



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.
Jonathan A. Maitem, D.O.
Martin Reiss, D.O.
Christopher Spiekerman, D.O.

Interim Executive Director
Rachel Shepherd

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

Saturday, March 24, 2018

BOARD MEMBERS PRESENT:

Douglas Cunningham, D.O. President
Jerry G. Landau, J.D., Vice-President
Gary A. Erbstoesser, DO
Jonathan A. Maitem, D.O.
Martin Reiss, D.O.
Christopher Spiekerman, D.O.

STAFF / OTHERS PRESENT:

Rachel Shepherd, Interim Executive Director/Investigations Manager
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Jenny Webb, Interim Licensing Administrator
Jeanne Galvin, Assistant Attorney General
Lauren Kuhnhenh, CVR, Ottmar & Associates (a.m.)
Deborah Mitchell, RPR, Ottmar & Associates (p.m.)

1. CALL TO ORDER

Dr. Douglas Cunningham, Board President, called the meeting to order at 8:05 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Interim Executive Director took the Roll. Six (6) board members were present, establishing quorum for the meeting.

3. CALL TO THE PUBLIC

Dr. Cunningham read the Board's mission statement: "The mission of the Board is to protect the public by setting educational and training standards for licensure, and by reviewing complaints made against osteopathic physicians, interns, and residents to ensure that their conduct meets the standards of the profession, as defined in law (A.R.S. § 32-1854)."

- 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. Dr. Cunningham also recognized the staff.
- B. If any member of the public who is not a respondent/licensee or applicant or complainant wishes to address the Board on a matter that appears on the agenda, you will be asked to speak during the Call to the Public. If you want to address the Board on an issue not on the agenda, you will also be asked to speak during the Call to the Public. All those wishing to speak should fill out a speaker form and give it to a staff member.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

- A. February 24, 2018 Open Session

MOTION: Mr. Landau moved to approve the minutes. Dr. Reiss seconded.
VOICE VOTE: Motion carried unanimously.

B. February 24, 2018 Executive Session

MOTION: Mr. Landau moved to approve the minutes. Dr. Reiss seconded.
VOICE VOTE: Motion carried unanimously.

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

A. Ryan Felix, DO DO-17-0059 License No. 005427

The Respondent was not present. After discussion and consideration, the Board determined there was no statutory violation.

MOTION: Dr. Erbstoesser moved for dismissal. Dr. Spiekerman seconded.
VOICE VOTE: The motion carried unanimously.

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

A. Elizabeth Tucker DO-17-0099A License No.4787

The Respondent was present and was sworn in by the court reporter. At the request of the Board, the Respondent stated her education and training. The Medical Consultant reviewed the outside medical consultant's review. The case was opened after receiving notice of a medical malpractice settlement.

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

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

B. Micaela Becerra Felix DO-17-0173A License No. 4770

The Respondent was present with attorney Mr. Norm Keyt and was sworn in by the court reporter. Mr. Landau disclosed that he and Mr. Keyt had worked together previously at the Maricopa County Attorney's Office but there was no conflict. The attorney requested an executive session due to the nature of the case, the Assistant Attorney General, Jeanne Galvin, stated there is no basis for an executive session. The Investigator reviewed the case. The Respondent and her attorney provided a statement. The complaint alleged a misdemeanor charge for assault for domestic violence and disorderly conduct.

Respondent disclosed that she had completed 26 weeks of a diversion program for domestic violence. Respondent answered the Board's questions.

MOTION: Dr. Reiss moved for dismissal. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

C. Kenneth Dudley Locke, DO DO-17-0104A License No. 3072

The Respondent was present and was sworn in by the court reporter. The Medical Consultant reviewed the outside medical consultant's review. The complaint was opened after receiving notice of a medical malpractice settlement. The complaint alleged failure to diagnose & treat. The Board expressed compassion for the patient but acknowledged that Dr. Locke's evaluation and treatment met the standard of care.

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

MOTION: Dr. Erbstoesser moved for dismissal. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

D. Patricia Elise Gabriel, DO DO-17-0168A License No. 3144

The Respondent was not present. The complaint alleged failure to provide medical records to a patient. Staff has attempted to contact Respondent without success. Her office is closed down and patients have not been able to contact her. Her license is renewal deficient pending CME audit completion.

