



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

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

Saturday, December 1, 2018

BOARD MEMBERS PRESENT:

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

ABSENT:

Christopher Spiekerman D.O.

STAFF / OTHERS PRESENT:

Amber Brake, JD, MHA, FACHE, Executive Director
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Jenny Webb, Administrative Assistant
Meaghan Maxwell, Administrative Assistant
Mary Williams, Assistant Attorney General
Debora Mitchell, CVR, Ottmar & Associates (a.m.)
Lauren Kuhnhenh, RPR, Ottmar & Associates (p.m.)

1. CALL TO ORDER

Dr. Douglas Cunningham, Board President, called the meeting to order at 8:11 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the Roll. Five (5) 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. Dr. Cunningham welcomed the Medical Students from Arizona College of Osteopathic Medicine at Midwestern University, A.T. Still University Kirksville College of Osteopathic Medicine and A.T. Still University School of Osteopathic Medicine in Arizona.
- B. 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. October 20, 2018 Open Session

MOTION: Dr. Erbstoesser moved to approve the minutes. Dr. Reiss seconded.
VOICE VOTE: Motion carried unanimously.

B. August 11, 2018 Executive Session

Continued

C. September 15, 2018 Executive Session

Continued

D. October 20, 2018 Executive Session

Continued

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

A. Brian Scott Rizzo, DO DO-18-0103A License No. 3597

The Respondent was not present but his attorney Paul Giancola was present to represent him. The complaint alleged charging for a service not given, dropping the patient after seeking a second opinion and not extending her short term medical leave.

The Board had a discussion that the medical care was met, there seemed to be omissions in the medical records. Communication was more of an issue. The error in medical records was corrected by the Respondent.

The attorney made a statement the standards of care were met and no unprofessional conduct of abonnement. The patient cancelled the follow-up appointment.

MOTION: Dr. Reiss moved for dismissal. Dr. Erbstoesser seconded.

After Discussion and consideration the Board determined to proceed to an Investigative Hearing due to the communication issue.

Motion withdrawn.

MOTION: Mr. Landau moved for Investigative Hearing. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

B. Michael David Goodman, DO DO-17-0247B License No. 3786

The Respondent was not present. The complaint alleged death of patient E.D. due to mismanagement of care. Respondent has not responded to the Board regarding complaint.

After Discussion and consideration the Board determined to proceed to an Investigative Hearing.

MOTION: Mr. Landau moved for Investigative Hearing. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously.

C. Caren Lynn Borjeson, DO DO-18-0044A License No. 3117

Dr. Cunningham recused himself.

The Respondent was present with attorney Paul Giancola. The case was opened after receiving notice of a medical malpractice settlement which alleged negligent laparoscopic cholecystectomy and appendectomy with delayed diagnosis of bowel perforation with multiple surgeries, hospitalizations and a prolonged recovery.

The Complainant was present with attorney Dr. Friedman, whom is not related to the outside medical consultant. Complainant's husband, D.C. made a statement about gross negligence of Respondent to his wife. His wife almost died due to the procedure. Medical records amount to over 14,000 pages. Complainant, L.C. made a statement; she would like this case go to and investigative hearing.

Respondent's attorney made a statement that this was an unfortunate complication at the time of the procedure. Respondent did show continuity of care.

Respondent made a statement. After reviewing the medical records from a GI the Respondent recommended no surgical intervention. Respondent asked patient to consider her dietary change and exercise. Patient returned six (6) months later asking for surgery. The Respondent asked Dr. Cammarata to be a second set of eyes during the surgery. Another surgery was required due to a leak from the primary tear, Respondent accepted to be the co-surgeon to Dr. Rodriguez. The Respondent did follow-up with the patient for a year. The case eventually settled.

After Discussion and consideration the Board determined to proceed to an Investigative Hearing.

MOTION: Dr. Erbstoesser moved for Investigative Hearing. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

6. REVIEWS OF EXECUTIVE DIRECTOR DISMISSALS – (CONTINUATION OF REVIEW, DISCUSSION, AND ACTION ON CASE REVIEWS OF ALLEGATIONS OF UNPROFESSIONAL CONDUCT A.R.S. § 32-1855 (D)).

