



Governor  
Douglas Ducey

**ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY**

1740 WEST ADAMS SUITE 2410  
PHOENIX, ARIZONA 85007  
PH (480) 657-7703 | FX (480) 657-7715  
www.azdo.gov | questions@azdo.gov

**Board Members**  
Douglas Cunningham, D.O., Pres  
Jerry G. Landau, J.D., V.P.  
Gary Erbstoesser, D.O.  
Jonathan Maitem, D.O.  
Martin Reiss, D.O.  
Christopher Spiekerman, D.O.  
Jeffrey H. Burg

**Executive Director**  
Justin Bohall

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

**Held on Saturday, August 10, 2019**

**At: Office of the Arizona Board of Osteopathic Examiners  
1740 West Adams Street • Phoenix, Arizona Board Room A**

**BOARD MEMBERS  
PRESENT:**

Douglas Cunningham, D.O. President  
Jerry G. Landau, J.D., Vice-President  
Jonathan A. Maitem, D.O.  
Gary A. Erbstoesser, D.O.  
Christopher Spiekerman, D.O.  
Jeffrey H. Burg

**ABSENT:**

Martin Reiss, D.O.

**STAFF / OTHERS PRESENT:**

Justin Bohall, Executive Director  
Barbara Prah-Wix, D.O., Medical Consultant  
John O’Hair-Schattenberg, Investigator  
Kim Madrid, Business Manager  
Carla Caorral, Investigations Administrator  
Meaghan Maxwell, Administrative Assistant  
Jeanne Galvin, Assistant Attorney General

**1. CALL TO ORDER**

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

**2. ROLL CALL AND REVIEW OF AGENDA**

	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Present:	X	X	X	X		X	X
Absent:					X		

**3. CALL TO THE PUBLIC**

President Cunningham 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 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. There were no individuals that addressed the Board during the Call to the Public.

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

A. May 18, 2019, Open Session

**MOTION: Dr. Maitem moved to approve the May 18, 2019, Open Session.**

**SECOND: Dr. Spiekerman**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X		X	X		X	X
Nay:	0							
Abstain/ Recuse:	1		X					
Absent:	1					X		

B. May 18, 2019, Executive Session

**MOTION: Dr. Maitem moved to approve the May 18, 2019, Executive Session.**

**SECOND: Dr. Spiekerman**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X		X	X		X	X
Nay:	0							
Abstain/ Recuse:	1		X					
Absent:	1					X		

C. June 15, 2019, Open Session

**MOTION: Dr. Maitem moved to approve the June 15, 2019, Open Session.**  
**SECOND: Dr. Erbstoesser**  
**VOTE: 5-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.**  
**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	1						X	
Absent:	1					X		

D. June 15, 2019, Executive Session

**MOTION: Dr. Maitem moved to approve the June 15, 2019, Executive Session.**  
**SECOND: Dr. Erbstoesser**  
**VOTE: 5-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.**  
**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	1						X	
Absent:	1					X		

**5. MOTION FOR REHEARING OR REVIEW - REVIEW, DISCUSSION, AND POSSIBLE ACTION ON THE MOTION FOR REHEARING OR REVIEW PURSUANT TO A.A.C. R4- 22-107.**

A. DO-18-0044A, Caren Lynn Borjeson, DO, LIC. #3117

President Cunningham was recused from this case. Dr. Borjeson was not present during the Board's consideration of this matter. Complainant DC was present and addressed the Board regarding his wife, the patient referenced in the case. DC stated that he and the patient felt that the care and follow up provided by Dr. Borjeson was inadequate. DC requested that the Board maintain its disciplinary sanction in this case.

The Board discussed the physician’s request for rehearing. Specifically, Dr. Borjeson’s motion suggested that there was an error in the Board’s proceedings and that the evidence presented did not justify the sanction imposed. Dr. Spiekerman spoke against granting the physician’s motion for rehearing. Dr. Erbstoesser stated that the Board’s decision was fair, and that rehearing was not warranted. AAG Galvin clarified that the physician’s appeal applied only to the disciplinary sanction, and the Letter of Concern was non-disciplinary and non-appealable.

**MOTION: Dr. Maitem moved for the Board to deny the motion for rehearing or review. SECOND: Dr. Erbstoesser**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5		X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	1	X						
Absent:	1					X		

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

A. DO-17-0001B, Catherine Kin Yan Ho, DO, LIC. #006189

Dr. Ho was present with counsel, Mr. Steve Myers. Dr. Maitem stated that there were enough questions raised when he reviewed the file, that warranted proceeding to investigative hearing. Mr. Landau supported proceeding to a hearing, noting that members from this same practice have appeared before the Board a number of times in the past. He stated there were several questions that were not addressed by the physician’s responses in the case that he believed could be resolved at an investigative hearing.

