



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.
Mary Ann Picardo, 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, March 30, 2013

BOARD MEMBERS PRESENT:

Scott Steingard, D.O., President
Mary Ann Picardo, D.O.
Jon B. Fiegen, J.D.
Jerry G. Landau, J.D.
Michael P. Ward, D.O.
Vas N. Sabeeh, D.O.

BOARD MEMBERS ABSENT:

Douglas Cunningham, D.O., Vice President

STAFF / OTHERS PRESENT:

Jenna Jones, Executive Director
Barbara Meyers, Deputy Director
Therese Hall, Business Manager
Kathy Fowkes, Admin Asst II, Licensing Division
Sarah Selzer, Assistant Attorney General
Sheryl L. Henke, RPR & CCR, Ottmar & Associates

**OTHERS AVAILABLE
TELEPHONICALLY:**

Christopher Munns, Assistant Attorney General / Solicitor General Division

1. CALL TO ORDER

Board President Dr. Scott Steingard called the meeting to order at 8:06 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the roll. Six (6) 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, Kirksville College of Osteopathic Medicine, and School Osteopathic Medicine Arizona at A.T. Still 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. If you want to address the Board on an issue not on the agenda, you will be asked to speak prior to the adjournment. All people wishing to speak should fill out a speaker form and give it to a staff member.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

February 23, 2013 Open Session

MOTION: Mr. Landau moved to approve the minutes. Dr. Picardo seconded.
VOICE VOTE: Motion carried 6-0.

February 23, 2013 Executive Session

MOTION: Dr. Picardo moved to approve the minutes. Dr. Sabeeh seconded.
VOICE VOTE: Motion carried 6-0.

5. REVIEW, CONSIDERATION AND ACTION ON ADMINISTRATIVE HEARINGS PURSUANT TO A.R.S. 32-1855 (F) ONLY / AND MATTERS HEARD AT OFFICE OF ADMINISTRATIVE HEARINGS

A. E. Janet Greenwood Reid Case No. DO-11-0130A License No. 4728
 (DO-12A-DO-11-0130A-OST)

Dr. Greenwood Reid was not present. The Executive Director reviewed this case. Chris Munns, Assistant Attorney General (A.A.G.), was available by phone if needed for legal advice. Sarah Selzer, A.A.G., represented the State. Ms. Selzer recommended the Board adopt the Administrative Law Judge’s recommendation for revocation of licensure.

MOTION: Mr. Landau moved to adopt the Administrative Law Judge’s recommendation for **REVOCATION OF LICENSURE.** Mr. Fiegen seconded.

ROLL CALL VOTE: Motion carried 6-0.

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

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

Case Reviews

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

Dr. Flood was not present. Kevin Nicholas, attorney, was present as Dr. Flood’s representative. The Medical Consultant reviewed the case. The Board discussed the case and Mr. Nicholas answered the Board’s questions.

MOTION: Dr. Ward moved for Dismissal. The motion failed for lack of a second.

The Board further discussed the case.

MOTION: Dr. Sabeeh moved for **DISMISSAL** but to require 8 hours of non-disciplinary **CONTINUING MEDICAL EDUCATION** in the area of minimally invasive endoscopic cervical (spine) surgery to be completed within six months.

ROLL CALL VOTE: Motion carried 4 – 2.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Picardo	Mr. Fiegen	Dr. Ward	Mr. Landau	Dr. Sabeeh
YES	4			X	X	X		X
NO	2	X					X	
ABSTAIN/RECUSE	0							
ABSENT	0		X					

Reviews of Executive Director Dismissals:

A. None

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

A. Marvin Borsand, DO Case No. DO-11-0091A License No. 2261

Dr. Sabeeh recused himself from this case.

Dr. Borsand was present with attorney Paul Giancola and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Borsand answered the Board’s questions.

MOTION: Mr. Landau moved for **DISMISSAL**. Dr. Ward seconded.

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

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Picardo	Mr. Fiegen	Dr. Ward	Mr. Landau	Dr. Sabeeh
YES	5	X		X	X	X	X	
NO	0							
ABSTAIN/RECUSE	1							X
ABSENT	0		X					

B. Milton Wright, DO Case No. DO-11-0133A License No. 4166

Dr. Wright was present with attorney Scott King and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Wright answered the Board’s questions.

Board continued this case and directed staff to complete a 20-chart review of Dr. Wright's chronic pain patients.

The Board recessed for a short break at 9:45 a.m. and returned to open session at 10:06 a.m.

