



Governor
Janice K. Brewer

**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.
Jon B. Fiegen, J.D.
Jerry G. Landau, J.D.
Martin Reiss, D.O.
Vas Sabeeh, D.O.
Michael P. Ward, D.O.

Executive Director
Jenna Jones

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

Saturday, June 22, 2013

BOARD MEMBERS PRESENT:

Scott Steingard, D.O., President
Douglas Cunningham, D.O., Vice President
Jon B. Fiegen, J.D.
Jerry G. Landau, J.D.
Martin Reiss, D.O.
Vas Sabeeh, D.O.
Michael P. Ward, D.O.

STAFF / OTHERS PRESENT:

Jenna Jones, Executive Director
Barbara Meyers, Deputy Director
Barbara Prah, D.O., Medical Consultant
Therese Hall, Business Manager
Jeanne Galvin, Assistant Attorney General
Deborah Mitchell, CVR, Ottmar & Associates

1. CALL TO ORDER

Board President Dr. Scott Steingard called the meeting to order at 8:03 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the roll. Seven 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.
- 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

May 18, 2013 Open Session

MOTION: Mr. Landau moved to approve the minutes. Dr. Cunningham seconded. Dr. Reiss and Dr. Ward abstained.

VOICE VOTE: Motion carried 5-0-2-0.

May 18, 2013 Executive Session

MOTION: Mr. Fiegen moved to approve the minutes. Dr. Cunningham seconded. Dr. Reiss and Dr. Ward abstained.

VOICE VOTE: Motion carried 5-0-2-0.

June 3, 2013 Open Session

MOTION: Dr. Cunningham moved to approve the minutes. Mr. Landau seconded. Dr. Reiss and Dr. Ward abstained.

VOICE VOTE: Motion carried 5-0-2-0.

5. REVIEW, CONSIDERATION AND ACTION ON REHEARING OR REVIEW OF DECISION

A. Mark Flood, DO Case No. DO-10-0096A License No. 4277

Dr. Flood was present with attorney Kevin Nicholas. Dr. Flood and his attorney answered the Board's questions.

MOTION: Mr. Fiegen moved to **DENY** the request for review, reconsideration or rehearing. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

6. REVIEW, DISCUSSION, AND ACTION ON CASE REVIEWS OF ALLEGATIONS OF UNPROFESSIONAL CONDUCT A.R.S. § 32-1855 (C through F).

Case Reviews

A. Edward Shapiro, DO Case No. DO-12-0118A License No. 2847

Dr. Shapiro was not present. The Board discussed the case.

MOTION: Dr. Ward moved for **DISMISSAL**. Dr. Cunningham seconded.

VOICE VOTE: Motion carried 7-0.

B. Mark Griswold, DO Case No. DO-12-0151A License No. 2799

Dr. Griswold was not present. The Board discussed the case.

MOTION: Dr. Ward moved for **DISMISSAL**. Dr. Reiss seconded.

ROLL CALL VOTE: Motion carried 6-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6	X	X		X	X	X	X
NO	1			X				
ABSTAIN/RECUSE	0							
ABSENT	0							

C. Salvatore LaCognata, DO Case No. DO-12-0005A License No. 3700

Dr. LaCognata was not present. The complainant was present. The medical consultant reviewed the case.

MOTION: Dr. Cunningham moved for an **Investigative Hearing**. Mr. Landau seconded.

ROLL CALL VOTE: Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

Reviews of Executive Director Dismissals:

A. Vincent Berkley, DO Case No. DO-12-0137A License No. 2776

Dr. Berkley and the complainant were present and addressed the Board. Dr. Berkley and the complainant answered the Board's questions.

MOTION: Dr. Ward moved to **uphold the Executive Director Dismissal**. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

The Board recessed at 9:25 a.m. The Board returned to Open Session at 9:37 a.m.

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

A. Merle Turner, DO Case No. DO-11-0024A License No. 1601

Dr. Turner was present and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Turner answered the Board’s questions.

MOTION: Mr. Landau moved to find a violation of A.R.S. §32-1854(34) for failing to supervise a physician assistant and for failure to know the outcome of the patient then to issue a Letter of Concern. Dr. Cunningham seconded. After discussion the motion and second were withdrawn.

