



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

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**Board Members:**  
Gary A. Erbstoesser, D.O., Pres.  
Jonathan A. Maitem, D.O., V.P.  
Jeffrey H. Burg, AIF  
Dawn K. Walker, D.O.  
Ken S. Ota, D.O.  
Samara Shipon, D.O.  
Michael Goodman

**Executive Director**  
Justin Bohall

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

**Held on Saturday, May 20, 2023**

**1. CALL TO ORDER**

Board President Erbstoesser called the meeting to order at 11:45 am.

President Erbstoesser 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**

	<b>Gary Erbstoesser, DO</b>	<b>Jonathan Maitem, DO</b>	<b>Jeffrey Burg</b>	<b>Ken Ota, DO</b>	<b>Dawn Walker, DO</b>	<b>Samara Shipon, DO</b>	<b>Michael Goodman</b>
<b>Present</b>	X	X		X	X	X	X
<b>Absent</b>			X				

**Other Board Staff Present during the Board Meeting:**

	<b>Justin Bohall, Executive Director</b>	<b>Lindsey Castro, Deputy Director</b>	<b>Barbara Prah-Wix, DO- Med. Cons.</b>	<b>Jeanne Galvin, Assistant AG</b>	<b>Meaghan Cool, Licensing</b>	<b>Kellye Mykhailov, Operations Coord.</b>	<b>Irma Dominick, Licensing</b>
<b>Present</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>	<b>X</b>
<b>Absent</b>					<b>X</b>		

**3. CALL TO THE PUBLIC**

A. President Erbstoesser made a call to the public. No one from the public requested to speak.

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

A. March 17, 2023 Open Session

**MOTION: Vice-President Maitem motioned to approve March 17, 2023, Open Session minutes**

**SECOND: Dr. Walker**

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

**MOTION PASSED.**

	<b>Vote</b>	<b>Gary Erbstoesser, DO</b>	<b>Jonathan Maitem, DO</b>	<b>Jeffrey Burg</b>	<b>Ken Ota, DO</b>	<b>Dawn Walker, DO</b>	<b>Samara Shipon, DO</b>	<b>Michael Goodman</b>
<b>Aye:</b>	<b>5</b>	<b>X</b>	<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>	
<b>Nay:</b>								
<b>Abstain/ Recuse:</b>	<b>1</b>							<b>X</b>
<b>Absent:</b>	<b>1</b>			<b>X</b>				

B. March 17, 2023, Executive Session

**MOTION: Vice President Maitem motioned for the Board to approve the March 17, 2023, Executive Session minutes.**

**SECOND: Dr. Ota**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
Aye:	5	X	X		X	X	X	
Nay:								
Abstain/ Recuse:	1							X
Absent:	1			X				

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

**A. DO-22-0137A, James Tooley, DO**

Dr. Tooley participated in the virtual meeting during the Board’s consideration of this matter. Dr. Tooley was not represented by legal counsel. Dr. Tooley provided a summary of his education and current work experience.

Board staff provided a summary of the case.

This case was a malpractice complaint that alleged Dr. Tooley failed to notify a patient about critical lab values which resulted in her death. Dr. Tooley’s office was notified of these lab values via telephone where a medical assistant took the message as well as a fax that was sent with the lab values.

Dr. Tooley stated he was not called by the Emergency Department while she was there and the patient did not follow up with him as instructed to do so by the Emergency Department. Dr. Tooley stated this was the first time in over 30 years that he was not called directly for critical lab values. Dr. Tooley stated he gets hundreds of faxes a day and that is why he didn’t see the fax that was sent with the critical lab values. Dr. Tooley stated when he saw the patient previously physical exams were performed but sometimes they aren’t documented.

**MOTION: Vice-President Matiem motioned for the Board to move to Executive Session for legal advice pursuant to A.R.S. § 38-431.03(A)(3).**

**SECOND: Dr. Walker**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

The Board entered into Executive Session at 12:13 p.m.  
The Board returned to Open Session at 12:37 p.m.  
No legal action was taken by the Board during Executive Session.

