



**ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY**  
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**Board Members**  
Jerry G. Landau, J.D., Pres.  
Gary A. Erbstoesser, D.O., V.P.  
Douglas L. Cunningham, D.O.  
Jonathan Maitem, D.O.  
Jeffrey H. Burg, AIF  
Dawn K. Walker, D.O.  
Ken S. Ota, D.O.

**Executive Director**  
Justin Bohall

## FINAL MINUTES FOR VIRTUAL MEETING OF THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

**Held on Saturday, January 9, 2021**

### 1. CALL TO ORDER

Board President Landau called the meeting to order at 8:35 a.m. and thanked the Board members and staff for facilitating today's proceedings.

### 2. ROLL CALL AND REVIEW OF AGENDA

	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Present:	X	X		X	X	X	X
Absent:			X				

### 3. CALL TO THE PUBLIC

President Landau read aloud 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. President Landau 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. No individuals addressed the Board during the Call to the Public portion of the meeting.

### 4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

#### A. November 14, 2020 Open Session

Executive Director Bohall informed the Board that two amendments were made to this set of minutes, both include replacing "tabled" with "continued" to clarify that the matters were continued to the Board's next meeting.

**MOTION: Dr. Walker moved for the Board to approve the November 14, 2020 Open Session as amended.**

**SECOND: Mr. Burg**

**VOTE: 5-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X			X	X	X
Nay:	0							
Abstain/ Recuse:	1				X			
Absent:	1			X				

B. November 14, 2020 Executive Session Minutes

The Board continued this item to its next meeting.

**5. 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. DO-20-0123A, Jason Murri

Dr. Murri participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Murri applied for licensure and disclosed a malpractice settlement involving care that occurred in 2016 during the time that he was a radiology resident under the supervision of an attending. The malpractice case alleged that Dr. Murri failed to document that a bowel perforation could not be excluded on read of an abdominal CT that was performed post-laparoscopic cholecystectomy. The patient was found to have perforation and expired after an extended stay in the ICU.

Dr. Murri reported that he trained at Midwestern University and is currently a body imaging fellow as well as independent contractor for someone with nationwide practices. Dr. Murri explained that he was a first year resident when this event occurred in 2016 and that all of his cases would have been read and approved by the attending physician prior to being sent out. He stated his involvement in the patient’s care was limited and that there were no specific signs of perforation on the post-endoscopy CT scan that he read.

Dr. Maitem observed that the order for the CT indicated that the purpose of the imaging was to exclude perforation. Dr. Murri confirmed that he did not document in his report that perforation was excluded. Dr. Maitem commented that mentioning everything that was excluded in the report would be overbearing, that the CT did not appear to show signs of perforation, and that not documenting it as an exclusion was acceptable.

**MOTION: Dr. Maitem moved for the Board to grant an unrestricted license.**

**SECOND: Dr. Walker**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

B. DO-20-0189A, Nancy Rachael Davison

Dr. Davison participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Davison applied for licensure and did not disclose a 2012 arrest and charge for trespassing that was discovered during the application review process. According to the police report, on September 1, 2012, Dr. Davison was arrested and charged with trespassing after officers responded to the burglary alarm at an elementary school.

Dr. Davison reported that she attended medical school in Florida, and that she did not disclose on the license application as it was not a requirement with the Florida Board to which she had recently completed a license application prior to submitting her Arizona application. Dr. Davison apologized for the oversight and explained that she was walking home the night of the incident and entered the elementary school to find a restroom as she believed it was part of the university. She further reported that the criminal matter resulted in deferred prosecution and that the charges were ultimately dropped.

President Landau stated his concerns regarding the physician’s failure to accurately complete the application and inconsistencies between her statements and the police officer’s statement. In response to President Landau’s questioning, Dr. Davison stated that she had been drinking that night and was walking home with a friend, and that she currently only drinks socially. Dr. Davison also reported that she has been offered a position in Prescott contingent on her obtaining an Arizona license.

**MOTION: Dr. Maitem moved for the Board to grant an unrestricted license.**

**SECOND: Mr. Burg**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

C. DO-20-0199, Gordon Brown

Dr. Brown participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Brown applied for licensure and disclosed a malpractice settlement involving care that occurred in 2014. The patient sustained an injury to the liver from a retractor that occurred during resection of a metastatic lesion due to renal cell carcinoma. Postoperatively, the patient had an MI and required Heparin which resulted in bleeding and a second surgery. Thereafter, the patient went on to have a prolonged hospital stay and expired from multisystem organ failure.

Dr. Brown reported that he currently practices urologic oncology in New Jersey and that if granted licensure, he planned to work in Lake Havasu to deliver robotic surgery to patients in need of those services. He explained that the underlying case involved an elderly patient with multiple comorbidities and that surgery was performed in combination with both transplant and vascular teams. He stated that adhesions to the liver were noted as a result from previous surgery which was managed by the vascular surgeons, and that the surgery was otherwise successful. The patient was closed, transferred out of the operating room, required Heparin due to a postoperative MI which resulted in a subcapsular hematoma of the liver that required re-exploration by the transplant team and vascular surgeons, developed multisystem organ failure and expired.

In response to Dr. Maitem’s questioning, Dr. Brown stated that he believed the patient was at higher risk based on his medical history and that had the patient not required Heparin, he would have recovered and done well. Dr. Maitem recognized that this was a complicated case involving a patient with multiple comorbid conditions. President Landau noted that two additional malpractice cases involved the applicant that did not result in payment or findings. Dr. Brown reported that neither of those cases had support or demonstration of merit.

