



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
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

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

Held virtually on Saturday, November 14, 2020

1. CALL TO ORDER

Board President Landau called the meeting to order at 8:32 a.m.

President Landau thanked the Board members and staff for facilitating today’s proceedings, and 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).”

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. September 26, 2020 Open Session

MOTION: Dr. Cunningham moved for the Board to approve the September 26, 2020 Open Session.

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. September 26, 2020 Executive Session Minutes

MOTION: Dr. Erbstoesser moved for the Board to approve the September 26, 2020 Executive Session.

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			

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

A. DO-20-0032A, Vanessa Tartaglia-Keane, DO, LIC. #4426

Dr. Tartaglia and Attorney Rick Delo participated in the virtual meeting during the Board’s consideration of this matter.

The Board noted that this complaint stemmed from a malpractice settlement. Dr. Tartaglia explained that the patient was being seen by the Nurse Practitioner (“NP”) in the practice for vaginal lesions. The NP consulted Dr. Tartaglia who then examined the patient, noted herpes-like lesions on the left labia and some erythema. Dr. Tartaglia stated that she discussed the case with the NP, cultured the lesions, and prescribed medications. Mr. Delo pointed out that Dr. Tartaglia has no Board history in her 13 years of practice, and that the settlement had nothing to do with concerns regarding Dr. Tartaglia’s care and treatment in this case. He stated that they had the case reviewed by a local expert who had no criticisms of Dr. Tartaglia’s care and treatment in this case and felt that the diagnosis was reasonable. He stated that the case was also reviewed by infectious disease experts who found that there was no reason to suspect at the visit that there was any type of systemic infection occurring. Mr. Delo requested the Board dismiss this matter based on the finding that the physician met the standard of care.

Dr. Cunningham observed that the patient’s vital signs showed a tachycardia of 136 and a low-grade temperature, and that the patient reported she had been sexually active. He questioned whether the patient was screened for sexually transmitted infections and whether the physician considered starting antibiotics. Dr. Tartaglia reported that she was not as she was married and denied any concerns for

such a risk. She reiterated that she was consulted by the NP regarding this patient and that her lesions were cultured for herpes. Dr. Tartaglia stated that in retrospect, one thing she would have done differently was review the patient’s vital signs and heart rate. Dr. Erbstoesser stated his concerns regarding the lack of pelvic and speculum exams by the NP. President Landau recognized that NPs have the ability to practice independently and questioned the physician’s working relationship with the NP. Dr. Tartaglia stated that the NP was an employee of the group, and that she was one of the most competent NPs that she has ever worked with.

MOTION: Dr. Erbstoesser moved for dismissal.

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			

B. DO-20-0138A, Kristyn Marie Wendelschafer, DO, LIC. #006435

Dr. Wendelschafer participated in the virtual meeting during the Board’s consideration of this matter. She reported that she has been practicing family medicine with the Maricopa Integrated Health Systems since she began her medical career.

MOTION: Dr. Cunningham moved for dismissal.

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			

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

A. DO-20-0002A, James Leon Beach, DO, LIC. #1438

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

Board staff summarized that this matter was forwarded by the Arizona Regulatory Board of Physician Assistants alleging that Dr. Beach failed to maintain an adequate Physician Assistant (“PA”) Delegation Agreement. The Delegation Agreement provided in the complaint did not include the

statement that the physician retains professional and legal responsibility for care rendered by the PA, as required by statute. Dr. Beach's response to the complaint indicated that he was not aware of the requirement and has since updated his Delegation Agreement forms to include that statement.

Dr. Beach reported that he has been in private family practice and currently employs three PAs. He stated that when statute first required Delegation Agreements, the practice formulated one that he stated is verbatim to what is required by statute. He admitted that he neglected to add the required verbiage as the statute changed over time. Dr. Beach stated that he changed his Delegation Agreement forms after this issue was brought to his attention, and assured the Board that the agreements are signed and updated annually.

Dr. Erbstoesser stated that this appeared to be a simple mistake on the part of the physician that has since been corrected. Dr. Cunningham agreed and stated that this case caused him to review his own contracts to ensure that the language was included. Dr. Cunningham stated that Dr. Beach has been a longtime physician and a pillar of the community for many years, and spoke in support of dismissing the case.