MOTION: Dr. Cunningham moved for a **LETTER OF CONCERN** for failure to properly supervise a physician assistant. Dr. Ward seconded.

ROLL CALL VOTE: The Motion carried 6-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6	X	X		X	X	X	X
NO	1			X				
ABSTAIN/RECUSE	0							
ABSENT	0							

B. James Schlichting, DO Case No. DO-11-0143A License No. 2796

Dr. Schlichting was present with attorney Glynn Gilcrease and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Schlichting answered the Board’s questions.

MOTION: Dr. Ward moved for a finding of unprofessional conduct under the following:

A.R.S. §32-1854 (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.

A.R.S. §32-1854 (38) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

A.R.S. §32-1854 (42) Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this paragraph, "sexual conduct" includes:

- (a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.
- (b) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical conduct of a sexual nature.

And further, he moved the Findings of Fact include:

1. Dr. Schlichting had a romantic relationship with patient S.T. during the time she was a patient.
2. Dr. Schlichting failed to obtain a pharmacy audit on patient S.T.
3. Dr. Schlichting failed to act when he was notified by a Fry’s pharmacist that S.T. was using multiple pharmacies in October of 2010.
4. Dr. Schlichting failed to recognize signs of drug abuse and possible diversion.
5. Dr. Schlichting prescribed large amounts of controlled substances to patient S.T. during the months of December 2010, January 2011, February 2011 and March 2011.

Dr. Reiss seconded.

ROLL CALL VOTE: The Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

The Board entered into Executive Session for the review of records that are protected by law at 11:17 a.m. The Board returned to Open Session at 11:30 a.m.

MOTION: Dr. Ward moved for a **DECREE OF CENSURE**. In addition, the Board will accept the PACE Professional Boundaries Course that Dr. Schlichting completed in May 2012. Dr. Cunningham seconded.

Dr. Ward amended his motion to include that Dr. Schlichting will need to complete the PACE Prescribing Course within 6 months. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion carried 5-2.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	5	X	X		X	X		X
NO	2			X			X	
ABSTAIN/RECUSE	0							
ABSENT	0							

C. Drew Davenport, DO

Case No. DO-12-0085A

License No. 4679

Dr. Davenport was present and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Davenport answered the Board's questions.

MOTION: Dr. Cunningham moved for **DISMISSAL**. Dr. Sabeeh seconded.

ROLL CALL VOTE: The Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							

ABSTAIN/RECUSE	0							
ABSENT	0							

Case Nos. DO-11-0056A and DO-11-0073A were heard together.

D. Judith Solomon, DO Case No. DO-11-0056A License No. 3438

Dr. Solomon was present with attorney Jerry Gaffaney and was sworn in by the court reporter. The deputy director reviewed the case. Dr. Solomon and Mr. Gaffaney answered the Board’s questions.

MOTION: Dr. Ward moved for **DISMISSAL**. Dr. Reiss seconded.

VOICE VOTE: The motion carried 7-0.

E. Judith Solomon, DO Case No. DO-11-0073A License No. 3438

Dr. Solomon was present with attorney Jerry Gaffaney and was sworn in by the court reporter. The deputy director reviewed the case. Dr. Solomon and Mr. Gaffaney answered the Board’s questions.

MOTION: Dr. Ward moved for **DISMISSAL** Dr. Reiss seconded.

VOICE VOTE: The Motion carried 7-0.

F. Kenneth Dizon, DO Case No. DO-11-0153A License No. 4682

Dr. Dizon was present with attorney James Shields and was sworn in by the court reporter. The deputy director reviewed the case. Dr. Dizon and Mr. Shields answered the Board’s questions.

MOTION: Mr. Landau moved for a **LETTER OF CONCERN** for failure to keep appropriate medical records and for inappropriate prescribing. Dr. Cunningham seconded.

ROLL CALL VOTE: The Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

The Board recessed for lunch at 12:45 p.m. The Board returned to Open Session at 1:20 p.m.

Case Nos. DO-11-0159A&B were heard together. The medical consultant reviewed the cases.

G. Brent Korn, DO Case No. DO-11-0159A License No. 4328

Dr. Brent Korn was present with attorney David Williams and was sworn in by the court reporter. Dr. Korn and Mr. Williams answered the Board’s questions.