Dr. Ho addressed the Board, stating that she believed her responses to the Medical Consultant’s (“MC”) questions were reasonable. Dr. Ho described the MC’s specific questions of her care that were identified during the case review as well as her responses. AAG Galvin advised the Board that the information provided by the physician would be more appropriate to consider at investigative hearing.

**MOTION: Dr. Maitem moved for the case to proceed to investigative hearing.**

**SECOND: Dr. Erbstoesser**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	1						X	
Abstain/ Recuse:	0							
Absent:	1					X		

**B. DO-19-0015A, Bryan David Friedman, DO, LIC. #006111**

Dr. Friedman was present with counsel, Mr. Myers. Complainant DA was also present. The Board noted that the case involved an allegation of false or misleading advertising and that there were no allegations made regarding direct patient care.

Dr. Friedman addressed the Board and apologized for any confusion that his website may have caused. He explained that he is an ENT facial plastic cosmetic surgeon. He stated that when the Board notified him of the allegations that his website advertised “ENT plastic surgery” as opposed to the correct “ENT facial plastic cosmetic surgery,” he took immediate action and addressed the error in the two areas where the information was overlooked on his website. Dr. Friedman assured the Board that he now reviews the information personally prior to any posting to his website.

Board members questioned how the information was posted to the website, including the individual who made the post and whether or not they were instructed to do so by the physician. Dr. Friedman stated that he took full responsibility for the incorrect information displayed on his website, and explained that the website designer posted the information on his website.

**MOTION: Dr. Spiekerman moved for dismissal.  
 SECOND: Dr. Maitem**

Dr. Maitem stated that while it is the physician’s responsibility to have the correct information included in his advertisements, he did not find that an investigative hearing was warranted. President Cunningham spoke in favor of the motion for dismissal and stated that he did not believe this case involved any intention for misrepresentation.

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

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X		X	X		X	X
Nay:	1		X					

Abstain/ Recuse:	0						
Absent:	1				X		

C. DO-18-0164A, Steven Brian Wallach, DO, LIC. #2113

Dr. Wallach was not present during the Board's consideration of this case. Patient SA was present. Dr. Maitem stated that an investigative hearing was warranted and moved for the case to proceed.

**MOTION: Dr. Maitem moved for the case to proceed to investigative hearing.**

**SECOND: Mr. Burg**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

D. DO-19-0018A, Alan John Schenne, DO, LIC. #007190

Dr. Schenne was present without counsel. Mr. Landau spoke in favor of proceeding to investigative hearing in this matter.

**MOTION: Mr. Landau moved for the case to proceed to investigative hearing.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
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-18-0180A, Andrea Lynn Raby, DO, LIC. #3508**

Dr. Raby was present with counsel, Mr. Charles Harr. Board staff summarized that the case was reviewed by a board-certified psychiatrist and involved a 50-year-old male who complained that he experienced seizures after his Xanax dosage was lowered too rapidly by Dr. Raby. The Board’s Medical Consultant (“MC”) identified concerns that the taper was completed at a pace faster than what is considered the standard of care under the circumstances and contributed to a seizure disorder. Additionally, the MC found that each dosage reduction was done without the recommended follow up to evaluate for withdrawal or return of the patient’s anxiety.

Dr. Raby stated that she believed the care of this patient was appropriate and clinically sound with regard to medication and tapering in addition to different treatment modalities that were offered to the patient. Mr. Landau questioned the physician as to how she believed her care was appropriate, noting that both the MC and patient felt that the care was inadequate. Dr. Raby stated that there was a difference in opinion regarding the MC’s approach to tapering medication. She noted the MC’s comments regarding too rapid of a taper and stated that the taper was appropriate in this setting of supratherapeutic dosing. Dr. Maitem questioned why such an aggressive taper was required for this patient. Dr. Raby explained that the patient presented to her via his primary care doctor and that there were concerns regarding the risk-benefit ratio that the patient was at significant risk due to his concurrent use of opiates and benzodiazepines, and she pointed out that the patient was also taking Ambien.

Dr. Raby reported that the patient was seen frequently at two-week intervals to monitor the taper. President Cunningham observed that the patient returned to his original dosage and began to run out of medication. Dr. Raby explained that the office was seeing the patient almost weekly during that time and that because he had increased his own dose of Xanax around the time he presented to the ER, he was prescribed the medication at a higher dose. Dr. Raby informed the Board that she offered the patient inpatient detoxification, but he declined. Dr. Raby stated that she took full responsibility for that information not being present in the patient’s chart. Dr. Maitem stated that while he disagreed with the aggressive tapering utilized in this case, he understood the physician’s position given the patient’s history of substance abuse and evidence of polypharmacy.

**MOTION: Dr. Maitem moved for dismissal.**

**SECOND: Dr. Spiekerman**

Dr. Raby assured the Board that she learned from the experience, and stated that she has completed documentation training and that their staff also received additional training in appropriate documentation.

