



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.

Executive Director
Amber Brake, JD, MHA, FACHE

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

Saturday, June 23, 2018

BOARD MEMBERS PRESENT:

Douglas Cunningham, D.O. President
Jonathan A. Maitem, D.O.
Martin Reiss, D.O.
Gary A. Erbstoesser, DO

ABSENT:

Jerry G. Landau, J.D., Vice-President
Christopher Spiekerman, D.O.

STAFF / OTHERS PRESENT:

Amber Brake, JD, MHA, FACHE, Executive Director
Rachel Shepherd, Investigations Manager
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Sara Delgadillo, Investigative Admin. Assistant
Jeanne Galvin, Assistant Attorney General
Debra Mitchell, CVR, Ottmar & Associates (a.m.)
Robin Jasper, CVR, 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 Executive Director took the Roll. Four (4) 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. 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. April 21, 2018 Open Session
Tabled to August 11, 2018 meeting.
- B. April 21, 2018 Executive Session
Tabled to August 11, 2018 meeting.
- C. May 19, 2018 Open Session
Tabled to August 11, 2018 meeting.
- D. May 19, 2018 Executive Session
Tabled to August 11, 2018 meeting.

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

- A. Christopher Kevin Oros, DO DO-17-0012A License No.005369

The Respondent was present with attorney Stephen Myers 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 wherein Dr. Oros was charged with assault on a lead nurse while providing care to a patient. Dr. Oro's described the scenario as he remembered it. Discussion followed.

Though not required to do so, Dr. Oro's did a 2 ½ day Anger Management course through PACE/University of California San Diego. He also underwent counseling and has been seeing a psychiatrist.

MOTION: Dr. Erbstoesser moved to dismiss the case. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

- B. Michael David Flam, DO DO-17-0053A License No. 4243

The Respondent was present with attorney David Cohen 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 case. The complaint alleged Dr. Oros failed to follow up and follow through with diagnosis and care of a patient who later passed. The Respondent answered the Board's questions.

Dr. Flam gave a full review on his position with this case and also said he has taken steps to update his approach to any similar case situations. Discussion followed.

MOTION: Dr. Maitem motioned for dismissal. Dr. Reiss seconded.

ROLL CALL VOTE: The motion carried 3-1.

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

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

The Respondent was present with attorney Craig Morgan 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 Compliant alleged Dr. Jackson requested sums of money as compensation from Rehab, AZ, for using his credentials. The complaint also alleged inadequate supervision of Physician Assistants under his care.

Respondent gave a statement to the Board concerning the allegations against him. Respondent answered the Board's questions.

The following were the proposed violations of Arizona Revised Statutes 32-1854-6; 32-1854-14; 32-1854-26 & 32-1854-31.

MOTION: Dr. Cunningham moved to motion the proposed Arizona Revised Statutes violations. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously

MOTION: Dr. Cunningham moved to send the case to the Attorney General's office for possible criminal billing practices. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously

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

The Respondent received continued questioning from the board for the second out of three complaints brought against him. The Medical Consultant reviewed the case. The complaint alleged inadequate or no continuing supervision over physician assistants. cloned multiple patient office notes and poor treatment of patients.

Respondent gave a statement to the Board concerning the allegations against him. Respondent answered the Board's questions. Discussion followed.

The following were the proposed violations of Arizona Revised Statutes 32-1854-6; 32-1854-14; 32-1854-34 & 32-1854-38.

MOTION: Dr. Reiss moved to motion the proposed Arizona Revised Statutes violations. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously

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

The Respondent received continued questioning from the board for the third out of three complaints brought against him. The Medical Consultant reviewed the case. The complaint alleged Dr. Jackson of poor management of billing practices and standard of care.

Respondent gave a statement to the Board concerning the allegations against him. Respondent answered the Board's questions. Dr. Jackson gave his insight of the claims against him. Discussion followed.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 9:57 a.m. and returned to Open Session at 10:00 a.m.