H. David Korn, DO Case No. DO-11-0159B License No. 3393

Dr. David Korn was present with attorney Kraig Marton and was sworn in by the court reporter. Dr. Korn and Mr. Marton answered the Board's questions.

The Board entered into Executive Session for legal advice at 2:18 p.m. The Board returned to Open Session at 2:30 p.m.

The Board directed staff to refer Case Nos. DO-11-0159 A&B to an outside medical consultant, an Infectious Disease expert, preferably a D.O., to review all of the diagnostic information. These cases were continued.

Case Nos. DO-09-0202A, DO-10-0118A, and DO-12-0153A. The medical consultant reviewed the cases.

I. David Korn, DO Case No. DO-09-0202A License No. 3393

Dr. Korn was present with attorney Kraig Marton and had been previously sworn in by the court reporter.

J. David Korn, DO Case No. DO-10-0118A License No. 3393

K. David Korn, DO Case No. DO-12-0153A License No. 3393

The Board entered into Executive Session for legal advice at 3:03 p.m. The Board returned to Open Session at 3:13 p.m.

MOTION: Dr. Ward moved that Dr. Korn undergo a neuropsychological evaluation to be completed by September 1, 2013 and that Case Nos. DO-09-0202A, DO-10-0118A, and DO-12-0153A be placed on the agenda for the September 21, 2013 Board meeting. Mr. Landau seconded.

ROLL CALL VOTE: The Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

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

AGENDA ITEMS IN THIS SHADED BLOCK ARE SCHEDULED TO BE CALLED AFTER THE SPECIFIED TIME. ALL OTHER AGENDA ITEMS MAY BE CALLED AT ANY TIME DURING THE MEETING.

L. Colleen Hunsaker, DO Case No. DO-12-0011A License No. 2843

Dr. Reiss was recused. Dr. Hunsaker was present with attorney Paul Forrest and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Hunsaker and Mr. Forrest answered the Board's questions.

MOTION: Dr. Ward moved to terminate the interim order and to issue a Letter of Concern for inappropriate prescribing of controlled substances. Dr. Cunningham seconded. The motion and second were withdrawn.

MOTION: Dr. Ward moved to terminate the interim order and for **DISMISSAL**. Dr. Cunningham seconded.

ROLL CALL VOTE: The Motion carried 6-0-1-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6	X	X	X	X		X	X
NO	0							
ABSTAIN/RECUSE	1					X		
ABSENT	0							

At 3:45 p.m. the Board recessed to speak with the medical students attending the meeting and to dismiss them. The Board returned to Open Session at 3:50 p.m.

M. Shawn Platt, DO Case No. DO-11-0165A License No. 3313

Dr. Platt was present and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Platt answered the Board's questions.

MOTION: Dr. Ward moved for a finding of unprofessional conduct under the following:

A.R.S. §32-1854 (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.

A.R.S. §32-1854 (38) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

And to find the following Findings of Fact:

- 1) Patient B.M. died of acute intoxication due to effects of methadone and morphine.
- 2) There was no pain management consult obtained (D.B., R.T., N.S., R.C., D.B., C.Y., H.H., J.W. and B.S.).
- 3) There was no pharmacy audit performed (D.B., N.S., C.R., R.C., C.S. and D.B.).
- 4) No old medical records were obtained (D.B., R.T. and R.C.).
- 5) The patient was receiving a large amount of opioid medication (R.T., N.S., R.C., C.S., J.A., C.Y., J.W., H.H., and B.S.).
- 6) There was no controlled substance contract signed by this patient (R.T., N.S., R.C. and D.B.).
- 7) The patient's urine drug screen was inconsistent with reported medications (C.R., V.S., S.V., R.C., C.Y., J.W., H.H. and B.S.).
- 8) These patients were not referred to any specialist, including a pain management specialist, in the three to four years they were given controlled substances (R.T., N.S., D.B., C.Y. and J.W.)
- 9) There was no orthopedic consult even though the patient was seen over a period of four years and his medications were refilled (C.S.)
- 10) There was no referral to an orthopedic surgeon or pain management specialist in the five years the patient was seen (B.S.).
- 11) The patient was involved in several MVAs and once (2008) it was thought by an emergency medicine physician the patient may be driving impaired (V.S.).
- 12) The patient showed significant signs of drug abuse and possible diversion in that his urine drug screen was inconsistent almost every time he had one drawn and he reported his medications lost or stolen on multiple occasions (C.Y.).
- 13) Dr. Platt wrote the patient a letter for permanent disability even though the patient had not had any recent MRI's or seen any specialist. His MRI performed in 2006 was negative. (H.H.)
- 14) Dr. Platt was using a short-acting medication for chronic pain (most).