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							

Abstain/ Recuse:	0						
Absent:	1				X		

B. DO-18-0141A, Bryan David Friedman, DO, LIC.#006111

Dr. Friedman was present with counsel, Mr. Steve Myers. Patient DA was also present. Board staff summarized that patient DA filed a complaint alleging that he presented to Dr. Friedman for a second opinion regarding septoplasty and was billed for nasal endoscopy that was not performed. DA also alleged that there were several incorrect entries made in his chart regarding his medical history and vitals. The Board recalled that the case was previously considered for investigative hearing and Board members at that time expressed concern regarding whether nasal endoscopy was performed, or the physician charged the patient for a service not rendered. The Board at that time also instructed Board staff to perform a chart review.

Board staff reported that documentation concerns were identified in most of the ten patients' charts obtained for the chart review, similar to the issues identified in the current case of the record auto-populating in the electronic chart under the review of systems. Dr. Friedman reported that his office has made strong efforts to improve their documentation. He stated that the patient intake forms have been updated in that they are more inclusive, more accurate, and more descriptive. He added that the taking of vitals will be more subjective and accurate as opposed to the objective measurements they previously obtained during the patient intake process.

In response to the Board's concerns regarding whether nasal endoscopy was performed during the patient encounter, Dr. Friedman explained that because the chart requires manual entry of the exam findings and included such findings in patient DA's chart, he performed the exam during the office visit. He stated that nasal endoscopy was performed specifically to provide the best possible medical advice and was not done to up-charge the patient. Dr. Friedman reported that he enrolled in the three-day medical recordkeeping course offered by PACE and scheduled for October 2019. Mr. Myers addressed the Board, stating that the physician has made immediate and substantial changes to his recordkeeping to address the concerns raised by the Board. Mr. Myers stated that he did not find the patient credible and that he did not believe any responsible ENT physician would not have performed an endoscopy for evaluation under these circumstances.

Patient DA addressed the Board, stating that the Board was being misdirected by the physician's testimony. DA stated that this is not a case of only medical recordkeeping issues, and explained that the physician documented postoperative healing in his chart when there was no history of sinus surgery. Patient DA added that he would recall if he had undergone the procedure as it would have required instrument administration through his nasal cavity. He stated that the exam focused on discussing affects to his allergies and did not include an exam.

Dr. Friedman stated that he spent approximately 45 minutes with the patient during the encounter, and stated that it is part of his routine to perform nasal endoscopy under similar circumstances in an attempt to provide informed decision making. Dr. Maitem recognized that the nasal passage examination is not typical for an auto-populated area of the electronic health record. Dr. Friedman further explained to the Board that prior to the investigation, his staff would obtain objective information from the patient during the intake process and make notes in the chart regarding vital measurements provided by the patient, including blood pressure levels.

**MOTION: President Cunningham 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: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**



	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

The Board entered into Executive Session at 9:41 a.m.  
 The Board returned to Open Session at 9:53 a.m.  
 No legal action was taken by the Board during Executive Session.

Mr. Landau stated that there was no question as to the inaccurate medical records identified in the case, and stated that he was puzzled and not satisfied with Dr. Friedman’s testimony regarding blood pressure measurements obtained by the staff in the office. Mr. Landau spoke in favor of resolving the medical recordkeeping concerns by issuing a non-disciplinary Letter of Concern and Order for CME in medical recordkeeping.

**MOTION: Mr. Landau moved for the Board to issue a Letter of Concern for failure to maintain accurate medical records and for failure to supervise.**

**SECOND: Mr. Burg**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

**MOTION: Mr. Landau moved for the Board to issue an Order for Non-Disciplinary CME in medical record documentation. The CME hours may be credited towards the hours required for renewal of licensure.**

**SECOND: Mr. Burg**

The Board clarified that the course to which the physician reported enrollment is appropriate to satisfy the CME requirement.



Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

The Board entered into Executive Session at 10:10 a.m.  
 The Board returned to Open Session at 10:14 a.m.  
 No legal action was taken by the Board during Executive Session.

Upon returning to Open Session, Drs. Erbstoesser and Spiekerman withdrew their prior motion for a finding of billing for services not rendered.

**MOTION: Mr. Landau moved for the Board to find a violation of A.R.S. 32-1854(6) and (38) in that the physician included in his medical record that he conducted nasal endoscopy, an exam that was not in fact conducted, therefore making that record of such an exam part of a medical record that is a permanent record could be used by the patient and future physicians, therefore resulting in harm and potential future harm to the patient and further failing below the community standard.**

**SECOND: Dr. Erbstoesser**

Mr. Landau spoke against the motion, stating that it was made for discussion purposes as he did not find that the evidence standard was met to support the proposed violations. Dr. Maitem agreed with Mr. Landau's comments and stated that he did not support the motion.