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

Dr. Orringer was present with attorney Michael L. Boreale and was sworn in by the court reporter. The Medical Consultant reviewed the case. The Executive Director reviewed the Consent Agreement and counter-offer by Mr. Boreale. The Board discussed the case and the counter offer. The Board advised Dr. Orringer and Mr. Boreale that the counter offer would not be acceptable.

The Board entered Executive Session for legal advice at 10:24 a.m. and returned to Open Session at 10:42 a.m.

Dr. Orringer and Mr. Boreale answered the Board's questions.

MOTION: Mr. Landau moved for violations of 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, and 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, with the following Findings of Fact:

1. Patient A.T. was treated by Dr. Orringer in the office (urgent care) for dehydration with IV fluids on eight different occasions, sometimes requiring as much as five liters of normal saline. Further, patient A.T. was treated with Vitamin B12 IM on six different occasions, reportedly (by Dr. Orringer) for a macrocytic anemia. No electrolytes were checked pre or post hydration and no anemia workup was ever performed, including a B12 level.
2. Patient E.L. was treated for chronic back pain for thirteen months. During this time no studies of her back (the area of chief complaint) were ordered, no old medical records were reviewed, no controlled substance contract was signed and no urine drug screens were performed.
3. Patient J.C. was seen in Dr. Orringer's office multiple times from November 26, 2008 to August 21, 2012. He was inappropriately administered numerous doses of Solu-Medrol and was prescribed a large number of controlled substances without a pharmacy audit being conducted.
4. A review of patient charts and records of Dr. Orringer revealed a pattern of the following:
 - a. Patients received large quantities of controlled substances. (J. C., R.H.)
 - b. No pharmacy audit was performed on several patients. (J.C., A.S., H.S., B.S.)
 - c. Urine drug screens were not performed on several patients. (R.H., L.P., A.S., H.S., B.S.)
 - d. There was no controlled substance agreement signed for several patients. (A.S., H.S., B.S.)
 - e. There was no laboratory drawn on several patients. (L.P., A.S., H.S.)
 - f. None of the cosmetic patient charts included any history or physical exam documentation.
5. Dr. Orringer received a letter of concern from a health care agency regarding a patient's controlled substance use yet the medications were continued. (R.H.)
6. A patient was receiving controlled substances from other physicians yet the medications were continued by Dr. Orringer. (L.P.)

Dr. Picardo seconded.

ROLL CALL VOTE: Motion carried 6-0.

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

The Board entered Executive Session for legal advice at 11:56 a.m. and returned to Open Session at 12:05 a.m.

MOTION: Mr. Landau moved to amend the above findings of fact to include “Incorporated herein is the Center for Personalized Education for Physicians (CPEP) report dated November 8, 2012.” Dr. Picardo seconded.

ROLL CALL VOTE: Motion carried 6-0.

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

The Board deliberated further action. The Board asked Dr. Orringer and his counsel to consider entering a Consent Agreement and advise the Board after lunch of their decision.

The Board recessed for lunch at 12:46 p.m. and returned to open session at 1:34 p.m.

Mr. Boreale informed the Board of his client’s willingness to enter into a Consent Agreement requiring Dr. Orringer to obtain further training in a residency or residency-like setting. The Board continued this case until a Consent Agreement could be drafted which will be considered by the Board at a meeting by teleconference in the near future. Mr. Boreale advised they were willing to consider a voluntary practice restriction and he pursue a residency program in the Tucson or San Diego areas.

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

Dr. Korn was not present. The Executive Director reviewed status of this case concurrently with DO-10-0118A. Board directed staff to contact Dr. Korn’s counsel to discover why Dr. Korn was absent at the investigative hearing.

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

Dr. Korn was not present. The status of this case was reviewed concurrently with DO-09-0202A.

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; REGISTRATION PURSUANT TO A.R.S. § 32-1823; 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. Matthew D. Tyler, DO Case No. DO-13-0050A Application #006096

This case was continued.

B. Mark Feinstein, DO Case No. DO-13-0054A Locum Tenens 1368

Dr. Feinstein was present telephonically. Attorney Robert Chelle was present as Mr. Feinstein’s representative. The Executive Director reviewed the application. Mr. Chelle answered the Board’s questions.

MOTION: Dr. Steingard moved to approve Dr. Feinstein’s application for Locum Tenens Registration. Mr. Landau seconded.

ROLL CALL VOTE: Motion carried 6-0.

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

The Executive Director reported fourteen (14) cases being closed between February 21 and March 24, 2013. A report complying with the statutory requirements was submitted to the Board members.

B. President & Board Member reports

Dr. Steingard reported regarding Tucson Osteopathic Medical Foundation symposium being held Thursday, April 4, 2013 at which he will be participating in a panel discussion on opioid prescribing.