**MOTION: Dr. Maitem moved for the Board to grant an unrestricted license.**

**SECOND: Vice-President Erbstoesser**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

D. DO-20-0194A, Brett Thomas Zimmerman

Dr. Zimmerman participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Zimmerman applied for a license and disclosed a malpractice settlement involving care that occurred. In 2004. The patient was admitted with no contractions and was 2 cm dilated. Nursing staff monitored the patient and updated the physician regarding her status, and he arrived the following morning after being notified that the patient was having perineal pressure and was complete. Dr. Zimmerman noted a breach and performed a delivery, but the fetal head was entrapped, the infant had seizures and was noted to be blind with cerebral palsy. The infant died at 19 months and the case was settled with both Dr. Zimmerman and the hospital.

Dr. Zimmerman reported that he currently practices in Michigan and is board certified in obstetrics and gynecology. He stated that the underlying case occurred in 2004, that he has not had any additional malpractice cases since that time, and that this was a tragic and traumatic case for everyone involved. Dr. Zimmerman stated that he learned from the case and that it shaped his practice from there on out. He explained that the patient presented with vague abdominal complaints and no objective signs of labor that they would have proceeded with cesarean section had they known the

baby’s head was not down, and that he met with the patient after the case settled and apologized.

In response to President Landau’s questioning, Dr. Zimmerman stated that he did not hear anything from 9:00 p.m. to 4:00 a.m., which did not allow him the chance to intervene which may have altered the outcome in this case. He also reported that he has been offered the position of Deputy Chief Medical Officer at North Country Healthcare in Flagstaff. Dr. Zimmerman clarified that he was covering for his partner when this patient presented and that there was no indication that the baby was breached. Vice-President Erbstoesser questioned the physician regarding how his practice has changed since that time. Dr. Zimmerman reported that patients with similar presentations undergo ultrasound immediately if the position of the baby’s head is not known, and that they do not proceed with delivery without knowing if they are in labor and the baby’s head is down.

**MOTION: Dr. Maitem moved for the Board to grant an unrestricted license.**

**SECOND: Dr. Ota**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

E. DO-20-0193, Vitaliy Zhivotenko

Dr. Zhivotenko participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Zhivotenko applied for licensure and disclosed a pending malpractice claim that alleged negligence by use of Naproxen in a patient that developed an ulcer that required surgical repair. Dr. Zhivotenko performed an epidural injection on the patient in August of 2017 while treating her neck and back pain and was not her regular physician.

Dr. Zhivotenko reported that he currently resides and practices in New York, and if granted licensure planned to relocate to the Phoenix area to practice medicine and raise a family. He explained that the patient was being seen in the practice since a motor vehicle accident in 2015, and that he became involved by administering an epidural injection for as well as nerve conduction in August and September of 2017, respectively, while covering for her main treating physician. Dr. Zhivotenko stated that he has had no further involvement in the patient’s care.

Dr. Maitem questioned the applicant regarding the allegation, and Dr. Zhivotenko reported that the patient was receiving the medication from another physician that resulted in overuse and led to the ulcer. He clarified that he did not prescribe the Naproxen for her. Dr. Maitem commented that he did not find a problem with this case. Vice-President Erbstoesser emphasized the importance of reviewing the patient’s medications, particularly anti-inflammatory medications, and stated that he did not see anything in this case that should prevent the Board from granting licensure.

**MOTION: Dr. Maitem moved for the Board to grant an unrestricted license.**

**SECOND: Vice-President Erbstoesser**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

F. DO-20-0207, Mark Alan Merlin

Dr. Merlin participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Merlin applied for licensure and disclosed a malpractice settlement for care that occurred in 2011. The case involved a 59 year-old male that presented to the emergency room with complaints of headache, nausea and some dizziness for two days. Nursing noted upper extremity weakness and the resident noted further findings. A head CT showed acute cerebral infarct and an MRI was obtained. Dr. Merlin and the resident admitted the patient to the telemetry unit under the care of cardiology. The patient’s chart was lacking in that it was unclear whether a neurology consultation was obtained while the patient was in the emergency department or on the floor. The patient went on to have evolution of stroke and expired a few days later.

Dr. Merlin reported that he attended medical school in Illinois and has been board certified for several years in emergency medicine. He explained that in the underlying case, the patient was admitted to the telemetry unit, a neurology consultation was obtained, and the patient was then admitted to the hospitalist’s service. Dr. Merlin stated that the hospitalist documented that a neurology consultant was done on their admission note, but did not document that neurology was called by the emergency department. Dr. Merlin stated that the patient decompensated a few days after his involvement, and that there was ultimately a delay in neurosurgery presenting to the patient’s bedside and the case was settled.

In response to President Landau’s questioning, Dr. Merlin explained that he was seeking Arizona licensure to offer his company’s services of COVID testing and vaccinations as they do in a number of other states. Dr. Maitem recognized that dizziness is a common complaint among patients presenting to the emergency department and can mean many things. Dr. Maitem also recognized that the resident obtained an emergency head CT within minutes, and Dr. Merlin confirmed that a discussion took place between the resident and the neurology consultant. Dr. Maitem stated that he found the care was perfect with the exception of ataxia and visible stroke on CT scan, and questioned the applicant as to what he would do differently if faced with a similar scenario in the future. Dr. Merlin stated that when he reviewed the resident’s notes, he did not look to see that the consult was documented, and that this is what he would do differently.