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

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	2			X			X	
Nay:	4	X	X		X			X
Abstain/ Recuse:	0							
Absent:	1					X		

**MOTION: Mr. Landau moved for the Board to provide clarification on the Non-Disciplinary CME Order.**

**SECOND: Dr. Maitem**

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

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

Upon returning to this matter, Mr. Landau clarified that the terms of the Non-Disciplinary CME Order shall be completed by the physician no later than December 31, 2019.

**MOTION: Mr. Landau moved for the Board to require that the physician comply with the terms of the Non-Disciplinary CME Order by December 31, 2019.**

**SECOND: Mr. Burg**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

**C. DO-18-0113A, Bryan David Friedman, DO, LIC.#006111**

Dr. Friedman was present with counsel, Mr. Myers. Patient EH was also present. Board staff summarized that the MC found that the surgery performed in the case was much more extensive than what would be suggested from the patient’s CT scan findings. Dr. Friedman apologized for the patient’s pain and suffering and stated that it is paramount to him that his patients obtain desired outcomes with the least amount of discomfort. He stated that at no time during the patient’s surgery was there an intraoperative complication noted. He explained that while the surgery did not coincide with the radiological interpretation of the 2-dimensional read of the CT scan, the intraoperative findings are what dictated the procedure.

Mr. Myers addressed the Board, stating that the MC did not make a definitive comment regarding the standard of care and whether there was a deviation on the part of Dr. Friedman. Mr. Myers stated that “more extensive than would be suggested” does not begin to describe the standard of care or a potential deviation. Mr. Myers added that the MC did not suggest that there was any connection between the more extensive surgery and the surgical complication experienced by the patient, pointing out that the complication is a

known complication of the surgery that was performed by Dr. Friedman. Mr. Myers stated that there were no grounds for Board sanction and requested that the matter be dismissed.

Mr. Landau stated that it is clear from the information reviewed that the standard of care requires surgery to be performed only when required and as necessary and that the scope of the surgery performed by Dr. Friedman was greater than what was necessary. Mr. Myers disagreed and stated that the MC needed to articulate a clear standard of care and describe how the physician deviated from such a standard.

Dr. Spiekerman noted that the patient presented with chronic sinus issues and had the CT scan done three weeks prior to his surgery with Dr. Friedman. Dr. Maitem stated that while CT scans are an important component in evaluating a patient’s condition, the film only shows what was visible on the scan. Dr. Friedman stated that he spent several weeks with the patient doing nasal hygiene to address his chronic sinus issues prior to proceeding to surgery. He stated that just because the imaging report did not read how extensive the patient’s disease may actually be, does not mean that the disease was not extensive.

Patient EH addressed the Board and provided a brief description of his postoperative treatment that he received. EH stated that he was diagnosed with a CSF leak postoperatively that required surgical correction and that he was told he would need antibiotics for the rest of his life for risk of meningitis. EH updated the Board regarding his condition, stating that he has healed and experiences the occasional headache, but that the pain is not as severe as it was previously. EH reported that Dr. Friedman was attentive in the postoperative setting and that he seemed concerned for the patient. EH explained that his complaint stemmed from the period of time from the initial surgery to the corrective surgery, a period of two months duration, he did not feel as though the advice he was receiving was in his best interest.

President Cunningham recognized that the patient endured a very difficult experience. He also noted that the complication is a known complication of the surgery performed, and stated that he did not find the physician was negligent in this case.

**MOTION: Dr. Spiekerman moved for dismissal.  
 SECOND: Dr. Maitem**

Dr. Spiekerman stated that the physician should consider lowering his threshold for consulting with a specialist under similar circumstances going forward.

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

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	4		X		X		X	X
Nay:	2	X		X				
Abstain/ Recuse:								
Absent:	1					X		

D. DO-17-0286A, Harold A. Tabaie, DO, LIC. #005237

Dr. Tabaie was present with counsel, Mr. Paul Giancola. Board staff summarized that the Board received a

Disciplinary Alert Report from the FSMB regarding action taken by the California Board on November 14, 2017. Dr. Tabaie did not report the California Board matter on his license renewal filed on November 22<sup>nd</sup>. The California Board’s sanction was based on the finding that Dr. Tabaie fell below the standard of care in two surgical procedures and was found in one case to have altered the surgical record after the surgery was completed.

Mr. Giancola addressed the Board regarding the California Board action. He stated that the Arizona Board was not notified initially because the physician requested his attorney to notify all states where he was licensed, which was done with the exception of Arizona, and the physician was unaware of this at the time that he applied for renewal of licensure. He stated that Dr. Tabaie agreed to enter into the stipulation for a Letter of Reprimand and completed CME in ethics and documentation in addition to a practice monitor conducting random chart reviews for six months. He explained that California made no determination in their case, but Dr. Tabaie agreed to the stipulation that at a hearing, the California Board could present evidence to sustain the charge. Mr. Giancola pointed out that Dr. Tabaie has been in practice without a history of discipline and has been practicing for the past seven years without incident. Dr. Tabaie stated that the Board’s mail was sent to the wrong address and that he had no intention to mislead or not respond to the Board’s requests. He stated that he has gone through extensive efforts to mitigate the California Board’s concerns and that he has satisfied the terms of his California Order.