A. Ethan M. Leavitt, DO DO-18-0039A License No. 006003

The Complainant was not present.

After Discussion and consideration the Board determined to uphold the dismissal.

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

VOICE VOTE: The motion carried unanimously.

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

A. Semone Barrie Rochlin, DO DO-17-0096A License No. 4462

The Respondent was present with attorney Steve Myers and was sworn in by the court reporter. The Medical Consultant reviewed the Outside Medical Consultants review. At the request of the Board, the Respondent stated her education and training. The complaint alleged the Respondent was not properly trained or had enough knowledge to do the J Plasma Laser procedure.

The Respondent made a statement. She has limited her practice to cosmetic procedure, which she feels improves her patients' lives. Respondent vetted the J Plasma procedure diligently in 2016 and had confidence in the device. Respondent joined Doc Matters and had access to 400 surgeons with experience with the J Plasma. Respondent stated that Dr. Amati had favorable results with the device and spent many hours with other colleagues regarding J Plasma procedures.

L.U. is the Complainant and Respondent used the same technique with the J Plasma device as with previous patients. At the six week post-op the patient returned with complications, Respondent gave patient instructions and supplies. The patient returned to the office with improvements. The patient had previous eye surgery which she did not disclose to the Respondent.

The Respondent used the same treatment on all patients and the handle of the device must have been the malfunction. This was the cause of the patient's complications. Respondent had three (3) more J Plasma procedures scheduled and disclosed to the patients that other patients were experiencing scarring and discussed why these complications were unknown. The patients elected to go forward with procedure.

Respondent's last procedure with the J Plasma device was on January 5, 2017. She treated a total of 17 patients.

The attorney made a statement. Deficiencies in the manufacturer's instructions of use of the product resulted in scarring in the patients. Respondent did disclose to patients of possible scarring by verbal and written consent agreement. Three (3) of the scarred patients were refunded their money.

The Respondent answered the Board's questions.

The board is concerned if the Respondent knew there was something wrong with device, why did she keep using procedure. Eye shields were not used, Respondent stated the manufacturer's instruction did not require shields. Respondent stated the patients must be compliant with post-operative procedures instructions and if not adhered to can cause complications. Respondent explained to the Board, in detail, what a patient needs to do post operatively.

The Board asked what kind of training she had. Respondent had hands on training with Dr. Emmett on an egg.

MOTION: Mr. Landau moved for a Letter of Concern for failing to follow through with warning signs regarding the use of the instrument. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously.

The Board recessed for a break at 10.06 a.m. and returned to Open Session at 10:14 a.m.

B. Linda Hanna Assaf, DO DO-17-0261A License No. 005944

The Respondent was present with attorney Dominique Barrett and was sworn in by the court reporter. At the request of the Board, the Respondent stated her education and training. The Medical Consultant reviewed the Outside Medical Consultants review. The case was opened due to a medical malpractice suit alleged for failure to diagnose.

The patient presented with state of shock which was not diagnosed. There was a lack of documentation, history & physical examination. Patient was pronounced dead on August 25, 2013. Cause of death was sepsis.

The Board had a discussion with the Respondent. State of shock in 2013 had different standards of evaluation than today. The Board is concerned there was no comparison of the EKG from a previous one. Casa Grande Medical Center is a difficult place to work in the Emergency Room.

The Board had a discussion.

The Respondent stated this was her first year attending at Casa Grande, it was a horrible place to work but also it was one of the best because you learn so much and she recognized errors she had made. She is currently in her seventh year of practice and has not had any other issues.

The Board asked what the staffing model was at Casa Grande at midnight. Respondent stated she had a PA otherwise she was solo.

Respondent documents charts more thoroughly and at her current practice she does not see 30 patients a night, so she can review charts better. There are also better protocols for sepsis.

MOTION: Dr. Maitem moved for a Letter of Concern for required CME for failure to diagnose sepsis and omission of recognition of the chest pain. Dr. Reiss seconded.