**MOTION: Dr. Maitem moved for the Board to grant an unrestricted license.**

**SECOND: Dr. Walker**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

G. DO-20-0206, Jeffrey Dale Greenlee

Executive Director Bohall reported that Dr. Greenlee withdrew his license application. The Board took no action on this item.

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

A. DO-20-0064A, Steven J. Reinhart, DO

Dr. Reinhart participated in the virtual meeting during the Board’s consideration of this matter. He reported that he is board certified in emergency medicine and has been practicing in that field for about 40 years, the last 35 of which at Banner University Medical Center. He stated that two years ago, he stopped doing clinical shifts in the emergency room and switched to inflight medical emergencies for approximately 104 airlines.

*The Board recessed from 9:48 a.m. to 10:00 a.m.*

Dr. Reinhart summarized that the case involved a 63 year-old male who was brought to the emergency room via paramedics in October of 2016, with a history of fetal alcohol syndrome and had a mental capacity of functioning as a 10-12 year-old. He stated that neurological examination was difficult in this patient due to his mental impairment, and that the patient’s labs and head CT were normal. He stated that an EKG showed atrial fibrillation and that both the cardiologist and hospitalist agreed with hospital admission. The patient was admitted and monitored, and the next day had some weakness in his right upper extremity that he did not have at initial presentation. An MRI showed a right cerebellar infarct, and the patient’s sister who was also his care giver believed that the patient should have been given TPA in the emergency room and filed a suit for long-term care for him.

Dr. Maitem stated his concerns regarding the physical exam for ruling out posterior circulation stroke. He also noted that a fall injury was mentioned as a contraindication and there was no musculoskeletal examination in the chart. Dr. Maitem stated that based on his review, TPA was contraindicated and that a more thorough physical exam was warranted. Dr. Maitem stated he found that this matter does not rise to the level of discipline, and he spoke in support of issuing a non-disciplinary Letter of Concern.

**MOTION: Dr. Maitem moved for the Board to issue a non-disciplinary Letter of Concern for failure to document an adequate physical examination.**

**SECOND: Dr. Walker**

**VOTE: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

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

### A. DO-19-0219A, Shantall Viridiana Hall, DO

Dr. Hall and Attorney Andrew Turk participated in the virtual meeting during the Board's consideration of this matter. Complainant VC also participated in the virtual meeting.

Board staff summarized that Dr. Hall saw the patient on December 23, 2018 after she presented to the emergency room with complaints of pain and drainage in the area where a pin was removed on December 6<sup>th</sup>, which had been placed following a humeral fracture in August of 2018. The patient had no fever, Dr. Hall contacted the orthopedic surgeon on call and discussed the situation. They elected to proceed with draining the area and having the patient see the orthopedic surgeon in the office the next day. The patient was discharged early the following morning with a plan to present to the orthopedic surgeon's office later that morning. Board staff reported that the medical record did not indicate whether the patient was on oxygen at the time that her oxygen saturation was checked prior to discharge, and that there were concerns raised regarding the patient's two prior admissions and whether these were factored into the physician's decision making.

VC addressed the Board and stated her concerns regarding Dr. Hall's care of the patient. She alleged that he failed to diagnose or treat any symptoms of sepsis, surgical wound infection and elevated blood glucose, and failed to conduct additional lab testing. VC stated she believed that had Dr. Hall thoroughly reviewed the patient's medical history, the outcome would have been different. VC also stated concerns regarding the patient's discharge, and stated that the medication she received coupled with additional laboring after discharge further depleted the patient's oxygen levels. VC stated she believed the patient's untimely death was due to substandard care and negligence. In response to President Landau's questioning, VC stated that she was not present when the patient was seen in the emergency room on December 23<sup>rd</sup> and that she was not present for the discharge. She also stated that she did not speak with any of the patient's providers, but did communicate with the patient coordinator and that Dr. Hall subsequently refused to sign a form that was required for the patient's life insurance policy.

Dr. Hall stated that she recalled this patient who presented with complaints of right shoulder pain and drainage three weeks post-surgery, with stable vital signs and an obvious abscess at the incision site. She stated that she called the orthopedic surgeon to determine whether they should proceed with taking the patient to the operating room for a washout. The consultant indicated that he would not be able to see the patient until later the next day, unless she presented to his office first thing in the morning. Dr. Hall stated that she placed the consultant on hold to discuss with the patient and her husband their ability to present to his office the next morning. Dr. Hall also stated that the consultant agreed with draining the abscess in the interim and starting the patient on antibiotics. Dr. Hall confirmed that she reviewed the patient's prior records that showed a poorly controlled glucose. Dr. Hall stated that she discharged the patient with stable vital signs, and that she believed the consult would have been further delayed had she admitted the patient to hospital services.

Dr. Maitem stated that based on his review, the initial evaluation and treatment was excellent and that he would have preferred to see documentation in the chart regarding a discussion with the patient relating to the likelihood of complications. In response to Dr. Maitem's questioning, Dr. Hall stated that she was not aware that the patient requested for her to sign a form or that she wanted to meet with her. Dr. Maitem recognized that Dr. Hall consulted with the orthopedic surgeon and followed



the advice she obtained. Vice-President Erbstoesser noted that a shoulder x-ray as not obtained in a patient with osteomyelitis and questioned the licensee as to whether this was considered during her decision making. Dr. Hall stated that she was concerned for a prosthetic infection and felt that the patient needed to be taken back to the operating room to have it removed and washed out. Vice-President Erbstoesser commented that he did not find fault with the physician in this case and questioned whether the patient followed up with her primary care provider between hospital admissions. VC confirmed that the patient had a primary care provider, but that she was not sure of their involvement.