MOTION: Dr. Cunningham moved for dismissal.

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			

B. DO-19-0198A, Jessica Aren Watkins, DO, LIC. #5028

Dr. Watkins and Attorney Rick Delo participated in the virtual meeting during the Board's consideration of this matter. Complainant BM also participated in the virtual meeting.

Board staff summarized that Dr. Watkins treated BM's daughter who presented to the office for a rash on her arms that occurred after participating in an art project at school. Dr. Watkins treated the patient with a steroid cream, and the patient was subsequently seen by a different pediatrician who treated her for a peanut allergy. The Medical Consultant found that the physician deviated from the standard of care by failing to address concerns for a peanut allergy.

Complainant BM stated that the purpose of the visit with Dr. Watkins was to address her concerns for a peanut allergy. BM stated that she left a message on the office's voicemail system asking to bring her daughter for what she thought was an allergic reaction to peanut butter. BM stated that in addition to a rash, her daughter also had hives and that she knew she had come into contact with peanut butter at school, which caused her to question whether this was related to a peanut allergy. In response to President Landau's questioning, BM confirmed that she informed the physician during the visit that the school craft project involved peanut butter as well as her concerns regarding a possible peanut allergy.

Dr. Watkins reported that she graduated from medical school in 2005, has practiced outpatient pediatric medicine since 2015, and has worked for Valley of the Sun Pediatrics since 2017. Dr. Watkins stated that BM's daughter had been a patient of the practice since she was a newborn in 2015, and that she saw her on August 30, 2019 for complaint of a rash. Dr. Watkins explained that her initial assessment was a stable child who looked well, noting that BM had applied topical

hydrocortisone with improvement. There was no rash noted elsewhere during the exam, and Dr. Watkins reported that during the visit, BM was not able to recall what items were used for the school craft project. Dr. Watkins stated that she prescribed steroid treatment for contact dermatitis from exposure to an unknown material, and advised the mother to return if no improvement. Dr. Watkins stated that at the end of the visit, BM thanked her and asked if the rash could be related to a peanut allergy. Dr. Watkins stated that in hindsight, she should have asked more questions to further address BM's concern and assured the Board that since this case occurred, she has changed her practice in that she now spends more time with patients.

Mr. Delo pointed out that Dr. Watkins has no prior Board history in her 12 years of practice. He stated that the patient had been followed by the practice since 2015 and had not been diagnosed with a peanut allergy. Mr. Delo stated that at the end of the visit in question, BM questioned whether the rash was related to a peanut allergy and that had Dr. Watkins been informed of peanut butter exposure at school, she would have referred her to an allergist or ordered labs. Mr. Delo stated that based on the history provided and the examination of the patient, Dr. Watkins believed this was contact dermatitis and as a result of this case, has changed her practice.

President Landau stated his concerns regarding the physician's failure to question whether the patient had a peanut allergy. Dr. Watkins stated that she regretted not spending more time to address this concern with the patient. Dr. Cunningham commented that something clearly happened to cause the patient to lose confidence in this physician and seek further care elsewhere for her daughter. Mr. Burg questioned BM regarding whether she mentioned her concerns regarding a possible peanut allergy during the visit with the physician. BM stated that she informed Dr. Watkins of the craft supplies used at school during the visit, asked her if the patient should avoid peanut butter and whether a visit with an allergist was needed as Dr. Watkins was exiting the exam room. Board staff clarified that the note from the school describing which craft supplies were used on the day of the incident was dated September 13, 2019.

In response to further questioning by the Board, Dr. Watkins admitted that the possibility of a peanut allergy was not high on her radar as the patient had been followed by the practice for four years since she was a newborn and such an allergy usually presented itself prior to four years of age. Mr. Delo stated that the physician was not presented with the letter from the school indicating what materials were used in the craft project.

Dr. Cunningham spoke in favor of issuing a Letter of Concern and suggested requiring the physician to complete non-disciplinary CME in patient communication. President Landau stated that it appeared the physician has learned from this case as she reported having changed her practice, and stated that he did not believe a CME requirement was warranted. Dr. Erbstoesser stated his concerns regarding the school's use of peanut butter for a craft project.