Mr. Maitem stated that while it was okay for the physician to instruct his legal counsel to notify his respective regulatory boards, it was ultimately the physician’s responsibility to ensure that the proper notifications were made. Mr. Landau questioned whether the physician filed an updated address with the Board. Dr. Tabaie stated that he believed his office provided the Board with that update.

President Cunningham expressed concern regarding the physician’s credibility, noting that he entered into the stipulation with the California Board in March of 2017 and filed his Arizona license renewal application in November of 2017. Dr. Tabaie apologized to the Board for the oversight. Mr. Giancola clarified that the California Board’s Order was not effective until November 29, 2017. Mr. Burg pointed out that the license renewal application question asks whether the physician has had action taken or has been made aware of pending action.

**MOTION: President Cunningham 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: 6-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

The Board entered into Executive Session at 11:30 a.m.  
 The Board returned to Open Session at 11:36 a.m.

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

Mr. Landau stated that he found Dr. Tabaie engaged in unprofessional conduct in this case and moved for the Board to make such a finding.

**MOTION: Mr. Landau moved for the Board to find a violation of A.R.S. 32-1854(15) for knowingly making a false or fraudulent statement in connection with the practice of medicine; and, A.R.S. 32-1854(18) for action taken by the State of California.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

**MOTION: Mr. Landau moved for the Board to issue a Censure and impose a Civil Penalty in the amount of \$1,000 to be paid by October 1, 2019.**

**SECOND: Dr. Spiekerman**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

E. DO-18-0181A, Mark Christian Carnett, DO, LIC. #3174

Dr. Carnett was present with counsel, Mr. Tony Langan. Board staff reported that the case involved a 77-year-old male that was seen by Dr. Carnett and had labs ordered including a PSA, with no PSA charted in the patient's record. According to the patient's complaint, the patient was instructed to call the doctor's office to obtain his lab results. The patient's PSA was abnormal, and the results were sent to Dr. Carnett's

office; however, they were not reported to the patient. The patient returned with a PSA level of 12 and was instructed to return one month later for follow up PSA lab testing. The patient was not referred to oncology or urology.

Mr. Langan addressed the Board, stating that Dr. Carnett felt that he met the standard of care in this case. Dr. Carnett explained that he approached the PSA matter conservatively as the patient did not exhibit any other signs or symptoms, which caused him to believe that the elevated PSA measurement may have been a false elevation. Dr. Carnett stated that he elected to wait a month to recheck the PSA levels and that it was very unexpected for someone in this age group to have such an aggressive type of prostate cancer.

Mr. Landau questioned the physician as to whether he believed it was his office’s responsibility to contact patients with their lab results. Dr. Carnett agreed and stated that he frequently instructs his patients to call and make sure that their lab results came in, regardless of whether they are normal or not. President Cunningham noted that Dr. Carnett did not perform a rectal examination on the patient. Dr. Carnett stated that he could not specifically recall, but believed that he offered the exam to the patient but he declined. President Cunningham opined that as a physician of osteopathic medicine, they are responsible for taking care of the patient as a whole. He stated that he found Dr. Carnett deviated from the standard of care in this case, though he stated it was unclear whether the outcome would have changed. Dr. Erbstoesser agreed with President Cunningham’s comments and stated that a PSA of 12 should be repeated sooner than one month and that he does not like to see the patient’s age be used as a “cut off” for doing routine examinations.

**MOTION: President Cunningham moved for the Board to issue a Letter of Concern for failure to diagnose prostate cancer.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	6	X	X	X	X		X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1					X		

The Board recessed at 12:00 pm and reconvened at 12:45 pm. Dr. Spiekerman left the meeting at this time and did not return for the duration of the meeting.

**F. DO-17-0207A, Christopher Lynch Marsh, DO, LIC. #2532**

Dr. Marsh was present without legal counsel. Board staff summarized that this matter was previously considered by the Board for inappropriate prescribing. The identified deviation from the standard of care in the original case involved the failure to perform routine drug screens to monitor for medication compliance, and that the one drug screen performed identified inconsistencies with the state medications and was positive for alcohol. Additional concerns included the prescribing of large amounts of opioids, no documentation regarding specialty consultation or collaboration of care, the prescribing of benzodiazepines with opioids with no preventative care performed and without the use of a function-based approach. The Board directed staff to conduct a chart review, which revealed additional concerns regarding the physician’s prescribing.





Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**8. CONSIDERATION AND ACTION ON COMPLIANCE WITH TERMS OF BOARD ORDERS AND REQUESTS TO MODIFY OR TERMINATE ORDERS, PURSUANT TO A.R.S. §32-1855 (E) AND (I).**

**A. DO-18-0152A, DO-18-0158A, Jeffery Burl Bushman, DO, LIC. #2338**

Dr. Bushman was present during the Board’s consideration of the cases. Board staff summarized that both cases involved inappropriate prescribing and that the physician was ordered to attend PACE for evaluation of his opioid prescribing practices. Dr. Bushman subsequently completed the PACE Prescribing Course and did not undergo an evaluation.

Dr. Bushman addressed the Board, stating that he believed the PACE Prescribing Course would satisfy the Board’s Interim Order. Dr. Bushman stated that he was told by PACE that the specific evaluation requested by the Board did not exist, and he noted that the Prescribing Course that he completed included participants that were sent there to address their prescribing issues. Board staff reported that she contacted PACE and confirmed with scheduling staff that the requested evaluation was available for physicians to attend. Executive Director Bohall clarified further that Dr. Bushman was informed that the Prescribing Course CME hours were acceptable as part of the hours required for his renewal, and he was requested to provide a status update regarding the evaluation. Board staff added that when licensees are referred to PACE and the evaluation is scheduled, the PACE staff typically contacts the Board to discuss the specifics of the Board’s request for evaluation. Board staff informed the Board that staff did not receive any communication from PACE regarding Dr. Bushman scheduling the evaluation.

Dr. Bushman informed the Board that he no longer practices chronic pain management and had no plans to prescribe opioids. President Cunningham questioned whether the physician has made any other changes to his practice. Dr. Bushman admitted that he made errors in his prescribing, and stated he was in the process of becoming compliant with the new prescribing guidelines prior to initially meeting with the Board.

Mr. Landau opined that the evaluation was required if Dr. Bushman planned to have his prescribing privileges reinstated. Dr. Bushman reiterated that he had no desire to return to prescribing pain medicine and assured the Board that patients in need of pain medication would be referred elsewhere. Board members discussed whether the physician’s completion of the PACE Prescribing Course was satisfactory. Dr. Erbstoesser recognized the physician’s statements that he did not plan to continue practicing chronic pain management. President Cunningham stated it appeared that the physician had learned from the Prescribing Course and in light of the physician’s desire to no longer practice chronic pain management, he spoke in favor of accepting the CME hours.

**MOTION: Mr. Burg moved for the Board to accept the PACE Prescribing Course in place of the evaluation as previously ordered, finding that the physician is in compliance with the Interim Order.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

President Cunningham clarified that the Board’s Interim Order remains effective in relation to the prescribing restriction and that the matter would return to the Board for investigative hearing at its October 2019 meeting.

B. DO-18-0014A, Roy Niels Skousen, DO, LIC. #2214

**MOTION: Dr. Maitem moved for the Board to enter into Executive Session to discuss records exempt by law from public inspection pursuant to A.R.S. 38-431.03(A)(2).**

**SECOND: Mr. Burg**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

The Board entered into Executive Session at 1:09 p.m.

The Board returned to Open Session at 1:16 p.m.

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

**MOTION: Mr. Landau moved to proceed pursuant to the Board’s Executive Session discussion.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

C. DO-17-0268A, Brian Samuel Page, DO, LIC. #3416

D. DO-17-0269A, Brian Samuel Page, DO, LIC. #3416

The Board considered this matter in conjunction with agenda item number 8C. Dr. Page was present with counsel, Mr. Robert Milligan.

Executive Director Bohall informed the Board that the staff has received the information requested from the physician. He explained that the matter was presented to the Board as a result of the delay in the physician's response to the Board staff's inquiries. Mr. Landau questioned the physician as to why there was a delay in his responses to the Board's requests. Dr. Page stated that he took full responsibility for the delay in his responses. He explained that the communication between himself and his then counsel was not optimal and caused further delays in the case. Dr. Page reported that he has since obtained new counsel. Mr. Mulligan requested that the Board inform him of any additional information that may be needed for the Board's review of the cases. Executive Director Bohall confirmed that the matter is scheduled for the Board's consideration at its September 2019 meeting.

**9. 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-19-0114A, Mark Thomas Hash, LIC. #N/A

Dr. Hash was present during the Board's consideration of the application. Board staff summarized that Dr. Hash applied for and has met the requirements for an Arizona license. However, Dr. Hash responded in the affirmative to two questions on the license application. Specifically, Dr. Hash disclosed a prior arrest for a criminal charge that was ultimately dismissed, and that he was terminated from a residency program. Board staff explained that the criminal charge was dropped after the practice owner and an employee admitted to fraud including the unauthorized use of a physician's signature and were later convicted of practicing without a license. Board staff clarified that the circumstances surrounding the residency termination disclosed on the application were confidential. The Board elected to enter into Executive Session for further discussion of the confidential information pursuant to statute.

