported the Interstate Compact, a fast-track mechanism to achieve licensure in another state, remains a point of ongoing discussion.

Ms. Jones reported that Arizona State Senator Barto is holding meetings to discuss universal changes regarding licensing Boards. The Governor's office is reviewing consolidation of Boards.

Mr. Landau reported meeting with Representative David Schweikert, Senator John McCain and Senator Jeff Flake to discuss the federal telemedicine act bill which would allow physicians to treat patients in a state in which they hold no license. There is concern that if the legislation passes, it could leave patients treated by an out of state doctor with no recourse for complaints.

4. Sunset Audit update

The Board welcomed the auditors for the Board's sunset review.

D. Board member training – OSPB, JLBC, Open Meeting Laws

This was not discussed.

10. ADJOURNMENT

The Board adjourned at 5:30 p.m.