AMENDED MOTION: Dr. Maitem amended motion to no CME. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

C. David Stewart Higgins, DO DO-17-0284A License No. 4317

The Respondent was present with attorney Paul Brakes 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 Outside Medical Consultants review. The complaint alleged provided medication to the incorrect patient.

Respondent stated his patient was to have vocal cord biopsy. He introduced himself and confirmed patient name, he was paged for an emergency call. He came back to what he thought was the same patient but was distracted from the emergency call and went into the wrong room. Respondent now takes time to decompress and refocus on each patient even during emergency calls. He will recheck the arm band if he has to leave the room.

The Respondent answered the Board's questions.

The Board is concerned why he didn't report the error right away to the family, only to the nurse station.

The attorney made a statement.

MOTION: Dr. Cunningham moved for a Letter of Concern for not properly communicating with a patient after a medical error has occurred. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

D. Mark S. Harp, DO DO-18-0070A License No. 3512

The Respondent was present with attorney Flynn Carey 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 case was opened due to a self-report of driving under the influence of alcohol.

Respondent stated he was drinking and since he was close to home it was ok to drive. He understands this is not acceptable and apologized for it.

Attorney stated the Respondent made a mistake and recognized it. Respondent has accepted a plea and followed all requirements for that plea and he has paid all fines. The Respondent has a medical issue that enhances the effect of alcohol and he has decided to not consume alcohol now.

The Respondent answered the Board's questions.

The blood alcohol content concerns the Board. The Respondent realizes he should not drink and drive.

MOTION: Mr. Landau moved for dismissal. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

E. Charles Roy Clinch, DO DO-18-0008A License No. 1901

The Respondent was present with attorney Michael Tam 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 Outside Medical

Consultants review. The case was opened due to a medical malpractice suit which alleged failure to remove the left ovary leading to second surgery to have ovary removed.

Respondent never spoke to patient about taking both ovaries. The patient spoke to the scheduler and stated her sister had ovarian cancer and asked to have both ovaries taken out. Respondent only looked at his last notes and not the schedulers. During the procedure the left ovary looked in good health so Respondent left it alone. Respondent recognized he should have slowed down to look at all the notes.

The Attorney stated after the procedure the Respondent realized his error and spoke to the patient and family, he did not charge the patient for the procedure.

Respondent states his office now does not take phone calls to change procedures; patients must come in and have a face to face conversation with him.

The Respondent answered the Board's questions.

MOTION: Dr. Erbstoesser moved for dismissal. Dr. Reiss seconded.

ROLL CALL VOTE: The motion carried 4-1-1.

	Vote	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Maitem	Dr. Reiss	Dr. Spiekerman
YES	4	X	X		X	X	
NO	1			X			
ABSTAIN/RECUSE	0						
ABSENT	1						X

F. Jamison Mark Foster, DO DO-17-0106A License No. 006198

Continued

G. Jeffery Ray Gamber, DO DO-17-0165A License No. 4326

The Respondent was present with attorney Robert Chelle 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 case was opened due to a self-reported arrest for a DUI.

The update of the scribe situation:

The Respondent initially did a search of different scribes and signed up for a remote scribe. Training scribes is difficult and Respondent found out the remote scribe was not part of the agreement. He is onto training his third scribe whom is a PA and Respondent is taking more time to train him.

The Respondent answered the Board's questions.

The Board is concerned about the number of hours the Respondent is working. Respondent was working 100+ hours but is now working 60-78 hours with the addition of the PA scribe and an associate in the office.

Dr. Cunningham moved to enter Executive Session for confidential information. Dr. Maitem seconded. The Board entered Executive Session at 11:48 a.m. and returned to Open Session at 12:06 p.m.

H. Marc Brian Grant, DO DO-17-0085A License No. 1609

Continued

Adjourn for lunch at 12:06 p.m. Return to session at 1:00 p.m.

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

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

I. Valdon Gale Landes, DO DO-17-0257A License No. 005611

The Respondent was present 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 case was opened due to a DAR from the Colorado Medical Board.

