



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

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

Saturday, May 19, 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.
Christopher Spiekerman, D.O.

ABSENT:

Gary A. Erbstoesser, DO

STAFF / OTHERS PRESENT:

Amber Brake, JD, MHA, FACHE, Executive Director
Rachel Shepherd, Investigations Manager
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Jenny Webb, Administrative Assistant
Anne Froedge, Assistant Attorney General
Lauren Kuhnhenh, CVR, Ottmar & Associates

1. CALL TO ORDER

Dr. Douglas Cunningham, Board President, called the meeting to order at 8:05 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Investigations Manager took the Roll. Four (4) 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. Dr. Cunningham also recognized the staff.
- 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. March 24, 2018 Open Session

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

B. March 24, 2018 Executive Session

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

C. April 21, 2018 Open Session

Tabled to June 23, 2018 meeting.

D. April 21, 2018 Executive Session

Tabled to June 23, 2018 meeting.

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

A. Joseph Michael Janzer, DO DO-17-0218A License No. 4221

The Respondent was not present. After discussion and consideration, the Board was concerned about the record keeping and notes.

MOTION: Mr. Landau moved to issue an order for 10 hours of non-disciplinary CME for medical record keeping & documentation. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

If Respondent wishes to speak to the Board regarding the order he can contact the Executive Director, Amber Brake.

B. Erin Nicole Syers, DO DO-17-0260A License No. 007003

The Respondent was not present. The complaint alleged improper care and inadequate medical records. The Board felt the issue is problematic of a big conglomeration of healthcare's, multiple physicians whom see many patients. The patients see different providers and the providers do not take the time to look at medical records. There could have been better communication and responsibility of the Respondent to the patient.

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

VOICE VOTE: The motion carried unanimously.

C. Joselyn Paige Verdugo, DO DO-17-0129A License No. 007304

The Respondent was not present. This case was continued from the November 18, 2017 Board Meeting. The Board requested the Respondent to provide a response on her own versus her residency program director writing a reply and both signing it. The Respondent sent in a Response. The complaint is for inappropriate billing.

MOTION: Dr. Reiss moved for dismissal. Dr. Maitem 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. Tanja L. Gunsberger, DO DO-17-0179A License No. 4668

The Respondent was not present. After discussion and consideration, the Board determined there was no statutory violation.

MOTION: Mr. Landau moved to uphold the previous dismissal. Dr. Cunningham seconded.

VOICE VOTE: The motion carried unanimously.

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

A. Antonino Simone Cammarata, DO DO-16-0229A License No.005651

The Respondent was present with attorney Mr. Scott King 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 consultant's review. The case was opened when Banner Thunderbird notified the Board that the Respondent resigned his staff privileges while under review for three (3) lap chole patients. The Board had concerns with the Respondents lack of documentation and thought process.

The Board had a discussion with the Respondent and he stated that he is now writing in a more fluent style.

MOTION: Dr. Maitem moved for 10 hours of non-disciplinary CME for medical record keeping, to be signed up within 6 months and approved by the Executive Director. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

B. Michael Edward Sheehy, DO DO-17-0225A License No. 4241

The Respondent was present with attorney Mr. Bruce Crawford and was sworn in by the court reporter. Dr. Cunningham disclosed that he has been involved in a prior case with Mr. Crawford but it will not affect any decisions today. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the outside medical consultant's review. The complaint is for failure to properly administer the correct dosage of Ketamine for conscious sedation causing the patient to stop breathing.

The patient was seen in the ER by the Respondent, he wanted to relieve the patient's pain so he ordered Fentanyl to be administered by the nurses before a consent was signed. He stated that the ER is sometimes not able to do things in a 1,2,3 order. He acknowledged that he did not time the administration of Ketamine but stated it was not as fast as a second.

The complainant was present with her mother and was sworn in by the court reporter. She stated that a second I&D was done in the ob/gyn office on September 13th, after the initial I&D was done on August 28th. The complainant petitioned her medical records and the order for the ketamine was written as 1 mg per kilo but she states that she was given 1 mg per pound. She was put in an uncomfortable situation and hasn't seen the Respondent since. The Complainants mother, a registered nurse, was sworn in by the court reporter and made a statement that the Dr. acted in a harmful manner and the community deserves a better standard of care.

MOTION: Dr. Maitem moved for a non-disciplinary Letter of Concern for procedural use of conscious sedation and completion of 10 hours of CME for conscious sedation to be signed up within 60 days, completed within 6 months after sign up and approved by the Executive Director. Respondent shall contact the Executive Director if he is not able to sign-up for CME within 60 days. Dr. Reiss seconded.

ROLL CALL VOTE: The motion carried 4-0.