Board directed staff to:

1. Place the matter on the May 19, 2018 agenda for the determination as to the renewal of her license.
2. Attempt to notify the Respondent of the May agenda.
3. Notify Yuma Police Department to check home and practice addresses.

Set this matter for two (2) separate agenda items on the May 19, 2018 agenda.

E. Matthew Rae Salmon, DO DO-17-0161A License No. 006786

The Respondent was present telephonically and was sworn in by the court reporter. The Investigator reviewed the case. The complaint came from a pharmacist whom received a prescription that looked suspicious. Respondent confirmed he prescribed to a friend. The Board was concerned the Respondent gave a 90 day prescription, did not complete a physical exam and there were no medical records.

The Board discussed the case with the Respondent.

MOTION: Mr. Landau motioned for a non-disciplinary Letter of Concern for not following protocol in writing a prescription. Dr. Reiss seconded.

ROLL CALL VOTE: The motion carried 5-1.

	Vote	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Maitem	Dr. Reiss	Dr. Spiekerman
YES		X	X	X	X	X	
NO							X
ABSTAIN/RECUSE							
ABSENT							

F. Brooke Blumetti, DO DO-17-0239A License No. 005682

The Respondent was present with attorney Mr. Steve Myers and was sworn in by the court reporter. The Investigator reviewed the case. Dr. Blumetti's attorney and Dr. Blumetti made a statement to the Board. The complaint alleged accepting controlled substance prescriptions from her husband (Dr. Kevin McKeown).

Dr. Cunningham moved to enter Executive Session to obtain legal advice. Mr. Landau seconded. The Board entered Executive Session at 10:30 a.m. and returned to Open Session at 10:40 a.m.

Dr. Cunningham moved to enter Executive Session to review confidential medical information with Respondent. Mr. Landau seconded. The Board entered Executive Session at 10:40 a.m. and returned to Open Session at 10:50 a.m.

MOTION: Dr. Cunningham motioned for a non-disciplinary Letter of Concern for obtaining a prescription from a family member. Mr. Landau seconded.

VOICE VOTE: The motion carried unanimously.

The Board completed Agenda Item 8A, then recessed for lunch at Noon and returned to Open Session at 1:00 p.m. with Item 9-C.

Cases will be called after 1:00 p.m.

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

G. J. Carvel Jackson, DO DO-17-0100A License No. 2543

Continued

H. J. Carvel Jackson, DO DO-17-0070A License No. 2543

Continued

I. J. Carvel Jackson, DO DO-17-0065A License No. 2543

Continued

J. James Keane, DO DO-17-0152A License No. 005331

The Respondent was present with attorney Mr. Dan Cavitt and was sworn in by the court reporter. Dr. Cunningham disclosed that he knew Mr. Cavitt but there was no conflict. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the case. The complaint alleged failure to diagnose a DVT.

The Respondent and his attorney made a statement. The Respondent saw the patient for acute left ankle swelling and pain. The patient was compliant with his medications and he was planning to have a left knee replacement, he continued an active lifestyle. Respondent's initial finding was likely trauma or injury to the patient's Achilles tendon without the patient knowing. Respondent ordered imaging for "extremity ultrasound left" and assumed the technician would ultrasound the whole leg.

The Board discussed the case with the Respondent.

MOTION: Dr. Erbstoesser moved for a non-disciplinary Letter of Concern for failure to diagnose a DVT. Mr. Landau seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Maitem	Dr. Reiss	Dr. Spiekerman
YES		X	X	X	X	X	X
NO							
ABSTAIN/RECUSE							
ABSENT							

K. Harry Watters, DO DO-17-0010A License No. 1927

The Respondent was present and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the outside medical consultant's review. The complaint came resulted from a malpractice settlement for alleged negligent laparoscopy with bowel perforation and subsequent sepsis, bacteremia, respiratory failure and additional surgery.

The Respondent stated that he saw the patient when she returned to the hospital, subsequent to the 4th of July weekend before he went out of town. His partner Dr. Lee and a consulting physician, Dr. Galitsky, assumed care of the patient. Dr. Galitsky determined that the patient needed to return to surgery but failed to take the patient to surgery until July 6th. The Respondent settled the malpractice suit with the patient as he felt she had suffered enough.

MOTION: Dr. Cunnginham motioned to refer the case to the Arizona Medical Board for delay in surgical care by Dr. Galitsky Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Dr. Erbstoesser moved to dismiss. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

Board recessed for a short break at 2:00 p.m. and returned to Open Session at 2:07 p.m.