Respondent's Attorney stated that Dr. Jackson has taken several CME courses.

The following were the proposed violations of Arizona Revised Statutes 32-1854-6; 32-1854-26 & 32-1854-34.

MOTION: Dr. Reiss moved to motion the proposed Arizona Revised Statutes violations. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously

The Board recommended to have Respondent attend a CPEP or PACE evaluation and a physical exam. He is to have the evaluation scheduled with the Executive Director within 30 days and completed within 90 days. The Investigative Hearing will be continued until the October meeting.

MOTION: Dr. Maitem moved to motion the proposed board recommendations to Respondent. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously

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

F. Joseph Stephen Machuzak, DO DO-17-0229A License No. 3753

The Respondent was present with attorney Jay A. Fradkin and sworn in by the court reporter. The board asked the doctor to give a summary of his educational background. The Investigator reviewed the complaint against Respondent regarding unprofessional sexual references in texts and speech with employees. Discussion followed.

MOTION: Dr. Reiss moved for Respondent to take ten (10) hours of non-disciplinary CME in professional boundaries and medical ethics, to be approved by Executive Director. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

G. Dennis Anthony Barraco, DO DO-17-0156A License No. 2099

The Respondent was present with attorney Steve Myers and sworn in by the court reporter. The board asked the doctor to provide his training background and the practice that he is in now. The Medical Consultant reviewed the complaint against the Respondent regarding patient's concern for Respondent's hostile attitude and over prescribing of opioids.

Respondent stated that his case was misunderstood. He has adjusted practicing standards and policies and no longer uses Fentanyl patches.

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

H. Westin Lorenzo Childs, DO DO-17-0190A License No. 3753

The Respondent was not present.

MOTION: Dr. Cunningham moved to have the case sent to formal hearing. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

I. Westin Lorenzo Childs, DO DO-17-0087A License No. 3753

The Respondent was not present.

MOTION: Dr. Cunningham moved to have the case sent to formal hearing. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

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. David Joshua Orringer, DO DO-11-0027A License No. 4568

The Respondent was present with attorney Bob Milligan. The Medical Consultant reviewed the case on Dr. Orringer's prescribing practices, his compliance with the Board order and what he has done to meet the standard of care.

Dr. Cunningham notes remarkable differences and hopes he stays on that path. Dr. Prah has valid concerns for the score of 4's on his chart reviews that are in the file and requested Dr. Orringer take a look at them.

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. Steven Scott Culley, DO DO-18-0061A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant was questioned on his DUI infraction, possible malpractice suit and issue with an attending doctor on a case.

The Applicant gave a synopsis of what was happening during this time in his life and how he changed his path to focus on his career and paid for his infraction.

Dr. Reiss moved to go to Executive Session, Dr. Cunningham seconded.

The Applicant spoke on the malpractice case, gave detail on unfolding of events. The Applicant gave detail on what occurred the evening with the attending doctor.

MOTION: Dr. Reis moved to motion for an unrestricted license. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously

B. Tyler Johnson, DO DO-18-0107A License No. n/a

The Respondent was present. The Executive Director presented the case. Dr. Johnson has two cases of DUI.

The Respondent explained previous situations, alcohol programs he has completed, counseling sessions and now decompresses with fitness.

MOTION: Dr. Reiss moved for temporary training license granted. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

C. Jacob Daniel Mace, DO DO-18-0096A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant was questioned on his underage possession of alcohol.

The Applicant gave detail on what occurred on the date that he was charged. He has had no other legal issues or drug related issues.

MOTION: Dr. Maitem moved to provide a post graduate training license. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously

D. Kolton Giles Fraser, DO DO-18-0108A License No. n/a

The Applicant was present. The Executive Director reviewed the license application. The Applicant was questioned on his fifteen citations of being arrested, charged and going through a program.

