



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

Executive Director
Jenna Jones

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

Saturday, May 19, 2012

BOARD MEMBERS PRESENT:

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

STAFF / OTHERS PRESENT:

Jenna Jones, Executive Director
Barbara Meyers, Deputy Director
Barbara Prah, D.O., Board Medical Consultant
Kathy Fowkes, Licensing Administrator
Marc Ollison, Admin Assistant
Anne Froedge, Assistant Attorney General
Mary L. Davis, RPR, Certified Court Reporter, Ottmar & Associates

1. CALL TO ORDER

The Board President, Dr. Scott Steingard, called the meeting to order at 8:07 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the roll. All 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 new Executive Director, Jenna Jones.
- B. Welcome to the Medical Students – Arizona College of Osteopathic Medicine at Midwestern University, the Kirksville College of Osteopathic Medicine, and School Osteopathic Medicine Arizona at A.T. Still University.
- C. 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

March 24, 2012 Open Session Minutes

MOTION: Dr. Picardo moved to accept the minutes. Dr. Cunningham seconded.

VOICE VOTE: Motion passed 7-0.

March 24, 2012 Executive Session Minutes

MOTION: Mr. Landau moved to accept the minutes. Dr. Picardo seconded.

VOICE VOTE: Motion passed 7-0.

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

Case Reviews

A. Eunlee Chung, DO Case No. DO-10-0121A License No. 4662

Dr. Chung was present with attorney Steve Myers. The Complainant was also present. The Medical Consultant reviewed the case. Dr. Chung answered the Board’s questions. The Complainant addressed the Board. The Board discussed the case.

The Board advised staff to refer this matter to the Arizona Medical Board regarding the ER doctor and cardiologist.

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

ROLL CALL VOTE: Motion failed 4-3.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Picardo	Mr. Fiegen	Dr. Ward	Mr. Landau	Dr. Sabeeh
YES	3		X	X			X	
NO	4	X			X	X		X
ABSTAIN/RECUSE	0							
ABSENT	0							

MOTION: Dr. Ward moved for a **LETTER OF CONCERN** for failure to order necessary tests, and failure to adequately review patient records.

ROLL CALL VOTE: Motion passed 4-3.

	Vote	Dr. Steingard	Dr. Cunningham	Dr. Picardo	Mr. Fiegen	Dr. Ward	Mr. Landau	Dr. Sabeeh
YES	4	X			X	X		X
NO	3		X	X			X	
ABSTAIN/RECUSE	0							
ABSENT	0							

B. Paul Geimer, DO Case No. DO-11-0060A License No. 1509

Dr. Geimer nor the Complainant were present. The Complainant's attorney Nic Vakula was present. The Medical Consultant reviewed the case. Mr. Vakula addressed the Board.

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

ROLL CALL VOTE: Motion passed 5-2

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

C. E. Griffin Cipolla, DO Case No. DO-10-0029A License No. 2811

Dr. Cipolla was present with attorney Fred Cummings. The Medical Consultant reviewed the case.

Dr. Cunningham recused himself from the case.

The Board recessed to Executive Session at 9:33 a.m. for legal advice and resumed Open Session at 9:40 a.m.

Dr. Cipolla answered the Board's questions. The Board directed staff to obtain the protocol for the use of gloves for genital exams and to contact Respondent's preceptors regarding protocol taught for the use of gloves.

MOTION: Mr. Landau moved that this case be heard at an Investigative Hearing. Dr. Sabeeh seconded.

VOICE VOTE: Motion passed 6-0.

Reviews of Executive Director Dismissals:

A. Thomas Kotoske, DO Case No. DO-11-0173A License No. 3065

Dr. Kotoske was not present. The Complainant was present. The Medical Consultant reviewed the case. The Complainant answered the Board's questions, and the Board discussed the case.

MOTION: Dr. Picardo moved to uphold the Executive Director **DISMISSAL**. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion passed 7-0.

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

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

A. Brian Page, DO Case No. DO-10-0082A License No. 3416

Dr. Page was present with attorney Teresita T. Mercado and was sworn in. The Medical Consultant reviewed the case. Dr. Page answered all questions posed by the Board.

MOTION: Dr. Cunningham moved for a **DISMISSAL**. Dr. Picardo seconded.
ROLL CALL VOTE: Motion passed 7-0.