Dr. Cunningham seconded.

ROLL CALL VOTE: The motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

MOTION: Dr. Ward moved to issue a **DECREE OF CENSURE** and a **two year probationary period**. During the term of probation Dr. Platt, as well as any allied health professional supervised by him, shall not prescribe any opioid analgesics (Schedule II, III, IV or V controlled substances) and shall not issue any medical marijuana certificates. In addition, he is to attend a pain management practice assessment to be scheduled within the next 45 days, to be approved by the executive director, and to be at the expense of the doctor. He is to be assessed a civil penalty of \$500.00 for each statute violation to be paid within 90 days.

Dr. Cunningham seconded.

ROLL CALL VOTE: The Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							

N. Blake Stamper, DO

Case No. DO-12-0027A

License No. 2533

Dr. Stamper was present with attorney Jay Fradkin and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Stamper answered the Board's questions.

MOTION: Dr. Cunningham moved for **DISMISSAL**. Dr. Ward seconded.

ROLL CALL VOTE: The Motion carried 7-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	7	X	X	X	X	X	X	X
NO	0							

ABSTAIN/RECUSE	0							
ABSENT	0							

O. Theron Tilgner, DO Case No. DO-10-0044A License No. 3501

Dr. Tilgner was present with attorney Jay Fradkin and was sworn in by the court reporter. The medical consultant reviewed the case. Dr. Tilgner answered the Board’s questions.

MOTION: Dr. Reiss moved for **DISMISSAL**. Dr. Cunningham seconded.

ROLL CALL VOTE: The Motion carried 6-0 -1-0

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	1	X						
ABSENT	0							

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. None

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 L. Johnson, DO Case No. DO-13-0104A Application No. 006170

Dr. Johnson was present and answered the Board’s questions. Dr. Cunningham recused himself.

MOTION: Dr. Reiss moved that Dr. Johnson complete the following: 1) Pass either the COMVEX or SPEX exam, 2) Find a preceptor to shadow in practice for a minimum of 20 hours per week for six months, and the Board strongly encouraged Dr. Johnson to complete his paperwork necessary for the surgical residency. Application tabled until the items are completed and the Board can evaluate prior to the application expiration of April 4, 2014.

ROLL CALL VOTE: Motion carried 5-0-1-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward

YES	5	X		X	X	X	X	
NO	0							
ABSTAIN/RECUSE	1		X					
ABSENT	1							X

B. Christopher Laseter, DO Case No. DO-13-0090A Application No. 00606
 Dr. Laseter was not present.

C. Robert Jeppson, DO Case No. DO-13-0115A LT1373 Application No. 006171
 Dr. Jeppson was present. The Executive Director reviewed the case.

The Board entered into Executive Session to discuss records exempt from public inspection at 6:30 p.m. The board returned to open session at 6:34 p.m.

MOTION: Dr. Cunningham moved to approve Dr. Jeppson for licensure. Mr. Landau seconded.
ROLL CALL VOTE: Motion carried 6-0-0-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6	X	X	X	X	X	X	
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0							X

10. REPORTS FROM EXECUTIVE DIRECTOR, BOARD MEMBERS, and ASST ATTORNEY GENERAL

- A. Report on ED Dismissed Complaints
 Ms. Jones reported that 10 cases were ED dismissed between May 14, 2013 and June 17, 2013.
 - B. President & Board Member reports
 None at this time.
 - C. Board may review, discuss and take action on continuing medication education (CME) audit results.
 Item not discussed.
 - D. Executive Director Report
 Ms. Jones provided a written update of information in the Board packet.
- A. Budget

- B. Rules
- C. Statutes

- E. Board may review, discuss and conduct performance review of Executive Director.
Dr. Steingard asked Ms. Jones to check with the Department of Administration to see if there are guidelines or standards regarding the evaluation as he believed the board had been criticized in the past for not having them.

11. ADJOURNMENT

The meeting adjourned at 6:45 p.m.

DRAFT