**MOTION: President Cunningham moved for the Board to enter into Executive Session to discuss records exempt by law from public inspection pursuant to A.R.S. 38-431.03(A)(2).**

**SECOND: Mr. Landau**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

The Board entered into Executive Session at 1:27 p.m.  
 The Board returned to Open Session at 1:33 p.m.  
 No legal action was taken by the Board during Executive Session.

Dr. Hash stated that he was offered a position at a clinic at the Grand Canyon and that he planned to practice as either a hospitalist or primary care physician if granted licensure.

**MOTION: Dr. Maitem moved to grant Dr. Hash an unrestricted license.**  
**SECOND: Mr. Burg**  
**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**B. DO-19-0143A, Donald W. Brown, LIC. #N/A**

Dr. Brown was present during the Board's consideration of his application. Board staff summarized that Dr. Brown applied for licensure and provided affirmative answers to multiple questions on the license application. Specifically, Dr. Brown disclosed that his DEA license was temporarily restricted while relocating from Michigan to Arizona and that the DEA Diversion Unit would be granting a new license after the physician secured an Arizona licensure. Dr. Brown also disclosed two prior malpractice claims that occurred in 1996 and 2000, and the third affirmative answer on the license application involved confidential information. The Board elected to enter into Executive Session for further discussion of the confidential information pursuant to statute.

**MOTION: Mr. Landau moved for the Board to enter into Executive Session to discuss records exempt**

**by law from public inspection pursuant to A.R.S. 38-431.03(A)(2).**  
**SECOND: Dr. Maitem**  
**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

The Board entered into Executive Session at 1:37 p.m.  
 The Board returned to Open Session at 1:41 p.m.  
 No legal action was taken by the Board during Executive Session.

President Cunningham observed that Dr. Brown has not been in active practice since 2008. Dr. Brown explained that he applied for licensure in order to provide a bridge prescription if the patient is unable to reach their regular provider. Dr. Brown clarified that he does not practice medicine and has no plan to do so with the exception of providing prescriptions until the patient can be seen by their regular doctor. Board members discussed the physician's request, noting that an Administrative License was more appropriate for the physician's circumstances versus granting a full, unrestricted license to practice in Arizona.

**MOTION: Mr. Landau moved for the Board to grant an Administrative License.**  
**SECOND: Dr. Maitem**  
**VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.**  
**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

C. DO-19-0170A, Philip M. Davis, LIC. #N/A

Dr. Davis was present during the Board's consideration of his PGT permit application. Executive Director



Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

E. DO-17-0235A, Scott Nicholas Welle, LIC. #N/A

Dr. Welle was present during the Board’s consideration of this matter. Executive Director Bohall summarized that Dr. Welle previously applied for licensure and the Board requested that he undergo additional training prior to licensure. Dr. Welle subsequently withdrew his application for licensure, completed the supervised training, and submitted a new application for licensure for the Board’s review. Dr. Welle stated that he completed the surgical critical care fellowship in New York, that he was glad he underwent the additional training, and that he has entered into a contract with a surgical group in Phoenix.

**MOTION: Mr. Landau moved to grant the license.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**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 in attendance and discussed current issues surrounding the practice of Osteopathic Medicine.

**11. REVIEW CONSIDERATION, AND ACTION ON PHYSICIAN SIGNED CONSENT AGREEMENTS.**

A. DO-17-0106A, Jamison Foster, DO, LIC. #006198

Dr. Foster was present during the Board’s consideration of the agreement. Executive Director Bohall summarized that the case was referred to the Office of Administrative Hearings for a Formal Hearing to revoke the license after attempts to settle the matter were unsuccessful. Dr. Foster has since signed the



proposed consent agreement for license suspension for a minimum of three years with the requirement for the physician to appear before the Board to request reinstatement of licensure.

Dr. Foster stated that he was in the process of obtaining the funds to pay for the fee and was not ignoring the Board's requests. President Cunningham stated that the best action to take in such circumstances would be to contact the Executive Director to discuss their options.

**MOTION: Mr. Landau moved for the Board to rescind its referral to Formal Hearing in this case.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**MOTION: Mr. Landau moved to accept the proposed consent agreement for license suspension for a minimum of three years, effective upon signature of the Executive Director.**

**SECOND: Dr. Erbstoesser**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**MOTION: Mr. Landau moved for the Board to grant the license renewal subject to the consent agreement previously agreed upon.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**12. REVIEW, DISCUSSION, AND ACTION ON THE FOLLOWING MISC ITEMS.**

- A. Review, Consideration and Possible Action Regarding the Continued Delegation of Authority to the Executive Director in accordance with A.R.S.§32-1804.