Dr. Steingard, Dr. Cunningham, Ms. Jones and Mr. Landau will be attending the annual FSMB meeting. Dr. Steingard also reported that his term on FSMB's board is almost up and he will not be running again at this time.

Mr. Landau reported regarding the FSMB nominating committee upon which he currently serves.

C. Executive Director Report

1. Financial report and discussion for future planning.

As of February 28, 2013, the Board has received income of \$811,529.13 and incurred expenses of \$424,814.50. The percentage of the FY appropriation is 66 2/3 of the year. The Board has expended approximately 61% and therefore is under appropriation by about 5%. The fund balance is healthy. The statutory requirement to put all fees into rule has removed the Board's ability to adjust the fees each January.

2. Overview of Licensing and Complaints

The Executive Director reviewed the number of Licenses and permits issued by the Board from 2010 through 2013. She also reviewed the number of complaints received in years 2010 through 2013 and the status of open investigations.

In an effort to reduce the pending cases, Ms. Jones reported that the medical consultant has agreed to increase her hours to thirty (30) hours per week for the rest of FY13 and cases will be referred to outside medical consultants within thirty days of her receipt of the cases. In addition, Ms. Jones has requested additional funding for investigations in FY14 and FY15. She thanked the Board members for their quick turnaround on the three reviewers process.

3. Online complaint form is now available

The Executive Director and Deputy Director reported on the successful implementation of the online complaint form.

4. Rules update and compliance issues with A.R.S. §41-1030.

The Executive Director reported regarding this statute and how the rules will need to be amended to be compliant.

5. Legislative update

The Executive Director provided an update of the legislative session.

6. Pain Management Committee update.

The Pain Management Committee met in September. Their recommendations are on hold pending the release of the FSMB's pain management guidelines.

D. Board may review, discuss, and take action on the following:

1. Determination on whether or not to continue issuance of wallet cards.

The Board decided to discontinue issuance of wallet cards.

2. Adoption of requirements, interpretation of same, for locum tenens and Post Graduate Training Permits

The Executive Director reported regarding some concerns with the current applications and A.R.S. § 41-1030.

3. Adoption of revised license application.

The Board directed staff to add instructions and/or a link in the application to the reportable misdemeanors list on the Board's website and to review the wording of Section 8, question 1.

4. Adoption of revised Locum Tenens application.

MOTION: Dr. Ward moved to accept the revised Locum Tenens application and the American Osteopathic Information Association (AOIA) report as sufficient proof of education and training for Locum Tenens applications. Mr. Landau seconded.

VOICE VOTE: Motion carried 6-0.

5. Adoption of revised Citizenship form.

MOTION: Dr. Ward moved to adopt the new Citizenship Status form. Mr. Landau seconded.

VOICE VOTE: Motion carried 6-0.

6. Direction for delegate regarding resolutions to be presented at 2013 FSMB House of Delegates.

13:1: Working with Hospitals to Encourage Quality Improvement: Board stated its support of this measure.

13:2: Setting Higher Standards for Unrestricted Medical Licensure: Board stated concerns regarding this measure as well as the concern that it did not include the AOA.

13:3: Study committee for shortening the undergraduate medical education: Board stated its support of this measure to further investigate/study the matter.

13:4: Reporting of Drug Diversion of Healthcare Employers: Board stated its support of this measure without fines.

13:5: Interstate Compact: Board stated its support of this measure.

7. Discussion on use of civil penalties and possible adoption of policy.

The Board directed staff to draft a policy for review at a future meeting.

8. Adoption of Chapters 1 and 2 of proposed Board Member Policy Manual.

The Board thanked the Executive Director for her excellent work on the 2 chapters and directed staff to title the manual, "Orientation Guide" or "Orientation Booklet" and continue its development.

9. Adoption of Employee Complaint Process.

The Executive Director presented a policy for Employee Complaints. The Board approved of the policy.

10. Discussion on criteria for outside medical consultants.

The Executive Director presented her report. The Board directed staff to continue development of guidelines for outside reviews including the creation of a standardized report format.

11. Discussion of preparation for Sunset Review and policy development.

The Executive Director presented her report that a number of policies and documents will need to be created for the agency that will also serve to meet the requirements in anticipation of the Sunset Audit.

12. Upgrades to security for lobby area of Osteopathic Board offices.

The Executive Director reviewed the results of the risk assessment evaluation and the estimated cost of \$18,000 for renovations to the lobby area to add bullet resistant materials. She attempted to get this funded by the capital improvement policy but learned it does not qualify. The Board supported moving forward with the improved security project.

11. ADJOURNMENT

Meeting adjourned at 4:07 p.m.