MOTION: Dr. Cunningham moved for the Board to issue a Letter of Concern for failure to adequately communicate with the patient and to fully evaluate the patient for a peanut allergy.

SECOND: Dr. 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. Ora
Yay:	6	X	X	X		X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1				X			

C. DO-19-0180A, Jason J. Begalke, DO, LIC. #4732

Dr. Begalke did not participate in the virtual meeting. The Board continued this matter to its January 2021 meeting.

D. DO-20-0029A, Robert Philip Luberto, DO, LIC. #3176

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

Board staff summarized that the Board received a complaint from a Blue Cross Blue Shield Fraud Investigator reporting that Dr. Luberto had prescribed controlled substances to two of his immediate family members. Review of the Controlled Substance Prescription Monitoring Program (“CSPMP”) revealed that in January 2018, Dr. Luberto prescribed Ambien 10mg #30 with two refills and another prescription for Ambien and in November 2018, Dr. Luberto wrote another prescription for Ambien with two refills, both of which were for his wife. Dr. Luberto was also noted to have prescribed an anxiolytic for his daughter in May 2017, and there was no documented history and physical exam in either individual’s chart.

Dr. Luberto reported that he has been practicing in Arizona since 1997 and currently works in his solo practice. He stated that he prescribed the medications for his wife when she was in between primary providers, and that he advised her to establish care with a new provider after he wrote the second prescription. Dr. Luberto explained that he wrote the prescription for his daughter at the request of her surgeon prior to her scheduled wrist surgery. He stated that he documented the prescriptions in their charts and provided the documentation to the Board. Dr. Luberto recognized that he did not document an examination and pointed out that he self-reported this matter to the Board.

Dr. Cunningham stated his concerns regarding the prescribing of controlled substances to family members and questioned whether the physician has since further educated himself on this issue. Dr. Luberto assured the Board that has been alerted to the issue, and stated that he has not written controlled substance prescriptions for family members in the past and has not done so since the date of the prescriptions in question. President Landau stated his concerns regarding the licensee’s failure to realize that writing controlled substance prescriptions to family members is prohibited by law. Dr. Luberto stated that he is cognizant of the issues and admitted that he made a mistake.

MOTION: Mr. Burg moved for the Board to issue a Letter of Concern for prescribing controlled substances to members of the physician’s immediate family.
SECOND: Dr. Cunningham

Dr. Cunningham stated his concerns regarding the prescribing to the licensee’s wife, who is also an osteopath and suggested that she too obtain further education in the subject of prescribing controlled substances to immediate family members. Dr. Cunningham recognized that Dr. Luberto self-reported this matter to the Board, and spoke in support of the motion. President Landau spoke in support of the motion and proposed requiring CME in prescribing. Mr. Burg stated that the physician appeared to have understood the mistake he made, and stated that he did not find CME was warranted. Dr. Luberto reported that he stays active with his CME and has complied with the requirement to obtain 3 CME hours in the area of opioid prescribing for renewal of licensure. Dr. Cunningham stated that CME was not warranted, and that the physician seemed to be fully aware of appropriate opioid prescribing practices.

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-18-0171A, Dora Jean Sherman, DO, LIC. #006738

Dr. Sherman and Attorney Patrick White participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that this matter stemmed from a malpractice claim alleging delayed diagnosis and referral of a 61 year-old female patient that resulted in permanent foot drop. The Medical Consultant reviewed the case and found that Dr. Sherman deviated from the standard of care by failing to diagnose herniated disc with sequela of permanent foot drop, failing to order an MRI on STAT or urgent basis, and by failing to refer the patient to a spine surgeon for further assessment.