Respondent stated the Colorado Board requested three (3) patient charts for review of medical marijuana record keeping.

The Board is concerned that the Respondent did not do a History & Physical and did not request patient's medical records from previous physician. Respondent believes the Colorado Medical Board does not agree with issuing medical marijuana cards.

The Respondent answered the Board's questions.

MOTION: Mr. Landau moved for the Board to find in violation of statute 32-1854(18) the denial of disciplinary action against the license for the findings by the state of Colorado from its order issued on September 29, 2017 the Respondent violated portions of the Colorado Medical Practice Act involving the recommendation of medical marijuana. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Mr. Landau moved that the license be restricted in that he cannot recommend medical marijuana. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 5-0-1.

	Vote	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Maitem	Dr. Reiss	Dr. Spiekerman
YES	5	X	X	X	X	X	
NO	0						
ABSTAIN/RECUSE	0						
ABSENT	1						X

The Board recessed for a break at 2:00 p.m. and returned to Open Session at 2:20 p.m.

J. Mark L. Griswold, DO DO-18-0038A License No. 2799

The Respondent was present with attorney Steve Perlmutter and was sworn in by the court reporter.

MOTION: Dr. Cunningham moved to consolidate cases J-N. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

The Board went off the record to contact Complainant G.S. at 2:26 pm. and went back on the record at 2:28 p.m.

Complainant was present telephonically.

At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the Outside Medical Consultants review. The complaint alleged Respondent installed the wrong lens, left cortex in eye and failed to reduce eye pressure.

The attorney made a general statement for all five (5) cases (J-N). Cataract surgery is complicated, Respondent does approximately 800 per year, which averages out that there is a potential that eight (8) of Respondents patients will have complications. Respondent has patients review and sign a consent agreement. Respondent realizes that his medical records are inadequate and he has changed procedures to keep them more up to date.

Respondent saw G.S. in 2014 and had surgery January 25, 2018. After surgery Respondent left cortex in the eye to be dissolved. Respondent followed up with the patient for 20 days but patient didn't see expected results and sought a second opinion.

The Respondent answered the Board's questions.

The Board is concerned that the Respondent missed a complication that could have been treated.

G.S. made a statement that her eye pressure was too high and never stabilized for three (3) weeks while seeing Respondent. She stated the lens was positioned incorrectly and he used the wrong lens.

Respondent commented that his informed consent states there are two (2) lenses which can be used.

K. Mark L. Griswold, DO DO-18-0046A License No. 2799

The Medical Consultant reviewed the Outside Medical Consultant's review. The complaint alleged failure to correct dislocated Intraocular Lens after cataract surgery.

The attorney made a statement. Respondent saw E.S. in 2007, and had surgery in May of 2015 on the right eye without complications. At the patients follow up visit the Respondent referred E.S. to a retinal specialist for a macular problem. The patients vision did not improve and had the implants changed after two (2) years.

The Respondent answered the Board's questions.

The Board is concerned the Respondent did not give enough information to the Board, also the lack of information in the medical records.

L. Mark L. Griswold, DO DO-18-0053A License No. 2799

The Medical Consultant reviewed the Outside Medical Consultant's review. The complaint alleged unprofessional conduct and failure to diagnose retinal detachment.

The attorney made a statement that the patient had cataract surgery in September 2017. On the follow up visit the Respondent noted that the lens had dislocated. One (1) week later he re operated to reposition the implant. Six weeks later S.D.'s uncorrected vision was 20/25. Several weeks later S.D. saw a retinal specialist due to blurred vision. The retinal specialist found a retinal tear which was repaired days later.

The Respondent answered the Board's questions.

The Board is concerned with Respondents record keeping. At the last appointment with the patient Respondent noted that the patient was fine but when patient went to specialist, three (3) weeks later there was retinal detachment.

M. Mark L. Griswold, DO DO-18-0069A License No. 2799

The Complainant, D.F., was present and was sworn in by the court reporter. The Medical Consultant reviewed the Outside Medical Consultant’s review. The complaint alleged failed cataract surgery on both eyes.