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

B. Brian Page, DO Case No. DO-10-0102A License No. 3416

Dr. Page was present with attorney Teresita T. Mercado and was sworn in. The Deputy Director reviewed the case. Dr. Page answered all questions posed by the Board.

MOTION: Dr. Cunningham moved for a **DISMISSAL**. Dr. Sabeeh seconded.
ROLL CALL VOTE: Motion passed 5-2.

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

The Board recessed for a short break at 10:30 a.m. and returned to Open Session at 10:44 a.m.

C. Denise Viola, DO Case No. DO-11-0052A License No. 4819

Dr. Viola was present with attorney Tom Slutes and was sworn in. The Medical Consultant reviewed the case. Dr. Viola answered the Board's questions. The complainant was present with her husband. They were sworn in by the court reporter, and answered the Board's questions.

Board recessed to Executive Session for legal advice at 10:50 am and returned to Open Session at 10:55 am.

MOTION: Dr. Steingard moved for a **LETTER OF CONCERN** for lack of documentation in the medical records, and ten (10) hours **CONTINUING MEDICAL EDUCATION** in the area of record keeping to be approved by the Executive Director to be completed within six (6) months in addition to the statutory requirements. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion passed 5-2.

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

D. Bart Eng, DO Case No. DO-10-0135A License No. 1776

Dr. Eng was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Eng answered the Board's questions.

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

ROLL CALL VOTE: Motion passed 6-1.

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

E. Christine Brass-Jones, DO Case No. DO-09-0064A License No. 3135

Dr. Brass-Jones was present with attorney Michael R. Golder and was sworn in. The Medical Consultant reviewed the Outside Specialist Reviewer's report. Dr. Brass-Jones answered the Board's questions. The Outside Specialist Reviewer, Arlene England, DO, was present and sworn in. At the Board's request, Dr. England provided a detailed review of standard of care for labor and delivery including fetal monitoring. Dr. England answered the Board's questions.

MOTION: Dr. Picardo moved for a **DISMISSAL**. Mr. Landau seconded.

ROLL CALL VOTE: Motion failed 5-2.

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

MOTION: Dr. Sabeeh moved for a **LETTER OF CONCERN** for failure to recognize fetal distress and for Respondent to obtain 10 hours **CONTINUING MEDICAL EDUCATION** in the area of fetal monitoring to be completed in six months in addition to the statutory requirements. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion passed 5-2.

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

The Board recessed for Lunch at 12:40 pm and returned to Open Session at 1:19 pm.

F. Richard Settles, DO Case No. DO-10-0061A License No. 2686

Dr. Settles was present with attorney Brenda Shafer and was sworn in by the court reporter. The Medical Consultant reviewed the case. The attorney addressed the Board.

The Board recessed to Executive Session at 1:40 pm for the purpose of obtaining legal advice and returned to Open Session at 2:07 pm.

MOTION: Dr. Ward moved for findings of Unprofessional Conduct, which are violations of A.R.S. §32-1854(6) and (38).

ROLL CALL VOTE: Motion passed 7-0

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

MOTION: Dr. Ward requested to amend his motion. Dr Cunningham seconded.

VOICE VOTE: Motion passed 7-0

MOTION: Dr. Ward moved for finding of **UNPROFESSIONAL CONDUCT**, to include violations of A.R.S. §32-1854(6) and (38).

The respondent fell below the standard of care, as noted as concerns in the Medical Consultant's reports dated Feb 4, 2012 as well as June 29, 2010:

- Prescribing excessive controlled substances to chronic pain patients
- Pharmacy inquiries and drug screens were ignored in patients that were clearly diverting, and
- Respondent failed to:
 - stop prescribing controlled substances for patients that had overdosed;
 - recognize drug seeking behavior in patients;
 - request prior medical records;
 - obtain appropriate laboratory testing;
 - conduct a physical exam in at least one patient;
 - obtain consultations;
 - follow the directions of specialists or recommendations when consultations were obtained.
- The respondent fell below the standard of care by failing to conduct an adequate medical evaluation prior to initiating treatment with testosterone.

The aforementioned behavior resulted in the respondent practicing medicine in a manner that harmed or had potential to harm patients and fell below the community standard as noted in the Medical Consultant's reports, and further this conduct endangered a patient or the public's health.

Dr. Cunningham seconded.

ROLL CALL VOTE: Motion passed 7-0.