The Applicant explained the charges and events that were happening in the three year span that all these citations were issued. He has completely changed and currently attends church, does physical exercise and volunteers for his community.

MOTION: Dr. Reiss moved to provide a post graduate training license. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously

E. Amy Elizabeth Daliman, DO DO-18-0116A License No. n/a

The Applicant was present. The Executive Director reviewed the license application. The Applicant was questioned on previous DUI's and misdemeanor charges.

The Applicant explained the charges and his regrets. She has found her passion in cardiology and no longer drinks alcohol. She also now attends church, does meditation and physical exercise.

Dr. Cunningham moved to enter Executive Session for medical legal advice. Dr. Reiss seconded. The Board entered Executive Session at 11:29 a.m. and returned to Open Session at 11:35a.m.

Board asked Applicant to voluntarily appear in six months.

MOTION: Dr. Reiss moved to provide a full license. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously

9. REVIEW, CONSIDERATION AND ACTION ON MOTION TO DEEM ALLEGATIONS ADMITTED AND VACATE HEARING

A. Jerry Alan Olshan, DO DO-15-0054A License No. 1376

The Licensee was not present. Representing the State of Arizona was Attorney Jeanne Galvin. Calling in to advise the board was Attorney John Tellier.

Dr. Olshan did not comply with requirements set forth to retain his license.

The State recommended to adopt the motion to deem vacate the hearing. Deem the allegation admitted. Find the violation as set forth in the complainant notice of hearing and revoke the license of Dr. Olshan.

MOTION: Dr. Cunningham moved to grant the States recommendation. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Dr. Cunningham moved to motion to adopt the jurisdiction parties and factual allegations as findings of fact. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Dr. Cunningham moved to motion the charges of unprofessional conduct as conclusions of law. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Dr. Cunningham motion to the discipline, revocation of license. Dr. Reiss 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

10. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION RELATING TO EVALUATIONS ORDERED BY THE BOARD AND CLARIFICATION REGARDING THE SAME.

A. Veronica Jean Ruston, DO DO-18-0009A License No. n/a

The Applicant is not present.

Dr. Cunningham moved to enter Executive Session for clarification of previous health related issues.

MOTION: Dr. Cunningham moved to clarify the order to provide a physical, psychiatric and physiological evaluation. The time frame would be in or around November. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

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

A. Report from Executive Director

Ms. Blake reported that there were 17 cases from May 17, 2018 - June 11, 2017 and 19 cases resolved. Staff will be working on compliance cases to bring them up to a faster turn-around time. There are 165 pending complaints; 50 cases in compliance; 18 cases ready for 3 reviewer committee; 22 cases pending Investigative Hearing.

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

C. Executive Director Report

1. Financial Report

Ms. Blake provided the Board with an update. Purchases were made for staff furniture and clerical needs. Financials are still running behind, staff member out due to death in the family. We are working on being better advocates of customer service and getting through licensing back log. In the 2020 budget we are proposing for additional 3-FTE for staff and also asking for additional hours for Dr. Prah.

2. Summary of Current Events that Affect the Board

No matters were discussed.

3. Legislation Update

Ms. Blake sent out update to the Board.

D. Appearance by Lew Riggs, ED.D.

Dr. Riggs appeared before the Board and was presented with a plaque for recognition of his service to the public and community.

E. Update provided by Molly Finley, D.O.

Medical Consultant provided background on Dr. Finley and informed board that she has been compliant. Dr. Finley is currently in family practice and is doing great.

F. Review and Select Board Meeting Dates for the First Six Months of 2019.

This matter will be discussed at a future meeting.

G. Lisa Villarroel, MD, provided a presentation on The Arizona Pain and Addiction curriculum requesting the board to look at the curriculum as a stand alone document to allow a data waiver for doctors.

Dr. Cunningham called for Executive Session for legal advice on curriculum.

This matter was tabled to have time to look at it and get input from other members.

12. ADJOURNMENT

The Board adjourned at 2:40 p.m.