Mr. Turk stated that while they appreciate VC’s loss and do not minimize that, they did not believe that the physician had any fault here. He stated that a number of concerns raised by VC were issues over which the physician did not have any control. Mr. Turk stated that the pain medications that were given were acceptable and required, and that they were not inconsistent with pain medications previously provided for various procedures. He stated that based on the information available to her at the time as well as the consultation, Dr. Hall prioritized follow-up care for the patient and determined that the quickest way to do that was to send the patient home. Dr. Maitem pointed out that sepsis can occur quickly and cause decompensation in an elderly patient with diabetes. He noted that the licensee reported having a discussion with the patient regarding her infection and risk factors, but stated that this needed to be more aggressively addressed in an elderly patient with other risk factors and an obvious surgical infection.

Dr. Maitem stated that he found this matter does not rise to the level of disciplinary action. President Landau stated that he did not find where the physician’s actions or lack of action were contrary to community standards or the standard of care, and he spoke in favor of dismissing the case.

**MOTION: Dr. Maitem moved for the Board to issue a non-disciplinary Letter of Concern for inadequate documentation of discussion with the patient with severity of ailment and treatment options.**

**SECOND: Dr. Ota**

President Landau spoke against the motion and stated that given the circumstances, a Letter of Concern was not warranted.

**VOTE: 4-yay, 2-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	4		X		X		X	X
Nay:	2	X				X		
Abstain/ Recuse:	0							
Absent:	1			X				

*The Board recessed from 11:02 a.m. to 11:14 a.m., at which time Dr. Ota departed from the meeting.*

**B. DO-19-0181A, Gregory Arthur Zakas, DO**

Dr. Zakas participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that the Board received a complaint from an osteopathic physician alleging that on August 16, 2019, Dr. Zakas identified himself as that after he was involved in a surgical complication, and that Dr. Zakas may have falsely identified himself on patient charts. Board staff reported that review of the chart clearly identified that the patient was seen by Dr. Zakas. The patient underwent a pain management procedure performed by Dr. Zakas and was then transferred to Chandler Regional due to a syncopal episode that occurred after the procedure. The patient was noted to have been unconscious for less than a minute and did not feel better after a period of observation.

Dr. Zakas jokingly identified himself as Dr. Davenport to a nurse. Board staff reported that attempts to obtain any medical records from Chandler Regional have been unsuccessful.

Dr. Zakas stated that he never impersonated another physician as alleged, and explained that it was his second day at the surgery center, that his name was clearly written on top of the board along with the patient scheduled, was documented appropriately in the patient’s chart, and that the nurse anesthetist has stated that he appropriately identified himself as Dr. Zakas. He further explained that he jokingly introduced himself as a different physician to a nurse, and that he corrected himself when he realized that she took offense to it and appropriately introduced himself. Dr. Zakas stated that he was not aware that the other physician was previously fired from the practice or that this previous sensitivity existed until his employer informed him later, and that he never would have made the joke had he known this history. With regard to the patient’s care, Dr. Zakas stated that his treatment met or exceeded the standard of care and that there was no patient harm involved.

President Landau noted that Dr. Zakas introduced himself as another physician to a nurse at the ambulatory surgery center. Dr. Zakas reiterated that it was done jokingly, and explained the patient care that involved his performance of ultrasound guided shoulder injection. He explained that after the procedure, the patient passed out and fell forward, was caught by staff who laid him flat, and was able to quickly regain consciousness. The patient was taken to recovery where he remained a little foggy and began to complain of nausea, and was ultimately transferred. Vice-President Erbstoesser stated that he did not find issues with the procedure, and stated his concerns regarding the licensee’s lack of good judgment by jokingly introducing himself as a different physician to a member of the medical staff. Dr. Zakas confirmed that he no longer works for that practice.

Dr. Maitem commented that he did not believe the licensee was trying to impersonate anyone, but used poor judgment. He stated that misidentification could create communication gaps that can cause medical errors with potential for patient harm.

**MOTION: Dr. Erbstoesser moved for the Board to issue a non-disciplinary Letter of Concern for lack of appropriate judgment and sensitivity in providing a false or misleading name to a member of medical staff.**

**SECOND: Dr. Maitem**

Mr. Burg stated that he did not find this matter rises to the level of a Letter of Concern and spoke against the motion. President Landau spoke in favor of the motion and stated that the incident clearly set in motion a series of events that caused the complainant to report it to the Board.

**VOTE: 4-yay, 1-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	4	X	X		X		X	
Nay:	1					X		
Abstain/ Recuse:	0							
Absent:	2			X				X

C. DO-19-0062A, Christopher Michael Quinn, DO

Dr. Quinn participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that this case was initiated after receiving notification from Dr. Quinn that he was reprimanded by the Michigan Board in 2019. According to the Michigan Board’s Order, Dr. Quinn dispensed injectable medications without any type of examination, often times by non-licensed staff when the physician was not present in the office. Dr. Quinn’s staff also mailed injectable medications to patients without an office visit. As a result of the Michigan Board’s case, Dr. Quinn was reprimanded, required to complete CME, and assessed a fine. According to the NPDB, Dr. Quinn was also reprimanded by the Michigan Board in 2010 for failure to report dispensing of controlled substances to Michigan’s mandatory reporting system. In 2019, Dr. Quinn was reprimanded by the North Carolina Board and issued a Letter of Concern by the Florida Board for the action taken by the Michigan Board in 2019. The Medical Consultant (“MC”) found that Dr. Quinn dispensed medications from his weight loss clinic, including patient self-injectable Vitamin D, for unknown reasons without an exam, lab evaluation or appropriate follow up with the idea that this would facilitate weight loss. The MC stated that not only was this below the standard of care, but also unethical, misleading and potentially harmful to patients. The MC also found that Dr. Quinn permitted non-licensed staff to administer and dispense medications while not present in the office, used single-use vials for multiple patients without a prescription for some, and used injectable Vitamin D to promote weight loss.