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

Dr. Spiekerman joined the Board meeting at 9:20 a.m. The Board recessed for a break at 9:20 a.m. and returned to Open Session at 9:33 a.m.

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

The Respondent was present with Office Manager Faith Laskoski and both were sworn in by the court reporter. The Medical Consultant reviewed the outside medical consultant’s review. The case was originally opened in March 2017, after the Board received a complaint from a pharmacist for prescribing practices. The case was heard at the October 2017 meeting and the Board asked for a chart review. At the request of the Board, the Respondent stated his education and training. The Respondent answered the Board’s questions.

The Board is concerned with the lack of documentation. The Office manager stated that it is a problem, but they are working to resolve this issue by hiring a front office person. The office Manager will then become the scribe to document notes. The Board is also concerned about inconsistent/inadequate documentation; lack of drug testing and EKG’s are not being done.

Dr. Reiss moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 10:08 a.m. and returned to Open Session at 10:36 a.m.

The Board suggested the Respondent complete a PACE or CPEP evaluation, which is an examination of his practice and medical knowledge. Also the Board proposed the Respondent not prescribe schedule 2 & 3 drugs.

Dr. Reiss moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 10:44 a.m. and returned to Open Session at 10:46 a.m.

MOTION: Dr. Cunningham moved to table the matter. The Board’s Assistant Attorney General and the Respondent can work on terms of an Interim Agreement during the lunch break. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

This case reconvened at 1:10 p.m. with the Respondent and Office Manager still under oath. The Respondent informed the Board that he has an option to work at a treatment center. The Board discussed the option with Respondent. The Board answered Respondent and office manager questions.

MOTION: Mr. Landau moved for an interim consent agreement with the following terms:

1. Attend a PACE or CPEP for medical practice evaluation, centering on addition medicine. Setup evaluation within 30 days.
2. Medical records will be open for Board inspection.
3. Complete urine drug screens on all patients that are prescribed schedule 2 & 3 drugs. Complete pregnancy tests on female patients whom are being prescribed opioids.
4. Complete documentation on all action and conversation taken with the patient. Protocol for standardizing consistent follow up to prescribing controlled substances and EKG administered prior to prescribing methadone. Access and document PMP in the chart.
5. Do not recommend marijuana.

6. Sign interim consent agreement by May 25, 2018 otherwise the case will come back to the Board at the June meeting.
7. Case to be scheduled for the September 2018 agenda for follow up. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 4-1.

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

D. Larry C. Chan, DO DO-17-0009A License No. 006974

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 Medical Consultant reviewed the outside medical consultant's review. The case was opened when Del Webb notified the Board that the Respondents privileges were suspended and the Respondent voluntarily resigned due to relocation of his practice.

The Respondent stated he recently completed his postgraduate training when he took on cases from the senior partners. He states that he should have had a senior partner helping with these cases.

The Board had a discussion with the Respondent.

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

VOICE VOTE: The motion carried unanimously.

E. Brian Ernest Scott, DO DO-17-0181A License No. 4244

The Respondent was present with attorney Mr. Bruce Crawford and was sworn in by the court reporter. Dr. Cunningham disclosed that he has been involved in a prior case with Mr. Crawford but it will not affect any decisions today. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the outside medical consultant's review. The complaint alleged failure to diagnose.

The patient was admitted into the ER for dizziness and evaluated and treated by a PA. The supervising physician was the Respondent. An EKG and other tests were performed and read as normal. The PA discharged the patient. The patient returned to the ER 3 days later for chest pain.

The Respondent stated he did not receive the EKG to read, he only received the documentation in the record which showed normal results.

The Board discussed the case with the Respondent. The Board is concerned that the Respondent attested he reviewed the EKG with the midlevel provider.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 12:07 p.m. and returned to Open Session at 12:09 p.m.

MOTION: Dr. Maitem motioned for a non-disciplinary Letter of Concern for supervision of a midlevel provider. Dr. Spiekerman seconded.

ROLL CALL VOTE: The motion carried 4-1.

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

The Board directed staff to refer this case to the PA Board.

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) ONLY.

F. Patricia Elise Gabriel, DO DO-17-0168A License No. 3144

The Respondent was not present. The Investigator contacted the Yuma Police Department, the officer advised him that the house and practice are closed down. The Board combined this case with DO-18-0045A. The Board discussed how to contact the Respondent but there is no way to contact her.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 2:37 p.m. and returned to Open Session at 2:47 p.m.