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

MOTION: Dr. Ward moved for a Summary Suspension and referral to formal hearing for the purpose of Revocation. The motion was not seconded.

The Board recessed to Executive Session at 2:42 pm for the purpose of obtaining legal advice and returned to Open Session at 2:49 pm.

Dr. Ward withdrew his Motion.

MOTION: Dr. Ward moved for:

- a **DECREE OF CENSURE**,
- **Restriction from prescribing or recommending Schedule I, II, III and IV controlled substances for a period of 2 years**,
- **Restriction from providing chronic pain management or supervising Physician Assistants until otherwise approved by the Board and**
- **PROBATION for a period of 5 years** to include the following terms:
 - a Board approved practice evaluation to be completed at the cost of the physician within 6 months,
 - thereafter a Board approved practice monitor at the cost of the physician to ensure that:
 - the physician is meeting all statutory requirements
 - obtaining adequate histories

- performing appropriate physical exams
- obtaining appropriate laboratory testing and imaging
- instituting the community standard of care
- obtaining appropriate consultations and to report to the Board quarterly
- **CIVIL PENALTY of \$500 per each statutory violation to be paid within 90 days.**
- **The respondent will bear all costs associated with the terms of probation.**

Dr. Cunningham seconded.

ROLL CALL VOTE: Motion passed 7-0.

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

G. Jeffrey Proudfoot, DO

Case No. DO-10-0076A

License No. 2668

Dr. Proudfoot was present and was sworn in. The Medical Consultant reviewed the case. Dr. Proudfoot answered the Board's questions. The Complainant and her son were present. Both the complainant and her son were sworn in by the court reporter. The Complainant addressed the Board and answered the Board's questions.

The Board instructed staff to refer this case to the Arizona Medical Board regarding the hospitalist.

MOTION: Dr. Ward moved for a **LETTER OF CONCERN** for failing to perform an adequate and complete neurological examination. Mr. Fiegen seconded.

ROLL CALL VOTE: Motion failed 5-2.

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

MOTION: Dr. Picardo moved for a **DISMISSAL**. Dr. Cunningham seconded.

ROLL CALL VOTE: Motion passed 5-2.

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

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

Dr. Orringer was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Orringer answered the Board's questions.

The Board recessed to Executive Session at 4:41 pm for the purpose of obtaining legal advice and returned to Open Session at 4:54 pm.

MOTION: Dr. Steingard moved that the case be continued for further investigation including, but not limited to, a PACE or CPEP evaluation at the cost of the Respondent, and a minimum of a 15-chart review of aesthetic and cosmetic patients, opioid prescribing. In addition he requested a review of all postgraduate training. Mr. Landau seconded.

VOICE VOTE: Motion passed 7-0.

The Board President, Dr. Steingard, dismissed the medical students.

I Kenneth Pettit, DO Case No. DO-10-0158A License No. 3344

Dr. Pettit was present with attorney Pete Fisher and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Pettit answered the Board's questions.

MOTION: Dr. Ward moved for non-disciplinary **CONTINUING MEDICAL EDUCATION** in the amount of 10 hours split equally between chronic pain management and boundary issues to be completed in six months. Mr. Landau seconded.

VOICE VOTE: Motion passed 7-0.

J. Sophia Fountis, DO Case No. DO-11-0118A License No. 2689

Mr. Landau recused himself from this case.

Dr. Fountis was present with attorney Andrew Rosenzweig and was sworn in by the court reporter. The Deputy Director reviewed the case. Dr. Fountis answered the Board's questions.

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

VOICE VOTE: Motion passed 5-1.

7. REVIEW, DISCUSSION AND ACTION ON PROPOSAL FOR TRAINING PROGRAM PURSUANT TO R4-22-110 (A)(4) and (B)

A. Request for approval of training program for medical assistants from Mark C. Carnett, DO

MOTION: Dr. Picardo moved to refer this matter to the Commission on Accreditation of Allied Health Education Programs (CAAHEP) and the American Association of Medical Assistants. Dr. Ward seconded.

VOICE VOTE: Motion passed 7-0.

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

A. Report on ED Dismissed Complaints

Ms. Jones reported 12 cases have been dismissed since the March 24th meeting.

B. President & Board Member reports

Dr. Steingard gave a brief update on the FSMB meeting and that Mr. Landau has been elected to the nominating committee.

C. Update on Legislation
No report was given.

Meeting adjourned at 6:14 p.m.