L. Ronald Bitza, DO DO-16-0170A License No. 1370

The Respondent was present and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Investigator reviewed the case. The complaint alleged sexual misconduct with a patient. The Respondent answered the Board's questions. The Respondent has requested his practice restrictions be lifted due to insurance concerns.

Respondent discharged the patient then postdated prescription refills for 6 months for her. He then had an affair with her 8 months later. The Board stated writing prescriptions for 6 months is considered care of patient. There was also no formal discharge letter.

The Respondent performed a Mock Patient History & Physical during the PACE evaluation. Case number 8 on the PACE report stated that the Respondent did a pelvic exam, but the Respondent stated he did not do a pelvic exam.

The Board tabled the matter for clarification from PACE about the mock case scenarios.

M. Ronald Bitza, DO DO-17-0177A License No. 1370

The Respondent is still under oath. The Investigator reviewed the case. The Respondent self-reported DUI charges. The Board discussed the case with the Respondent.

The Respondent answered the Board's questions.

Mr. Landau stated to keep the practice restrictions in place, clarify PACE report and have Respondent report to the next Board meeting on May 19, 2018.

Dr. Reiss moved to enter Executive Session with Respondent for Medical information. Mr. Landau seconded. The Board entered Executive Session at 2:38 p.m. and returned to Open Session at 2:41 p.m.

The matter was tabled to the May 19, 2018 meeting.

8. 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. Kevin McKeown, DO DO-17-0066A License No. 005863

The Respondent was present with attorney Mr. Steven Myers. The Medical Consultant reported that the complaint was initiated because the Respondent wrote prescriptions for family members and used another physicians DEA number to write prescriptions for himself. He is requesting his suspension be lifted early so that he can sit for the board examination in Emergency Medicine in May.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Reiss seconded. The Board entered Executive Session at 11:42 a.m. and returned to Open Session at 11:45 a.m.

MOTION: Dr. Cunningham moved to lift the suspension and reinstate his license with an immediate effective date so Respondent can take the Boards on May 8th. Dr. Spiekerman seconded.

The Board had discussions with the Respondent.

ROLL CALL VOTE: The motion failed 3-3, suspension remains in place.

	Vote	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Maitem	Dr. Reiss	Dr. Spiekerman
YES		X	X				X
NO				X	X	X	
ABSTAIN/RECUSE							
ABSENT							

There is no April Board Meeting, therefore Respondent may request a teleconference in April with the Board after completion of his Board Order, dated October 20, 2017, 6 months from the day of suspension.

B. William Scott Harvey, DO DO-15-0196A License No. 006072

The Respondent was present with attorney Steven Myers and was sworn in by the court reporter. The Investigator reviewed the case. This case originated when Lake Havasu City Police Department contacted the Arizona Osteopathic Board staff to advise them of a domestic violence incident with Respondent. Respondent was incarcerated for 30 days and was unable to comply with the Board Order time frames. Attorney, Mr. Myers, is requesting an additional 60 day extension.

Respondent made a statement. The Board discussed the case with the Respondent. The Board determined that the Respondent has not made any efforts to comply with the Board Order issued in October 2017.

MOTION: Mr. Landau made a motion for Respondent to set Psychiatric, Physical and Substance Abuse evaluations within 15 days from the date of this board meeting and complete the exams within 60 days. Respondent shall schedule appointments with PACE & CPEP within 30 days of today's date. Dr. Spiekerman seconded.

If exams cannot be completed Respondent/Attorney shall inform Ms. Shepherd, Interim Executive Director.

VOICE VOTE: The motion carried unanimously.

Respondent to return to the June Board meeting for an update.

C. Travis Clark Stiegler, DO DO-12-0141A License No. 005517

The Respondent was present. The Medical Consultant reviewed the case and is compliant with the Board order. Respondent is requesting termination of his Board order.

The Applicant answered the Board's questions.

MOTION: Dr. Reiss moved to terminate probation. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

Correction made to case number: DO-14-0317A to DO-12-0141A

D. Jodi K. Novak, DO DO-12-0159A License No. 3620

The Respondent was present. The Medical Consultant reviewed the case and is compliant with the Board order. Respondent is requesting termination of her Board order.

The Applicant answered the Board's questions.

