



Governor
Douglas A. Ducey

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

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Board Members

Douglas Cunningham, D.O., Pres.
Jerry G. Landau, J.D., V.P.
Gary A. Erbstoesser, D.O.
Martin Reiss, D.O.
Lew Riggs, Ed.D.
Vas Sabeeh, D.O.
Scott A. Steingard, 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, October 8, 2016

BOARD MEMBERS PRESENT: Douglas Cunningham, D.O. President
Gary A. Erbstoesser, D.O.
Martin Reiss, D.O.
Lew Riggs, Ed.D.
Scott A. Steingard, D.O.

BOARD MEMBERS ABSENT: Jerry G. Landau, J.D., Vice-President
Vas Sabeeh, D.O.

STAFF / OTHERS PRESENT: Jenna Jones, Executive Director
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Kathy Fowkes, Licensing Administrator
Jeanne Galvin, Assistant Attorney General
Cindy Bachman, RPR, Ottmar & Associates

1. CALL TO ORDER

Dr. Douglas Cunningham, 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. Five (5) board members were present, establishing quorum for the meeting. The Executive Director reviewed the agenda.

3. CALL TO THE PUBLIC

- A. Dr. Cunningham 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. In addition, one student from Kansas City University was also in attendance.
- 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

A. September 24, 2016 Open Session

Dr. Erbstoesser was recused.

MOTION: Mr. Riggs moved to approve the minutes. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

B. September 24, 2016 Executive Session

Dr. Erbstoesser was recused.

MOTION: Dr. Steingard moved to approve the minutes. Mr. Riggs seconded.

VOICE VOTE: The motion carried unanimously.

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

A. Victor Kissil, D.O.	Case No. DO-15-0146A	License No. 3735
B. Victor Kissil, D.O.	Case No. DO-16-0045A	License No. 3735
C. Victor Kissil, D.O.	Case No. DO-16-0055A	License No. 3735

The above cases were resolved together.

Dr. Kissil was present and was sworn in by the court reporter. The Medical Consultant reviewed case no. DO-15-0146A. A medical malpractice settlement was reported to the Board which alleged failure to monitor and failure to identify fetal distress which resulted in fetal demise. Dr. Kissil answered the Board's questions.

Dr. Reiss moved to enter Executive Session to obtain legal advice. Dr. Steingard seconded. The Board entered Executive Session at 8:48 a.m. and returned to Open Session at 8:54 a.m.

Dr. Kissil continued to answer the Board's questions. The Board expressed concern that Dr. Kissil's fundal height measurements were inaccurate, his medical records were illegible, and he failed to do ultrasounds when warranted.

The Medical Consultant reviewed case no. DO-16-0045A. The complaint alleged an inappropriate hug while patient was undressed. Dr. Kissil admitted to giving the patient a hug while patient was fully dressed and in the hallway. Dr. Kissil answered the Board's questions. The Board expressed concern regarding Dr. Kissil's understanding of boundaries with patients.

The Medical Consultant reviewed case no. DO-16-0055A. The complaint alleged inappropriate hugs and a two-hour appointment when the patient made it clear she had only one hour available. Dr. Kissil admitted to giving a hug. The Board expressed concern that Dr. Kissil was failing to recognize social cues, following appropriate time constraints and crossing boundary lines.

Dr. Reiss moved to enter Executive Session to obtain legal advice. Dr. Steingard seconded. The Board entered Executive Session at 9:29 a.m. and returned to Open Session at 9:38 a.m.

MOTION: Dr. Steingard moved for a Consent Agreement for violation of A.R.S. § 32-1854(6), (21) and (38) for failure to recognize intrauterine growth retardation, failure to maintain legible and adequate medical records, and failure to maintain proper boundaries.

The Consent Agreement is to include the following to be instituted immediately:

- Policy of no hugging of patients at any time;
- Chaperone is to be present at all times with female patients;
- Ultrasounds to be ordered at appropriate intervals;

And to include the following, to be started within six months and completed in 12 months:

- 10 hours live CME each in the areas of boundary issues, medical record keeping and intrauterine growth retardation;
- Institution of electronic medical records system; and
- Cognitive behavioral therapy evaluation and treatment by a therapist approved by Executive Director with quarterly reports sent to the Board.

Mr. Riggs 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

The Board recessed for a short break at 9:56 a.m. and returned to Open Session at 10:08 a.m.

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

Dr. Olshan was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged failure to follow up on test results and patient abandonment. Dr. Olshan answered the Board's questions. The Board expressed concern regarding Dr. Olshan's ability to communicate with patients while practicing out of his home with no staff.

The Complainant was present via phone, was sworn in by the court reporter and answered the Board's questions.

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. Olshan at 9:35 a.m. and returned to Open Session at 10:29 a.m.

MOTION: Dr. Cunningham moved for a Consent Agreement as per discussion in Executive Session including a temporary restriction of practice and inspection of premises; if the Consent Agreement is unsigned after three business days, the agreement will convert to a Board Order. Dr. Steingard 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

The Board recessed for a short break at 11:10 a.m. and returned to Open Session at 11:17 a.m.

E. Christina Goldstein-Charbonneau, D.O. Case No. DO-16-0011A License No. 3675

Dr. Goldstein-Charbonneau was present with attorney Rick Delo and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged incorrect information in a medical record. Dr. Goldstein-Charbonneau answered the Board's questions. After discussion and consideration, the Board determined there was no statutory violation.

MOTION: Dr. Steingard moved for **DISMISSAL**. Dr. Reiss 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

F. John Dumbolton, D.O. (CONTINUED) Case No. DO-14-0301A License No. 3568

G. Michael Vergason, D.O. Case No. DO-15-0274A License No. 006113

Dr. Vergason was present with attorney Margaret Dean and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint alleged failure to notify the patient of lab results in a timely manner. Dr. Vergason answered the Board’s questions. After discussion and consideration, the Board determined there was no statutory violation.

MOTION: Dr. Reiss moved for **DISMISSAL**. Mr. Riggs 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	4		X	X		X	X	
NO	1	X						
ABSTAIN/RECUSE	0							
ABSENT	2				X			X

H. Janis Saunders, D.O. Case No. DO-15-0285A License No. 4591

Dr. Saunders was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. The complaint was filed by a pharmacist and alleged overprescribing of methadone. Dr. Saunders stated she did not review the medical record.

The Board continued the case.

MOTION: Dr. Steingard directed staff to open a case against Tiffany Nunnelley, DO for prescribing methadone to this patient. Dr. Cunningham seconded.

VOICE VOTE: The motion carried unanimously.

6. REVIEW, DISCUSSION AND POSSIBLE SUMMARY SUSPENSION OF LICENSE

A. Janis Saunders, D.O. Case No. DO-15-0285A License No. 4591

This case was heard under agenda item number 5-H.

7. BOARD MAY REVIEW, DISCUSS AND MAKE DECISION TO ACCEPT JURISDICTION OR REFER COMPLAINT REGARDING RICK SHACKET, DO, TO THE ARIZONA HOMEOPATHIC BOARD.

A. Rick Alan Shacket, DO DO-16-0137A License No. 4257

The Executive Director reported no new information has been received from the Homeopathic Board. This case was continued.

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

- A. Board may review, discuss and take action on FSMB Survey.

The Board reviewed and answered the questions. Ms. Jones will submit the form to the FSMB.

- B. Board may review, discuss and take action on proposed relocation plan.

This item was not discussed.

12. ADJOURNMENT

The meeting adjourned at 12:35 p.m.

DRAFT