Dr. Quinn stated that the 2009 incident was previously addressed by the Board at the time that he was initially granted Arizona licensure. He explained that the more recent Michigan matter involved his practice of not doing specific vials for every specific patient and that a conflict between his MA and General Manager that resulted in her termination and subsequently filing of a complaint with the Board. In response to Vice-President Erbstoesser’s questioning, Dr. Quinn stated that he has never promoted Vitamin D to help with weight loss and referred the Board to the medical literature he submitted that indicate lab testing is not required. Dr. Quinn reported that he currently purchases from a different pharmacy that issues office-specific medication and that all of his injectables are labeled.

**MOTION: President Landau moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board entered into Executive Session at 11:50 a.m.

The Board returned to Open Session at 12:06 p.m.

No legal action was taken by the Board during Executive Session.

The Board discussed considering dismissing some of the allegations included in the notice of investigative hearing correspondence as these concerns have been addressed, and continue the case to the Board’s March 2021 meeting in order to obtain additional information from Michigan regarding the more recent reprimand in order to address the allegation of violation of A.R.S. §32-1854(18).

**MOTION: Mr. Burg moved for the Board to dismiss the allegations outlined in the December**

**3, 2020 correspondence.**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board continued this matter to its March 2021 meeting to obtain additional information from Michigan and re-notice the licensee on the allegation of action taken by another state.

*The Board recessed for lunch from 12:16 p.m. to 1:00 p.m.*

**D. DO-19-0180A, Jason J. Begalke, DO**

Dr. Begalke and Attorney Mason Ryan participated in the virtual meeting during the Board's consideration of this matter. Dr. Maitem stated that he knew Dr. Begalke professionally and that it would not affect his ability to adjudicate the case.

Board staff summarized that this matter involved a 42 year-old female patient with hyperglycemia, morbid obesity, snoring and daytime fatigue. The patient was contacted by the outpatient facility the morning of her scheduled colonoscopy and was instructed to come in early since they had other cancellations. The nurse advised the patient to finish the liquid prep as she had not yet taken her morning dose. The patient completed her prep at 9:30 a.m. The patient presented, anesthesia was started at 11:08 a.m., and began to aspirate at 11:30 a.m. The patient's airway was continuously suctioned, and she was discharged from the facility at 12:48 p.m. The patient later presented to the emergency room with complaints of fever, shortness of breath, cough and chills. She was admitted for aspiration pneumonia with an elevated white blood count. The MC found that Dr. Begalke deviated from the standard of care by failing to follow ASA NPO guidelines, that the licensee did not document the patient's NPO status and failed to document the aspiration in the medical record or monitor for signs of aspiration postoperatively. The MC also found that Dr. Begalke failed to warn the patient of signs and symptoms that may necessitate further care.

Dr. Begalke stated that he met the patient, obtained a history and performed a physical exam, questioned her about NPO status, reviewed the nurse's notes and obtained informed consent for the procedure. He stated that induction with sedation was routine, the colonoscopy was started, and thirty minutes later he noted yellow tinted transparent fluid coming out of her mouth. The patient required a short hospital stay and antibiotics, and that no long term complications resulted from the incident. Dr. Begalke reported that he learned from the case and instituted changes into his practice, particularly with regard to his documentation, and that he now authors a separate note if anything unusual takes place so that it is easier to find in the chart. Mr. Ryan stated that the licensee admitted that he could document the NPO status better. He stated that the physician did ask the patient about her NPO status and that had she indicated that she drank in the last two hours, he would have waited the extra half an hour before starting the procedure.

The Board discussed the documentation issues raised in this case, and observed that Dr. Begalke failed to document the NPO status and that there was no documentation as to who provided the patient with clarification when she called the outpatient surgery center prior to presenting for the procedure. Dr. Begalke confirmed that had he been aware that the patient was NPO by 9:30 a.m., he would have waited until 11:31 a.m. to administer the propofol. President Landau stated that this case clearly involved documentation concerns and that action was warranted.

**MOTION: Dr. Maitem moved for the Board to issue a non-disciplinary Letter of Concern for inadequate documentation.**

**SECOND: Dr. Walker**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

E. DO-19-0140A, Gary Alan Knighton, DO

Dr. Knighton and Attorney Robert Milligan participated in the virtual meeting during the Board’s consideration of this matter. Complainant Jodi Jaffe also participated in the virtual meeting.

Board staff summarized that this matter was reviewed by a board certified bariatric physician who found that Dr. Knighton deviated from the standard of care in that dosages used at times were unusual and higher than what is recommended. The MC identified concerns regarding the physician’s dispensing of #252 tablets of Phentermine in one visit, which was intended for 184 day supply. The patient received an additional prescription from another provider around the same time, implying that the patient was taking #10 tablets per day or 375mg per day. The MC noted that failure to review the Controlled Substances Prescription Monitoring Program (“CSPMP”) is deviating from the standard of care, and also stated concerns regarding possible diversion as the patient would have demonstrated other symptoms indicative of too high a dose.