The attorney made a statement that the patient had cataract surgery on the left eye in February 2017. After the post-op visit the patient asked for right eye cataract surgery, at that visit Respondent told patient that his constant talking during surgery created a hazard. Respondent told patient that he would do surgery on the second eye if it was under general anesthesia or not at all. In January 2018 uncomplicated surgery was done on the right eye. The lens dislocated on a follow-up visit. Respondent suggested surgery to fix the lens but patient went to another physician to correct it.

The Respondent answered the Board’s questions.

D.F. made a statement. General anesthesia is risky and he would not have had surgery. The operative report on the first surgery did not reflect that he moved too much. D.F. stated records are not complete. D.F. and Respondent agreed on a lens but it was the incorrect lens for his eye which has macular drusen. D.F. stated that Respondent never mentioned that he had macular drusen in his left eye.

The Board is concerned about the Respondents lack of information in his medical records.

N. Mark L. Griswold, DO DO-18-0083A License No. 2799

The Medical Consultant reviewed the Outside Medical Consultant’s review. The complaint alleged failed cataract surgery on left eye.

The attorney made a statement that G.K. had cataract surgery in February 2018 without complications. The follow up visit was on Friday and he received eye drops. The patient was advised that he would be out of town and was given contact information for the on-call doctor during the weekend. G.K did not see Respondent again. Three (3) months later patient had corneal edema and a displaced lens.

The Respondent answered the Board’s questions.

Mr. Landau moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 3:42 p.m. and returned to Open Session at 3:57 p.m.

The Board requested from Mr. Perlmutter the supplemental information from all five (5) cases be resubmitted to the Board.

MOTION: Mr. Landau moved for an Interim Order for a full comprehensive PACE Evaluation for physical, cognitive ophthalmological abilities including surgical. Dr. Maitem seconded.

AMENDED MOTION: To be scheduled within 30 days and to be completed within 120 days.

ROLL CALL VOTE: The motion carried 5-0-1.

	Vote	Dr. Cunningham	Dr. Erbstoesser	Mr. Landau	Dr. Maitem	Dr. Reiss	Dr. Spiekerman
YES	5	X	X	X	X	X	
NO	0						
ABSTAIN/RECUSE	0						
ABSENT	1						X

O. Narinder Kaur Brar, DO DO-18-0017A License No. 4368

Continued

P. Mary Darin Janikowski, DO DO-17-0191A License No. 2596

Continued

9. **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. S. Foster Easley, DO DO-15-0100A License No. 3212

The Respondent was present to review his compliance with the Board order issued on November 23, 2015. The Respondent is not practicing and he is trying to figure out how to comply with the board orders. The cost of the competency evaluation is an obstacle.

Respondent stated that he was contacted by the Board to find out about his compliance status and if he wanted to turn in his license or continue. Respondent has renewed his license even though it is suspended and has completed CME. Respondent would like to re-address the chart issues.

The Board is not going to hear the case again. The Board received new documentation from the Respondent today, which they cannot consider at 4:15 p.m. without fully reviewing it. The Board order required a Psychiatric exam & practice assessment, PACE evaluation, which needs to be completed. When Respondent has completed the evaluation and all of the requirements in the prior Board Order he may come back to the Board.

The Respondent did have a psychiatric evaluation which was sent Friday morning which is past the cut off. The Board asked if the psychiatrist was approved by the Executive Director and the Respondent stated "no". The Board will review the evaluation to see if it meets the criteria, if not the Executive Director will contact the Respondent.

B. Kathleen Ann Cahoon, DO DO-18-0106A License No. 4279

The Respondent was not present.

MOTION: Dr. Cunningham moved this case to an Investigative Hearing for non-compliance. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

C. Chetan Jhaver Patel, DO DO-17-0184A License No. 4214

The Respondent was present with attorney Steve Myers. The Respondent is requesting to modify his consent agreement.

The attorney made a statement asking the Board to lift the Respondents hours and location restrictions. Respondent is asking for one (1) more location and unlimited hours.