Dr. Sherman stated that at the time that this case occurred, she had been in practice for about a year. She stated that she practiced at an outpatient clinic where three other providers had resigned, and she absorbed their patients with three other locums that rotated through the clinic. Dr. Sherman summarized for the Board the care provided in this case, and stated that the concerns raised in this case were the result of miscommunication between her and her office staff. Mr. White informed the Board that the patient’s subsequent provider documented in June of 2019 that the foot drop had resolved. He stated that while the matter was undergoing litigation, their expert opined that the foot drop was not a surgical emergency. Mr. White pointed out that Dr. Sherman has no prior Board history, stated that she acted reasonably under the circumstances, and requested the case be dismissed.

Dr. Erbstoesser observed that the patient underwent back surgery prior to her knee surgery, and stated that this did not appear to be an emergent case in terms of surgery as the neurosurgeons were following the patient and did not rush her to surgery. Dr. Erbstoesser also suggested the physician reconsider her place of employment given the circumstances she described for the Board. Dr. Sherman reported that she has since moved on and is currently working with the VA. Dr. Erbstoesser spoke in favor of dismissal, stating that the physician appeared to have tried her best under the circumstances and there was ultimately no harm done as the foot has reportedly returned to normal.

MOTION: Dr. Erbstoesser moved for dismissal.
SECOND: Dr. Walker

President Landau spoke in support of the motion to dismiss given the systemic issues and problems identified during the Board’s discussion.

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-20-0136A, DO-20-0163A, Dung Thanh Anh Nguyen, DO, LIC. #2530

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

Board staff summarized that case number DO-20-0136A was initiated after receipt of a complaint

from a medical student working in Dr. Nguyen’s office. The complainant alleged he witnessed multiple violations of CDC guidelines by Dr. Nguyen during the current pandemic, that he actively spreads misinformation, and that he downplayed the severity of a global health crisis. Dr. Nguyen responded to the complaint denying the allegations and that he believes he adheres to the standard policies and procedures of his group for mask wearing and sanitizing rooms between patients.

Dr. Nguyen stated that he has practiced in Tucson since 1992 and that his job is to prevent patients from getting sick from COVID. He stated that he did not know the complainant’s intention with filling the complaint, and that he believed the complainant may not have observed the staff when they were sanitizing the exam rooms. The Board noted that this was the medical student’s second rotation with Dr. Nguyen and that the physician had authored a letter of recommendation on the student’s behalf for his residency.

Dr. Erbstoesser stated the physician appeared sincere and recognized that there has been a lot of controversy in the Country surrounding the topic of COVID. Dr. Nguyen informed the Board that the student was to complete a 30-day rotation, but only saw him for three hours in July of 2020. He stated that the student did not voice any concerns at that time.

**MOTION: Dr. Cunningham moved for dismissal of case number DO-20-0136A.
SECOND: Dr. Ota**

President Landau stated that this matter appeared to involve a difference of opinion on how to proceed under the circumstances.

**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			

Board staff summarized that case number DO-20-0163A was initiated after receiving a complaint from case manager Jamie Hill on behalf of patient LH. The complaint alleged that during an examination on July 8, 2020, LH’s wrist was squeezed while her boyfriend was in the room with his back turned, that this had occurred on at least four other occasions, and there were no known witnesses to these incidents. Dr. Nguyen responded to the complaint denying the allegation and reported that a chaperone was present at all times during the exams for all nine visits with this patient. Board staff reported that the case manager did not respond to a number of voicemails and emails after filing the complaint.

Dr. Nguyen stated that the complaint allegations were hurtful, and that he believed he may have upset the patient by commenting on working on her health to lose weight. He stated that the patient was difficult, did not always comply with specialist referrals, and often did not appear for scheduled appointments. Dr. Cunningham stated that the physician explained himself very well and appeared contrite.

**MOTION: Dr. Cunningham moved for dismissal of case number DO-20-0163A.
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			

7. 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, LIC. #N/A
- B. DO-20-0189A, Nancy Rachael Davison, LIC. #N/A

Executive Director Bohall reported that the applicants in items A and B were notified of today’s proceedings and were not in attendance. The Board continued these matters to its January 2021 meeting.

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

Dr. Walker was recused from this matter. Dr. Bushman participated in the virtual meeting during the Board’s consideration of this matter.

