



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, April 21, 2018

#### BOARD MEMBERS PRESENT:

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

#### ABSENT:

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

#### STAFF / OTHERS PRESENT:

Rachel Shepherd, Interim Executive Director/Investigations Manager  
Jenny Webb, Interim Licensing Administrator  
Jeanne Galvin, Assistant Attorney General  
Cindy Bachman, CVR, Ottmar & Associates (a.m.)

### 1. CALL TO ORDER

Dr. Douglas Cunningham, Board President, called the meeting to order at 8:09 a.m.

### 2. ROLL CALL AND REVIEW OF AGENDA

The Interim Executive Director took the Roll. Four (4) board members were present, establishing a quorum for the meeting.

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)."

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

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

The Respondent was present and was sworn in by the court reporter. The Respondent made a statement thanking the Board for the hearing. The Interim Executive Director reviewed the case. The complaint alleged sexual misconduct with a patient.

Mr. Landau moved to enter Executive Session with the Respondent for medical information. Dr. Reiss seconded. The Board entered Executive Session at 8:15 a.m. and returned to Open Session at 8:20 a.m.

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 Board has concerns about the Respondent's judgement about writing prescriptions and having a relationship with a patient. The Board is also concerned with the Respondent prescribing Adderall, Diazepam and Norco, Percocet which are all controlled substances.

The Respondent answered the Board’s questions.

Dr. Cunningham moved to enter Executive Session to obtain legal advice. Dr. Reiss seconded. The Board entered Executive Session at 8:31 a.m. and returned to Open Session at 8:35 a.m.

The Respondent stated he does not want to write prescriptions for controlled drugs, he would like his restriction lifted to reinstate insurance. The Respondent has requested his practice restrictions be lifted so that insurance companies may reconsider a reinstatement of insurance for him.

**MOTION:** Dr. Cunningham motioned for a Decree of Censure for an inappropriate sexual relationship with a patient. The Respondent is required to have a chaperone present at all times with female patients. Respondent is required to complete 20 hours of CME for in-person boundary training, to be completed within 6 months. The Respondent should have his MA in the room and the MA will sign off on a log that will be presented to the Board quarterly, for 12 months. Mr. Landau seconded.

**ROLL CALL VOTE:** The motion carried 4-0.

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

The Board agreed to lift the restrictions imposed by the Board Order dated July 24, 2017.

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

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

The Respondent answered the Board’s questions.

**MOTION:** Mr. Landau moved for a Letter of Concern for the DUI. Dr. Cunningham seconded.

**ROLL CALL VOTE:** The motion carried 4-0.

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

**4. 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. Robert Milligan and Mr. Barry Mitchell and was sworn in by the court reporter. The Interim Executive Director reported that the complaint was initiated because the Respondent wrote prescriptions for himself and his wife using another physician’s DEA number. The Respondent’s attorney is requesting the suspension be lifted early so that his client can sit for the board examination in Emergency Medicine in May.

Attorney, Mr. Milligan, made a statement that if the suspension is still in place on May 8, 2018 his client will not be able to sit for the board examination and will lose his eligibility to be board certified in Emergency Medicine and this would derail his medical practice.

The Respondent’s criminal attorney, Mr. Barry Mitchell, made a statement before the Board.

The Respondent made a statement that he will accept what the Board decides, but would like suspension lifted to sit for the board examination.

**MOTION:** Dr. Cunningham moved to lift the suspension effective immediately. All other terms remain in place. Respondent is required to come before the Board at the tentative October 13, 2018 meeting for an update of his board examination and therapy sessions. Mr. Landau seconded.

**ROLL CALL VOTE:** The motion carried 4-0.

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

Board recessed for a short break at 9:30 a.m. and returned to Open Session at 9:40 a.m.

**5. CONDUCT INTERVIEWS FOR THE EXECUTIVE DIRECTOR POSITION.**

Candidates will be introduced and then interviews will be held in Executive Session.

A. Patrick Braatz

Dr. Cunningham moved to enter Executive Session for the purpose of conducting an interview for the Executive Director position. Mr. Landau seconded.

The Board entered Executive Session with the candidate at 9:40 a.m. and returned to Open Session at 10:10 a.m.

B. Amber Brake, JD, MHA, FACHE

Dr. Cunningham moved to enter Executive Session for the purpose of conducting an interview for the Executive Director position. Mr. Landau seconded.

The Board entered Executive Session with the candidate at 10:10 a.m. and returned to Open Session at 10:45 a.m.

C. Erin Cohen, J.D.

Dr. Cunningham moved to enter Executive Session for the purpose of conducting an interview for the Executive Director position. Mr. Landau seconded.

The Board entered Executive Session with the candidate at 10:50 a.m. and returned to Open Session at 11:13 a.m.

D. Jerome Przystup

Dr. Cunningham moved to enter Executive Session for the purpose of conducting an interview for the Executive Director position. Mr. Landau seconded.

The Board entered Executive Session with the candidate at 11:13 a.m. and returned to Open Session at 11:32 a.m.

E. Terry Mullins

Dr. Cunningham moved to enter Executive Session for the purpose of conducting an interview for the Executive Director position. Mr. Landau seconded.

The Board entered Executive Session with the candidate at 11:32 a.m. and returned to Open Session at 12:04 p.m.

F. Karol Schmidt, J.D., Ed D.

Mr. Landau moved to enter Executive Session for the purpose of conducting an interview for the Executive Director position. Dr. Cunningham seconded.

The Board entered Executive Session with the candidate at 12:04 p.m. and returned to Open Session at 12:30 p.m.

G. Leanna DeKing

The applicant did not appear for the interview.

**6. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION RELATING TO CONSIDERATION OF APPLICANTS FOR POSITION OF EXECUTIVE DIRECTOR AND POSSIBLE SELECTION OF THE SAME**

The Board entered Executive Session at 12:30 p.m. and returned to Open Session at 1:20 p.m.

**MOTION:** Dr. Cunningham moved to offer the position of Executive Director to the candidate as discussed in the Executive Session in accordance with the salary range. Mr. Landau seconded.

**VOICE VOTE:** The motion carried unanimously.

**MOTION:** Dr. Cunningham moved in the event that the first candidate does not accept the position; offer the second candidate the position of Executive Director as discussed in the Executive Session in accordance with the salary range. Mr. Landau seconded.

**VOICE VOTE:** The motion carried unanimously.

**7. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION RELATING TO SUBSTANTIVE POLICY STATEMENT**

Arizona Opioid Epidemic Act requires a prescriber who is prescribing a patient more than 90 MMEs to consult with a physician who is Board Certified in Pain.

Board Staff have received questions on the meaning of Board Certified in Pain. The Board reviewed and discussed the proposed substantive policy.

**MOTION:** Mr. Landau moved to adopt the policy. Dr. Cunningham seconded.

**VOICE VOTE:** The motion carried unanimously.

The Board directed staff to publish the policy with the Secretary of State office and post the policy on the Board website.

## 8. **ADJOURNMENT**

The Board adjourned at 1:25 p.m.

DRAFT