The Respondent stated he is being supervised at his practice location.

The Board had a discussion with the Respondent.

MOTION: Dr. Maitem moved to modify the consent agreement, dated March 22, 2018, to a maximum of 35 hours and add one (1) location, John C. Lincoln Medical Center. Mr. Landau seconded.
VOICE VOTE: The motion carried unanimously.

D. Kevin Michael McKeown, DO DO-17-0066A License No. 005863

The Respondent was present with attorney Robert Milligan to give an update.

The Respondent has completed all Board orders. He did not pass his board certification in emergency medicine but has signed-up to retake the test in March of 2019.

The Board had a discussion with the Respondent.

The Respondent is to come back in six (6) months for another update.

E. Brian Joseph Coates, DO DO-18-0172A License No. 005837

The Respondent was present. The Coconino County Sherriff's office indicated the Respondent may not be safe to practice medicine.

Mr. Landau moved to enter Executive Session for confidential information. Dr. Erbstoesser seconded. The Board entered Executive Session at 4:39 p.m. and returned to Open Session at 4:53 p.m.

MOTION: Mr. Landau moved for a Board Order for the Respondent to undergo an addiction impairment evaluation by Dr. Sucher within thirty (30) days. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously.

Respondent cannot practice medicine until he is seen by Dr. Sucher for an evaluation.

Mr. Cunningham moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 4:56 p.m. and returned to Open Session at 5:03 p.m.

The Board wants to make sure the Respondent is ok. The Respondent stated he has already had a comprehensive examination; he stated they might recommend a monitoring program.

The Board requested a copy of the Vanderbilt evaluation which is a fitness for duty evaluation. If the Vanderbilt examination clears the Respondent to go back to work the Executive Director will also evaluate the report. The Respondent shall return to the Board in January and continue his treatment with Dr. Burnstein or surrogate.

MOTION: Dr. Cunningham moved for an Interim Order for the Respondent to undergo an impairment evaluation by Dr. Sucher to be completed within thirty (30) days. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

F. Sean Marshall Spurr, DO DO-15-0155A License No. N/A

Continued

10. **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. Krishna Vijayasarithi, DO DO-18-0176A License No. N/A

Withdrawn

B. Jay Sung Park, DO DO-18-0178A License No. N/A

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed a yes answer under the professional conduct portion of the application for a pending malpractice suit. He also failed to disclose that he had been placed on probation during his training years.

Respondent stated his failure to disclose his probation was due to a credentialing service he utilized. He does not understand that he is ultimately responsible for reviewing his license applications.

The Board would like to see the Respondent's other state applications to see if he disclosed his probation. Respondent is to supply the board with application information.

The Respondent answered the Board's questions.

MOTION: Dr. Cunningham moved to table the license application. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

C. Marissa Lynne Dombovy-Johnson, DO DO-18-0186A License No. N/A

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed a yes answer under the professional conduct portion of the application for an arrest for a DUI in 2015.

The Respondent answered the Board's questions.

MOTION: Dr. Reiss moved to approve the PGT Permit application. Dr. Cunningham seconded.

VOICE VOTE: The motion carried unanimously.

11. QUESTION AND ANSWER SESSION BETWEEN THE MEDICAL STUDENTS AND MEMBERS OF THE BOARD AND DISCUSSION RELATING TO ISSUES SURROUNDING THE PRACTICE OF OSTEOPATHIC MEDICINE.

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

- A. Review, discussion and possible action regarding the Three (3) Reviewer complaint review process.

Tabled to January.

- B. Review, discussion and possible action on request from the AOMA to modify the license application confidential questionnaire on professional conduct.

Pete Wertheim from the AOMA spoke about the confidential questions on the license renewal form. There is a severe epidemic of depression with physicians and the license renewal questions lacks compassion. This could be a deterrent for physicians to seek treatment. Would the Board modify or rescind the confidential questionnaire? There is a similar question on the initial application also.