MOTION: Dr. Spiekerman moved to terminate probation. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

9. **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. Christopher Michael Quinn DO-17-0307A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed two (2) yes answers under the professional conduct portion of the application. The applicant failed to report prescribing of controlled substances 2, 3, and 5 to the Michigan automated system which resulted in a Board action by the Michigan and Illinois Medical Boards. Additionally, a medical malpractice settlement was filed on his behalf in 2012 for alleged failure to diagnose Acute Coronary Syndrome.

The Applicant answered the Board's questions.

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

VOICE VOTE: The motion carried unanimously.

B. Veronika Jean Ruston DO-18-0009A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed yes answers under the professional conduct portion of the application.

Mr. Landau moved to enter Executive Session to discuss medical information with the applicant. Dr. Spiekerman seconded. The Board entered Executive Session at 8:40 a.m. and returned to Open Session at 9:20 a.m.

MOTION: Mr. Landau moved for a confidential agreement by consent as discussed in Executive Session. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

C. Landon Kyle Casaus DO-18-0024A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed yes answers under the professional conduct portion of the application. The Respondent was arrested for possession of marijuana. Respondent satisfied orders of the clerk.

The Applicant answered the Board's questions.

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

VOICE VOTE: The motion carried unanimously.

D. Ann Brown McCombs DO-18-0010A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed a yes answer under the professional conduct portion of the application. The Respondent had a board action from Washington State for allowing her employee, a PA, to practice without a renewed license and for false advertising.

The Applicant answered the Board's questions.

Dr. Reiss moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 11:20 a.m. and returned to Open Session at 11:21 a.m.

MOTION: Dr. Spiekerman moved to approve the license application. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

E. Naciketa Rath DO-18-0023A License No. n/a

Continued.

10. REVIEW, DISCUSSION AND ACTION ON THE FOLLOWING MISC ITEMS.

- A. Review Discussion and Action on Request for Extension of Time to Comply with CME Requirement
Zachary Bair, DO, License No. 00524
Benjamin Richardson, DO License No. 00665

MOTION: Mr. Landau motioned to approve CME Extension. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

- B. Review, Discussion and Action on Request for Retired Status.
Jill Zweig, DO, License No. 2550

MOTION: Mr. Landau motioned to grant for Retired Status. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously with Dr. Reiss recused.

- C. Appearance by Steven Willis, DO for an update PGT Permit No. R2509

The Interim Executive Director reviewed the September 2017 case, the Respondent was charged with a DUI. The Respondent updated the Board on his status and answered the Board's questions.

- D. Review, Consideration and Possible Action relating to correspondence from attorney Carlo Mercaldo Re: Richard Solyn, DO and decision whether to accept jurisdiction.

MOTION: Mr. Landau motioned to take no action. Dr. Spiekerman seconded

VOICE VOTE: The motion carried unanimously.

11. **QUESTION AND ANSWER SESSION BETWEEN THE MEDICAL STUDENTS AND MEMBERS OF THE BOARD AND DISCUSSION RELATING TO ISSUES SURROUNDING THE PRACTICE OF OSTEOPATHIC MEDICINE.**

12. **REVIEW, CONSIDERATION AND ACTION ON REPORTS FROM EXECUTIVE DIRECTOR, BOARD MEMBERS, and ASST ATTORNEY GENERAL**
 - A. Report on ED Dismissed Complaints
Ms. Shepherd was unable to provide an update due to technical computer issues.

 - B. President & Board Member reports
No reports were made.

 - C. Interim Executive Director Report
 1. Financial Report
Ms. Shepherd was unable to provide the Board with an update.

 2. Summary of Current Events that Affect the Board
The interim Executive Director informed the Board of the AOMA Conference. The Board agreed to change the May 12, 2018 meeting to May 19, 2018.

 3. Legislation Update
Mr. Landau provided a legislation update.

 - D. Dr. Scott Steingard gave an update on the AAOE Conference he attended in January.

 - E. Mr. Pete Wertheim, AOMA Executive Director, spoke to the Board about Senate Bill 1001, Arizona Opioid Epidemic Act beginning April 26, 2018. To help educate and communicate with doctors about this new law AOMA has provided a PowerPoint presentation on their website.

The Board agreed to move this matter to the May 19, 2018 Board meeting for further discussion and possible action. Interim Executive Director will send a mass email to all doctors about how to acquire 3 CME's for this new law.

13. ADJOURNMENT

The Board adjourned at 3:40 p.m.