In accordance with established statute, the Board shall delegate the prescribed authority to the Board's Executive Director:

1. Authority to issue licenses, certifications, limited licenses, temporary licenses, registrations, preceptorships, reinstatements, permits, license renewal extensions, and waivers in accordance with A.R.S.§32-1804(B)(9) and A.R.S.§32-3123 (SB1086).
2. Authority to initiate and conduct complaint investigations in accordance with A.R.S.§32-1804 (B)(14).
3. Authority to dismiss complaints in accordance with A.R.S.§32-1804(B)(18) & (B)(20).
4. Authority to enter into stipulated agreements for treatment, rehabilitation, and monitoring of a licensee's abuse or misuse of a chemical substance in accordance with A.R.S.§32-1804(B)(19).
5. Authority to refer complaints for investigative hearing in accordance with A.R.S.§32-1804(B) (21).
6. Authority to close complaints resolved through mediation in accordance with A.R.S.§32-1804 (B)(22).
7. Authority to grant uncontested requests for cancellations of a license in accordance with A.R.S.§§32-1804(B)(25) & 32-1827.

Executive Director Bohall explained that the Executive Director has specific authority delegated by the Board and stated that the Board should consider those statutes and reaffirm that authority. The Board discussed item 6 regarding resolving cases on behalf of the Board through mediation. Board members noted that the Agency does not utilize a mediation program and discussed removing item 6 from the Executive Director's delegated authority.

**MOTION: President Cunningham moved for the Board to delegate the authority to the Executive Director as stated in item numbers 1-5 and 7.**

**SECOND: Mr. Burg**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**B. Investigations Process (Three Reviewer Committee and Executive Director Dismissals) Policy**

Executive Director Bohall reported that the staff has been researching ways to streamline the Board’s processes for reviewing complaints while ensuring compliance with open meeting laws. He stated that the Board’s granting delegated authority of duties to be performed by the Executive Director would aid in the streamlining of the Board’s processes. The Board reviewed the proposed policy and discussed how the cases should be presented to the Board.

**MOTION: Mr. Landau moved for the Board to approve the Investigations Process Policy.**

**SECOND: President Cunningham**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**C. Substantive Policy Statement (SPS) - "Board Certified in Pain"**

Executive Director Bohall explained that the SPS was drafted per the Board’s instruction and in consultation with the Arizona Osteopathic Association.

**MOTION: Dr. Maitem moved to approve SPS 19-01.**

**SECOND: President Cunningham**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**D. Opioid Prescribing CME for category 1A and 1B.**

Executive Director Bohall explained that the draft SPS was prepared per the Board’s request regarding CME and what category is acceptable for the recently enacted opioid prescription legislation.

**MOTION: Dr. Maitem moved for the Board to approve SPS 19-02.**

**SECOND: President Cunningham**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**E. Universal Licensing Recognition**

Executive Director Bohall reported that the passing of HB2569 modified A.R.S. 32-4302 to provide an additional pathway to licensure by universal recognition, and pointed out that the new legislation takes effect August 27, 2019.

**MOTION: Mr. Landau moved for the Board to approve SPS 20-01.**

**SECOND: President Cunningham**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**F. DATA Waiver Eligibility Policy in accordance with A.R.S. §32-1803(A)(7).**

Executive Director Bohall informed the Board that statute has changed regarding the Board’s authority to determine educational courses or experiences that qualify for having osteopathic physicians to be eligible for the waiver with the DEA. Dr. Prah explained that this involved the medical schools providing training for prescribing of Subutex and Suboxone, which would allow for the medical students to obtain the waiver upon licensure. Executive Director Bohall stated that staff drafted the Policy for the Board’s approval to proceed.

**MOTION: Mr. Landau moved for the Board to approve the DATA Waiver Eligibility Policy.**

**SECOND: President Cunningham**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

**13. REVIEW, CONSIDERATION, AND ACTION ON REPORTS FROM EXECUTIVE DIRECTOR.**

**A. Report on Executive Director Dismissed Complaints**

Executive Director Bohall informed the Board that the Committee dismissed a total of four cases in June 2019. He stated that as of August 9, 2019, the staff had no pending complaints to be opened for investigation.

**B. Executive Director Report**

1. Financial Report
2. Current Events that Affect the Board
3. Legislation Update

Executive Director Bohall reported that the Agency did not spend its total appropriation from the previous fiscal year and exceeded the expected revenue. He added that the average days to review a license application was 45 and that the average time to issue orders was three days post the Board’s meeting.

**14. ADJOURNMENT**

**MOTION: Mr. Burg moved for adjournment.**

**SECOND: Dr. Maitem**

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

**MOTION PASSED.**

	Vote	Dr. Cunningham	Mr. Landau	Dr. Erbstoesser	Dr. Maitem	Dr. Reiss	Dr. Spiekerman	Mr. Burg
Yay:	5	X	X	X	X			X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	2					X	X	

The Board’s meeting adjourned at 2:48 p.m.



Justin Bohall, Executive Director