The board would like to form a committee and discuss the renewal questions. The committee will consist of Mr. Landau, Dr. Maitem, and Dr. Cunningham whom will meet by teleconference and invite Mr. Wertheim.

MOTION: Dr. Cunningham moved to appoint a committee Mr. Landau, Dr. Maitem, and Dr. Cunningham to look at the application process regarding the issue of reporting psychiatric issues with physicians on their initial application and renewal application. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

Amended Motion: To add: to what other issues may be affecting a physician as well. Dr. Maitem seconded
VOICE VOTE: The motion carried unanimously.

- C. Review, discussion and possible action on revising substantive policy statement regarding the Arizona Opioid Epidemic Act.

MOTION: Dr. Cunningham moved to accept the American Board of Pain Medicine as a revised substantive statement. Dr. Erbstoesser seconded.

The Board had a discussion.

Dr. Cunningham withdrew the Motion; Table the matter for more research and information on Addiction Medicine and Pain Management.

FSMB may have a recommendation for the Board, Mr. Landau to check on.

- D. Review, discussion and possible action regarding continuing education required by the Arizona Opioid Epidemic Act to allow for any accredited CME provider.

Pete Wertheim stated the AOMA will have online CME training opportunities on their website for the opioid laws, which will be available in the next few months. The Opioid CME can be accredited for 1A, this will be discretionary and flexible of the Board.

MOTION: Dr. Cunningham moved to direct staff to draft a substantive policy regarding opioid prescribing for category 1A and 1B and bring to the Board in January. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

- E. Review, discussion and possible action regarding Board policy on Board member compensation and expense policy.

Ms. Brake provided the Board with sample information from other Boards.

MOTION: Dr. Maitem moved to approve the draft policy. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously.

Policy change will become effective January 2019.

- F. Review, discussion and possible action on DATA waiver for statewide opioid medical curriculum including possible statutory change; presented by Dr. Lisa Villarroel, AZ Department of Health Services.

Ms. Villarroel gave a PowerPoint presentation to the Board and is asking for a statutory change.

MOTION: Mr. Landau moved to propose to legislature to amend statute 32-1802 subsection F to include paragraph 7 inserting Review and approve curriculum training and experience pursuant to 21 USC Section 823 (g)(2)(G)(ii) to determine whether the training or experience would provide prospective or current Arizona-license physicians the ability to treat and manage opiate-dependent patients as a qualified physician under the Drug Addiction Treatment Act of 2000. Dr. Erbstoesser seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Mr. Landau moved that Amber Brake or another Board representative be authorized to work with the Legislature/legislative staff Department of Health and other interested entities to finalize the recommended language just proposed. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

AMENDED MOTION: Mr. Landau moved to amend previous motion to correctly reflect the correct statutory number 32-1803.

Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

G. Executive Director Report

Ms. Brake provided the Board with an update.

Scheduled Board meeting dates are:

January 12, 2019

February 2, 2019

March 16, 2019

April 13 (if needed)

Tentative Board meeting dates are:

May 11, 2019

June 15, 2019

1. AAG 2018 Legislative Update Memorandum

The Board requested Ms. Brake to email the report to them.

2. Discussion on FY2020 Budget

Ms. Brake provided the Board with an update.

3. Licensing renewal update

There was a defect in the mail merge on the renewal letter. Letters were resent out within 2 days.

4. Hiring Update

Ms. Brake has received 50 applications for the Investigations Manager position and it may be reclassified if needed. The posting will close the end of the year. There has been one interview completed.

H. FSMB Board of Directors Meeting Highlights Summary.

Ms. Brake provided the Board with an update.

I. Review, discussion and possible action regarding proposed changes to the Boards' substance abuse monitoring.

Currently testing is not being done on Saturday or Sunday. Medtox is available on Saturdays and Sundays, but more sites are open on Saturdays. It was also discussed that the process would be more random and not limited to twice a month.

MOTION: Dr. Reiss moved for a maximum of thirty (30) tests per year and include Saturday's for urine drug screens. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

13. ADJOURNMENT

The Board adjourned at 5:40 p.m.