Ms. Jaffe stated her concerns regarding negligence and possible diversion. She explained that she owns three weight loss clinics and that she has been involved in this area for over ten years, and clarified that she is not a physician. She stated that she filed a complaint for the Board to review the amount of dispensing taking place, and explained that the patient presented to her clinic with false information and that they refused to treat her.

Dr. Knighton stated that everything he did for the patient he did with her best interests, and that given her physical complications and cultural problems, he had an immense amount of empathy for her and serious desire for her to succeed. He stated that he believed his prescribing of Phentermine was appropriate and that the patient never had an abnormal side effect related to the medication. Dr. Knighton responded to the concerns raised by the MC relating to failure to check the CSPMP and dosing. He stated that their expert reviewer found that the dosing was within the standard of care, and that he has learned from this case and has since implemented a policy in his practice for checking the CSPMP for every new patient and every three months for existing patients. Dr. Knighton also reported that he completed a professional boundaries course and has applied what he learned into his practice. Mr. Milligan pointed out that the MC report clearly stated that the patient did not have any side effects from the Phentermine. He also pointed out that their expert stated that Dr. Knighton’s care of the patient was exemplary, and stated that statute does not obligate CSPMP review when prescribing Phentermine. He stated that the MC made an impressive number of very favorable comments about the physician’s care, did not find that the patient was harmed by Dr. Knighton’s actions, and stated in his report that the physician appeared to understand the areas that could be improved and has taken measures to do so.

President Landau stated his concerns for possible diversion given the amount of medication prescribed to the patient. Dr. Knighton explained that the patient was traveling and that he elected to dispense her medications to keep her progress going so she did not run out and put the weight back on. In response to further questioning by Board members, Dr. Knighton stated that Phentermine is not addictive and that it does not have a street market value for diversion. He stated he was not aware that the patient was receiving prescriptions from another provider, and that the patient was terminated

after he was notified from Ms. Jaffe’s office that she presented there trying to get Phentermine.

President Landau noted the difference of opinion among the MC and Dr. Knighton’s expert as it relates to the amount of medication provided to the patient. President Landau stated his concerns regarding the amount of medication prescribed in one day.

**MOTION: Dr. Maitem moved for the Board to issue a non-disciplinary Letter of Concern for the amount of medication prescribed in one day and for failure to review the CSPMP.**

**SECOND: Dr. Walker**

Mr. Milligan pointed out that Phentermine is not on the CDC’s list of stimulants subject to abuse. Dr. Maitem clarified that Phentermine is classified as a stimulant. The Board discussed prescribing for a patient traveling out of town and noted that the prescription can be written with refills or the physician could approve the out of state pharmacy to refill the patient’s medication. Board members noted concerns regarding the availability of three months’ worth of medication at once with potential for problems or diversion.

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

*The Board recessed from 2:07 p.m. to 2:20 p.m.*

## **8. REVIEW, CONSIDERATION, AND ACTION ON COMPLIANCE WITH TERMS OF BOARD ORDERS AND REQUESTS TO MODIFY OR TERMINATE ORDER OR ISSUE SUMMARY ACTION.**

### **A. DO-18-0201A, Joel Braunstein, DO**

Dr. Braunstein and Attorney Kraig Marton participated in the virtual meeting during the Board’s consideration of this matter.

Executive Director Bohall reported that Dr. Braunstein submitted a letter to the Board requesting reconsideration of the Interim Order for PACE evaluation. Mr. Marton asked the Board to consider performing a chart review of Dr. Braunstein’s current patients as an alternative to the evaluation to demonstrate that the licensee’s practice has improved in the last 18 months. He stated that the PACE exam is unnecessary, expensive, and potentially dangerous given the current pandemic. Mr. Marton stated that he did not receive the Board’s Interim Order and that it was unclear what type of evaluation is required.

President Landau read aloud the terms of the Interim Order dated March 3<sup>rd</sup>, and noted that it was sent to the licensee via certified as well as electronic mail to his address of record. Mr. Marton reported that the physician is temporarily not residing at his home address that is on file with the Board, and President Landau pointed out that the licensee is responsible for updating his contact information with the Board.

Dr. Braunstein stated that it was not clear whether he was required to undergo a competency evaluation or an evaluation of his opioid prescribing. He reported that he initially registered and paid for the evaluation and notified the Executive Director, then the pandemic occurred, and he refused to travel to California during the health crisis. Dr. Braunstein explained his concerns regarding the costs associated with the evaluation, and stated that he did not have \$25,000 that is required to comply. He reported that he ran his CSPMP report card and that it demonstrated he is at or below his peer level in all categories. He asked the Board to consider conducting a more up to date review of his practice as it stands currently.

President Landau noted that Dr. Braunstein submitted correspondence to the Board in September of 2019 which indicated that the licensee was fully aware of what was required by the Board’s Interim Order. President Landau commented that the licensee had the ability to contact Board staff if he had any questions or concerns, or if he needed further clarification. He stated that the Board’s Interim Order is warranted in this matter, and Board staff confirmed that PACE has been conducting its evaluations virtually in light of the health crisis. Dr. Braunstein stated that based on his review, PACE offers five different programs and reiterated that it was unclear which type of evaluation the Board was requesting.

Board staff pointed out that the transcripts of the Board’s prior meeting outlines the Board’s motion for a full competency and opioid prescribing assessment to be performed at PACE. President Landau observed that the same language was included in the Board’s Interim Order as well as Dr. Braunstein’s September 2019 correspondence to the Board, confirming that the licensee received the Interim Order. Mr. Marton reported that PACE stopped doing evaluations almost immediately after the Board meeting due to COVID, and that they began virtual evaluations in mid-August. President Landau noted that Dr. Braunstein was previously granted an extension due to COVID and travel restrictions, extending the deadline to mid-December. Dr. Maitem stated that a PACE evaluation is warranted in this matter.