MOTION: Mr. Landau moved to continue the matter and if Respondent does not appeal the denial of license renewal, in case DO-18-0045A, or contact the Board prior to the expiration of the appeal time the case will be dismissed without prejudice. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

G. Hudson Lee, DO DO-17-0086A License No. 4625

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 complaint alleged failure to provide medical records to patients. The Investigator reviewed the case. The Board combined this case with DO-15-0262A. Ms. Shepherd received patient records from Respondent, which are the patient records the complainant has requested. Respondent mailed the records to the patients, but not by certified mail or any tracking method.

The Board had a discussion with the Respondent about why he is not responding to the Board.

Dr. Spiekerman moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 2:00 p.m. and returned to Open Session at 2:10 p.m.

Respondent must update addresses to Board Staff by Monday, May 21, 2018.

Dr. Cunningham directed the Executive Director to write an order for the Respondent to see a board certified psychologist for general evaluation to be approved by the Executive Director. The appointment must be made within 30 days of this Board meeting and completed 90 days after that. The Respondent shall return to the October 2018 Board meeting.

MOTION: Mr. Landau moved to table the matter and return it to the October 2018 Board Meeting. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

H. Mary Darin Janikowski, DO DO-17-0144A License No. 2596

The Respondent was present telephonically with attorney D'Arcy Downs-Volbracht. Co-counsel William Cronin was present at the Board meeting. The Respondent was sworn in by the court reporter. The Investigator reviewed the case. At the request of the Board, the Respondent stated her education and training. The complaint alleged dispensing without a registration.

The attorney made a statement that the auditor was not understanding of dispensing and prescribing. The Respondent was not the dispensing physician at the time of the complaint; she wrote prescriptions to patients and informed them they were able to use the pharmacy of their choice.

The Board had a discussion with the attorney.

MOTION: Dr. Reiss moved to dismiss. Mr. Landau seconded.

VOICE VOTE: The motion carried unanimously.

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

This case was 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. Hudson Lee, DO DO-15-0262A License No. 4625

This Case is combined with Case DO-17-0086A. At the November 19, 2016 meeting Respondent was to complete 20 hours of CME within six (6) months. It was noted that it took approximately 13 months to complete the required CME. The Board discussed this with the Respondent.

The Board will renew the Respondents license.

MOTION: Mr. Landau moved to close the CME requirement. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

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. Patricia Elise Gabriel, DO DO-18-0045A License No. 3144

The Respondent was not present. The complaint alleged failure to provide medical records to a patient. Staff has attempted to contact Respondent without success. Her office is closed down and patients have not been able to contact her. Her license is renewal deficient pending CME audit completion. The Board combined this case with DO-17-0168A.

MOTION: Mr. Landau moved to deny license renewal due to no response with the Board regarding the CME audit and numerous attempts to contact her. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

B. Naciketa Rath, DO DO-18-0023A License No. n/a

The Applicant was present telephonically. The Investigator reviewed the license application. The Applicant disclosed a yes answer under the professional conduct portion of the application. The Respondent was arrested for a DUI.

The Respondent answered the Board's questions.

MOTION: Dr. Spiekerman moved to approve the license application. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

- C. Kevin-Sean Anthony McGann DO-18-0025A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed yes answers under the professional conduct portion of the application. The Respondent had one medical malpractice settlement for failure to diagnose central cord syndrome.

The Applicant answered the Board's questions.

MOTION: Dr. Reiss moved to approve the license application. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

- D. Corinna Tanya Saldanha DO-18-0064A 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. The Respondent has one pending medical malpractice case.

The Applicant answered the Board's questions.

MOTION: Dr. Reiss moved to approve the license application. Dr. Spiekerman seconded.

VOICE VOTE: The motion carried unanimously.

- E. Patrick Eugene Ballard DO-18-0065A 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. The Respondent disclosed one DUI. The Respondent did not disclose the 2nd DUI & improper exhibition of a firearm.

The Applicant answered the Board's questions.

MOTION: Mr. Landau moved to approve the license application. Dr. Maitem 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.

No students attended meeting.

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

- A. Report on ED Dismissed Complaints

Ms. Shepherd reported that there were 75 completed cases between February 21, 2018 to May 18, 2018. The average time frame is approximately 200 days.

- B. President & Board Member reports

No reports were made.

C. Interim Executive Director Report

1. Financial Report

Ms. Shepherd provided the Board with an update.

2. Summary of Current Events that Affect the Board

No matters were discussed.

3. Legislation Update

Mr. Landau provided a legislation update.

D. Review, Discussion and Possible action on DATA-waiver for Statewide Medical Curriculum.

The Board tabled the matter until they receive more information.

E. Discussion and possible action to reschedule the October Meeting.

The tentative October 13, 2018 meeting has been scheduled for October 20, 2018.

13. ADJOURNMENT

The Board adjourned at 3:30 p.m.