Board staff summarized that Dr. Bushman was issued an Interim Order for Practice Restriction prohibiting him from prescribing controlled substances scheduled II-IV and was prohibited from certifying patients for medical marijuana. Additionally, Dr. Bushman was ordered to complete the PACE prescribing course. Dr. Bushman complied and in October 2019, the Board issued the physician an Administrative Warning and placed his license on Probation for two years with quarterly monitoring of the CSPMP. Board staff reported that the CSPMP query performed in January of 2020 demonstrated that Dr. Bushman had not prescribed any controlled substances for the prior quarter. A more recent query of the CSPMP revealed that Dr. Bushman prescribed Soma, Xanax, Ativan, Adderall, and Lyrica.

Executive Director Bohall informed the Board that on October 19, 2020, Dr. Bushman submitted a request for early termination of the Board Order that was issued 13 months previously. The Board noted that according to the Order, Dr. Bushman was eligible to request termination after one year from the effective date.

Dr. Bushman reported that he began working in the general family practice area of a multi-specialty medical group this year, that business has been slow due to COVID, and that he rarely sees the need to prescribe controlled substances in his current practice setting. Dr. Cunningham questioned Dr. Bushman regarding the Soma prescriptions noted on the more recent CSPMP report. Dr. Bushman explained that the patient had been on Soma for many years and was doing well, and that Soma was the only medication she would take for back pain. He assured the Board that he does not prescribe Soma on a regular basis to his patients. Dr. Erbstoesser stated he found that the termination request was reasonable in light of the physician’s compliance and the changes he has implemented in his practice.

MOTION: Dr. Erbstoesser moved for the Board to grant the request to terminate the Board Order in case numbers DO-18-0152A and DO-18-0158A.

SECOND: Dr. Cunningham
VOTE: 5-yay, 0-nay, 0-abstain, 1-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. DO-17-0189A, Joseph John Ring, DO, LIC. #4529

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

Board staff summarized that in May of 2019, Dr. Ring’s license was placed on Probation for three years, was ordered to undergo a PACE evaluation, complete CME in medical recordkeeping, and have a preceptor oversee his clinical care, controlled substance prescribing, and medical recordkeeping and report to the Board on a quarterly basis. Dr. Ring was also prohibited from certifying patients for medical marijuana. Dr. Ring completed the CME, and a preceptor report from July 2020 indicated that the licensee was doing an excellent job and recommended release from the preceptorship requirement.

Dr. Ring stated that he lost his contract with United Health Care as a result of the Board’s Order, that he was requesting termination as he is concerned that other major insurance carriers may not wish to proceed with his upcoming contract renewals. Dr. Ring stated that he has complied with the Board’s requirements, completed 18 months of preceptor monitoring, and that he has no plans of certifying patients for medical marijuana going forward. Dr. Ring explained that he previously took on too many professional roles and resulted in the degeneration of his own standards, and that he was not able to focus on practicing medicine the way that he does now. Dr. Ring reported that he sold his practice to the local hospital and he is currently under the hospital’s employment. Dr. Cunningham spoke in favor of granting the request to terminate the Board Order in this case.

MOTION: Dr. Cunningham moved for the Board to grant the request to terminate the Board Order in case number DO-17-0189A and return the license to full unrestricted status.

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			

C. DO-20-0050A, Stephan Stellmacher, DO, LIC. #3828

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

Board staff summarized that in August 2020, Dr. Stellmacher was issued a Practice Restriction and required to complete an intensive outpatient program. Dr. Stellmacher complied and correspondence from one provider indicated that there were no safety concerns regarding his practice of medicine.

Dr. Stellmacher reported that he was doing well, and the Board elected to proceed in Executive Session to discuss confidential health information.

MOTION: Mr. Burg moved for the Board to enter into Executive Session to review and discussion confidential health information pursuant to A.R.S. § 38-431.03(A)(2).

SECOND: Dr. 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			

The Board entered into Executive Session at 11:32 a.m.

The Board returned to Open Session at 11:57 a.m.

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

MOTION: Dr. Cunningham moved for the Board to proceed with offering the licensee a Consent Agreement per the Board's discussion in Executive Session. This matter shall return to the Board in March 2021 for a progress update.