**MOTION: Dr. Maitem moved for the Board to deny the request to modify the Interim Order.**  
**SECOND: Mr. Burg**

Vice-President Erbstoesser commented that he was glad to hear the licensee has changed his way of practicing medicine, which he stated would be expected of a physician after issues are identified and improvement is needed. He stated that it is clear the physician was aware of the Board’s Interim Order. Mr. Burg noted that Dr. Braunstein was present at the Board’s prior meeting and stated that the licensee was not serving himself well with his attitude towards the Board. In response to the Vice-President’s comments, Mr. Marton questioned how a PACE evaluation of the licensee’s prior practices would demonstrate to the Board how the physician is currently practicing. Vice-President Erbstoesser stated that the PACE evaluation was recommended to evaluate the physician’s knowledge base to ensure that he is practicing safely.

Dr. Braunstein questioned the type of evaluation the Board was requiring, and also asked whether there was any evidence of incompetency to warrant the evaluation. President Landau clarified that the licensee was required to complete a competency evaluation and that this was not the time to relitigate the case. Mr. Marton requested the Board send him a copy of the Order, and President Landau instructed the licensee to provide staff with his current contact information.

**MOTION: President Landau moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).**  
**SECOND: Dr. Maitem**  
**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board entered into Executive Session at 3:00 p.m.  
The Board returned to Open Session at 3:14 p.m.  
No legal action was taken by the Board during Executive Session.

Mr. Marton stated that they will research what is involved in order to complete the evaluation and will immediately report any problems to the Board. Following Mr. Marton’s comments, the Board proceeded

to vote on the motion to deny the request to modify the Interim Order.

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

**MOTION: President Landau moved for the Board to amend the Interim Order issued on March 3<sup>rd</sup> to clarify that the licensee shall undergo a competency evaluation and opioid prescribing evaluation provided by PACE, and to add that the evaluation shall be completed by June 1, 2021 unless PACE informs the Executive Director that a later date is needed.**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

President Landau instructed the licensee to contact the Executive Director as soon as possible if he experiences any issues with enrolling for or completing the PACE evaluation.

**B. DO-18-0172A, Brian Joseph Coates, DO**

Dr. Coates participated in the virtual meeting during the Board’s consideration of this matter.

**MOTION: President Landau moved for the Board to enter into Executive Session to discuss confidential health information and to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(2) and (3).**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.  
MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X



Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board entered into Executive Session at 3:19 p.m.  
The Board returned to Open Session at 3:26 p.m.  
No legal action was taken by the Board during Executive Session.

**MOTION: Dr. Maitem moved for the Board to terminate the Order and restore the license to unrestricted status.**

**SECOND: Vice-President Erbstoesser**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

C. DO-12-0107A, Betsy Kay Myers, DO

Dr. Myers and Attorney Michelle Thompson participated in the virtual meeting during the Board's consideration of this matter.

**MOTION: President Landau moved for the Board to enter into Executive Session to discuss confidential health information and to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(2) and (3).**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board entered into Executive Session at 3:28 p.m.  
The Board returned to Open Session at 4:00 p.m.  
No legal action was taken by the Board in Executive Session.

*The Board recessed from 4:00 p.m. to 4:06 p.m.*

Ms. Thompson stated that while she appreciated the passage of time, the Consent Agreement did not

indicate that there would be additional competency evaluations and things of that nature. She stated that she was intrigued by the idea of a mini residency, and asked for clarification as to what that would entail and whether or not the Board would be inclined to agree with tabling this matter until its next meeting to determine if it is feasible given the current COVID situation.

President Landau observed that the physician has been out of practice for almost nine years and stated that some demonstration of competency is warranted. The Board continued this matter to its March 6, 2021 meeting and instructed staff to work with the licensee and counsel and report back to the Board.

D. DO-20-0050A, Stephan Stellmacher

Dr. Stellmacher and Attorney Vinnie Lichvar participated in the virtual meeting during the Board's consideration of this matter.

**MOTION: President Landau moved for the Board to enter into Executive Session to discuss confidential health information and to obtain legal advice pursuant to A.R.S. §38-431.03(A)(2) and (3).**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board entered into Executive Session at 4:09 p.m.

The Board returned to Open Session at 4:41 p.m.

No legal action was taken by the Board during Executive Session.

**MOTION: Dr. Walker moved for the Board to proceed in accordance with what was discussed in Executive Session.**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

E. DO-19-0213A, Thomas Zachary Emel , DO

Dr. Emel participated in the virtual meeting during the Board’s consideration of this matter. He asked the Board to consider allowing him to continue with monitoring through a confidential agreement in order for him to sit for his American Board of Psychology and Neurology (“ABPN”) boards. The Board noted that Dr. Emel is currently subject to non-confidential Probation for monitoring, effective April 27, 2020.

Executive Director Bohall reported that one of Dr. Emel’s employers submitted a letter of support indicating that there were no concerns about his ability to work and their interest in hiring him full time if he passes his ABPN boards. Dr. Emel reported that the deadline to apply for the exam is March 2, 2021.

**MOTION: President Landau moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board entered into Executive Session at 4:50 p.m.

The Board returned to Open Session at 4:59 p.m.

No legal action was taken by the Board during Executive Session.

**MOTION: Dr. Walker moved for the Board to terminate the Probation, effective January 15, 2021, and proceed as discussed in Executive Session**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
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Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

President Landau instructed the licensee to contact Board staff for further details. Dr. Emel thanked the Board for their time and assistance over the course of the past year.

## 9. REVIEW, DISCUSSION AND ACTION ON THE FOLLOWING MISC. ITEMS

- A. Report from the Committee on Compliance and Confidential Program for Treatment and Rehabilitation of Impaired Physicians
- B. Proposed Policy on Physician Impairment as it relates to Arizona Proposition 207
- C. Recommendation to engage in outside contracting for management and administration of the Board's Confidential Substance Abuse Rehabilitation Program.

Vice-President Erbstoesser thanked the Committee members and staff for their hard work, efforts and commitment to this process, and updated the Board regarding items A, B and C.

Vice-President Erbstoesser reported that research demonstrated that there are currently two Physician Health Programs ("PHP") available to the Board, one of which included an addictionologist, to outsource monitoring and report back to the Board. He reported that Affiliated Monitors is another company available to the Board for outsourcing monitoring and lessen the burden on staff. Vice-President Erbstoesser also reported on the Committee's review of Proposition 207 and how California and Colorado have addressed this issue. He stated that the Committee is working on drafting a policy for the Board's review and approval at its March meeting, which will include a tool to measure for THC impairment. Executive Director Bohall stated that the Board will discuss at its March 2021 meeting the recommendation to engage outside contracting.

- D. Review of Proposed Rule Changes to R4-22-102, R4-22-106, R4-22-202, R4-22-207, R4-22-302, and R4-22-304

Executive Director Bohall informed the Board that the proposed rule changes involved reduction in various application fees to lessen the burden when applying for licensure, updating language regarding the specialist designation, removal of some addresses as some may no longer be current relative to ABMS and AOA, and expansion of acceptable CE including the addition of conducting a review for the Board. He stated that additional updates were made based on recommendations from the Governor's Regulatory Review Council to remove statute definition language. President Landau recommended removing any reference to a specific statute and to reference only the title and chapter. Executive Director Bohall reported that the Board has received approval from the Governor's Office to proceed with the rule change.

The Board discussed the proposal to allow for MC's to obtain CE credits for conducting reviews for the Board, how it was incorporated into the draft and the CE classification categories. The Board also discussed the CE language in the draft and elected to continue this matter to its March 2021 meeting in order for staff to work with the AAG and revisit the proposed language in that section of the draft to clarify the CE requirements to maintain licensure.

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

The Board met the medical students participating in the virtual meeting and discussed current issues surrounding the practice of osteopathic medicine.

## 11. ELECTIONS OF OFFICERS PURSUANT TO A.R.S. § 32-1802(B) AND COMMITTEE APPOINTMENTS PURSUANT TO A.R.S. § 32-1802(E).

### A. President of the Board

The Board observed that Vice-President Erbstoesser expressed interest in serving as Board President. President Landau commented that it is important for the members to rotate in these roles and nominated Vice-President Erbstoesser as Board President, effective February 1, 2021.

**MOTION: President Landau nominated Vice-President Erbstoesser to serve as Board President, effective February 1, 2021.**

**SECOND: Dr. Maitem**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

**B. Vice-President of the Board**

The Board observed that Dr. Maitem expressed his interest to serve as Board Vice-President if needed. Vice-President Erbstoesser nominated Dr. Maitem for Board Vice-President, effective February 1, 2021.

**MOTION: Vice-President Erbstoesser nominated Dr. Maitem to serve as Board Vice-President, effective February 1, 2021.**

**SECOND: Dr. Walker**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

**C. Committee Appointments**

- 1. Case Review Committee**
- 2. Statute and Legislative Review Committee**
- 3. Compliance Review Committee**

The Board maintained the same Committee members and elected to allow the new Board President to work with the Executive Director in February to appoint the committees.

President Landau stated his appreciation for the Board members and staff, thanked them for their assistance over the past year, and offered his assistance with the transition to the new Board President. President Landau instructed staff to agendize the topic of Board member reports on future agendas to allow the members opportunity to report anything of interest to the Board.

## 12. REVIEW, CONSIDERATION AND ACTION ON REPORTS FROM EXECUTIVE DIRECTOR.

### A. Report on Director Dismissed Complaints

Executive Director Bohall reported that 10 cases have been dismissed since the Board's last meeting.

### B. Executive Director Report

#### 1. Financial Report

Executive Director Bohall reported that the Agency was on track for end of year expenses, receiving 77% of its estimated revenue with no decrease in the fund balance.

#### 2. Current Events that Affect the Board

Executive Director Bohall reported that the Board's next meeting will be held on March 6, 2021.

#### 3. Licensing and Investigations Update

Executive Director Bohall reported that the Board averaged 170 pending cases over the past year, and that staff is currently working on assigning cases to the Board's Investigator/Consultant to further progress through the investigative phase. President Landau instructed staff to decrease the number of items agendaized for the March meeting given that certain matters will require more time for the Board's review and consideration.

## 13. ADJOURNMENT

**MOTION: Dr. Maitem moved for the Board to adjourn.**

**SECOND: Mr. Burg**

**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**

**MOTION PASSED.**

	VOTE	Mr. Landau	Dr. Erbstoesser	Dr. Cunningham	Dr. Maitem	Mr. Burg	Dr. Walker	Dr. Ota
Yay:	5	X	X		X	X	X	
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2			X				X

The Board's meeting adjourned at 5:51 p.m.



Justin Bohall, Executive Director