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			

9. REVIEW, DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO A PROPOSED CONSENT AGREEMENT.

A. DO-18-0033A, Wendi Joy Lundquist, DO, LIC. #005097

Dr. Lundquist did not participate in the virtual meeting during the Board's consideration of this matter.

Executive Director Bohall informed the Board that the physician and his counsel have requested the Board consider the proposed Consent Agreement as they feel it is an adequate representation of what occurred and what the physician is willing to do to remediate it.

Dr. Cunningham stated his concerns regarding the proposed settlement, and stated that he believed this matter rises to the level of disciplinary action. President Landau spoke in favor of allowing the matter to proceed to the Office of Administrative Hearings. Board staff pointed out that Dr. Lundquist obtained an expert opinion from a physician who has reviewed cases for the Board on occasion. The expert reviewer found that the Medical Consultant who reviewed the case misunderstood the procedures performed and the reasons for the procedures performed, and opined that Dr. Lundquist met the standard of care in this case.

MOTION: Dr. 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. 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			

The Board entered into Executive Session at 12:05 p.m.

The Board returned to Open Session at 12:16 p.m.

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

MOTION: President Landau moved for the Board to authorize the AAG and staff to enter into negotiation discussions with the licensee for a Consent Agreement per the Board's discussion in Executive Session.

SECOND: Dr. 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			

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

A. Review and Discussion of the effects of Proposition 207

The Board discussed the passing of Proposition 207 and noted that it will most likely take effect on December 1, 2020. The Board considered referring this topic for Committee review to discuss and make recommendations to the Board regarding how the legalization of marijuana for recreational use could potentially affect the osteopathic profession. The Board observed the employment provisions relating to the employer preserving the right to maintain a drug and alcohol free workplace, does not require an employer to accommodate for the use of marijuana, and does not prevent employers from regulating conduct that occurs on their premises. The Board also discussed concerns related to the inability to quantify marijuana in an individual's system. Dr. Prah pointed out that chronic marijuana use can take up to thirty days to metabolize, and stated that this issue may need to be further discussed by the Committee.

The Board instructed its Committee to review the Federation's recommendations regarding this topic, and to query other states where recreational marijuana is already legal to gain insight into how other state osteopathic and allopathic boards are addressing this issue.

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

A. Report on Director Dismissed Complaints

Executive Director Bohall reported that case number DO-20-0082A was dismissed in October, and that he currently has a large number of cases to review thanks to the hard work and efforts of Board staff.

B. Executive Director Report

1. Financial Report

Executive Director Bohall reported that 37% of the fiscal year has been completed, and that the Agency is on track with appropriation spending. He added that as of this week, over 25% of individuals due to renew have completed the online renewal for this years' cycle and are on track to seeing that completed by the end of 2020.

2. Current Events that Affect the Board

Executive Director Bohall reported that Investigator John O'Hair-Schattenberg has submitted his retirement notice and thanked him for his service to the Board. The Board noted that Mr. O'Hair-Schattenberg has worked with the Agency for a number of years and congratulated him on his retirement. Mr. O'Hair-Schattenberg stated that it has been a pleasure to have worked for the Board for almost fifteen years and that all would be missed.

The Board welcomed its new Investigator, Mr. Jarvis Vonzombie. Mr. Vonzombie provided the Board with a brief overview of his background and training, and stated that he retired from law enforcement in 2017 and has been enjoying his hobbies.

3. Licensing and Investigations Update

Executive Director Bohall provided an update on the Investigation and Licensing procedures of Board staff.

The Director noted that the Board's next meeting will be held virtually on January 9, 2021.

4. Legislative Update

No Update was provided at the meeting.

5. Update of COVID-19 Temporary Licensing Process under A.R.S. § 32-3124

Executive Director Bohall reported that the Agency has issued 90 emergency thirty day temporary licenses, and that individuals who have received a second thirty day temporary are encouraged to apply for a full unrestricted license and request the 250 day temporary license.

13. ADJOURNMENT

MOTION: Dr. Erbstoesser moved to adjourn.


SECOND: Dr. Cunningham

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			

The Board's meeting adjourned at 1:22 p.m.



Justin Bohall, Executive Director