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion to issue a Order for a Decree of Censure with 18 hours of Continuing Medical Education in supervision and in documentation. This CME is in addition to the CME used for renewal and to be completed within 6 months.

**MOTION: Vice President Maitem motioned to issue an Order for a Decree of Censure with 18 hours of Continuing Medical Education.**

**SECOND: Dr. Ota**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

**B. DO-19-0252A, Cesar Rodarte, DO**

Dr. Rodarte participated in the virtual meeting during the Board’s consideration of this matter. Dr. Rodarte was represented by legal counsel, Flynn Carey. Dr. Rodarte provided a summary of his education and current work experience.

Board staff provided a summary of the case. The complainant is the Clinical Director of a Behavioral Health Clinic. The complainant states that the patient, KM, came to their facility for treatment. The patient overdosed on Xanax which was prescribed by Dr. Rodarte. The complainant felt that Dr. Rodarte did not fully investigate prior to prescribing to this patient. Board staff conducted a chart review for 10 charts and found inconsistencies when it came to documentation, physical exams, and urinary drug screens.

Mr. Carey stated that on the CSPMP, if a patient is being prescribed Methadone at a treatment facility, it will not be indicated on the report. He also stated that the treatment facility should have been in contact with Dr. Rodarte once they found out he was prescribing medication to this patient. Mr. Carey also stated that Dr. Rodarte has taken 44 hours of Continuing Medical Education about record keeping and prescribing.

Dr. Rodarte advised the Board that patient KM did not give him or his staff any indication that he was on Methadone or that he had an alcohol or drug addiction. The Board advised Dr. Rodarte that he missed manipulation and diversion by the patient and he shouldn’t have been prescribing this type of medication to the patient.

**MOTION: President Erbstoesser motioned for the Board to move to Executive Session for legal advice pursuant to A.R.S. § 38-431.03(A)(3).**

**SECOND: Vice President Maitem**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

The Board entered into Executive Session at 1:37 p.m.  
 The Board returned to Open Session at 1:50 p.m.  
 No legal action was taken by the Board during Executive Session.

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion for an Interim Order for a PACE evaluation to be scheduled within 30 days and completed within 6 months.

**MOTION: Vice President Maitem motioned for the Board to issue an Interim Order for a PACE evaluation.**

**SECOND: Mr. Goodman**

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

**MOTION PASSED.**

	Vote	Gary Erbsfoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

**C. DO-22-0074A, Donald Fruchtman, DO**

Dr. Fruchtman participated in the virtual meeting during the Board’s consideration of this matter. Dr. Fruchtman was not represented by legal counsel. Dr. Fruchtman provided a summary of his education and current work experience.

Board staff provided a summary of the case.

The Pharmacy Board notified the Board that Dr. Fruchtman failed to query the CSPMP from February 2022 to April 2022.

Dr. Fruchtman stated that at the office they have a designated person to query the CSPMP. The medical assistant who was assigned to this was new and did not know how to do the printouts. Dr. Fruchtman stated that they did write a lot of prescriptions to make sure his patients were taken care of but he did refer many of them to a pain management doctor but that it’s difficult to see a pain management doctor.

Dr. Fruchtman advised the Board that he has retired but would like to maintain his Arizona license due to possible volunteer opportunities, Osteopathic manipulation, and being able to participate in other opportunities but he will not be prescribing controlled substances.

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion to issue an Order for permanent Practice Restriction, restricting the prescribing of controlled substances by the respondent.

**MOTION: Vice President Maitem motioned for the Board to issue an Order for a permanent Practice Restriction that restricts the prescribing of controlled substances by the Respondent.**

**SECOND: Dr. Walker**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

**D. DO-22-0057A, Donald Fruchtman, DO**

Dr. Fruchtman participated in the virtual meeting during the Board’s consideration of this matter. Dr. Fruchtman was not represented by legal counsel.

Board staff provided a summary of the case.

The complainant is the father and legal guardian of patient LR. The complainant alleges that Dr. Fruchtman was warned by several pharmacies about dangerous prescribing for this patient but continued to prescribe several different drugs. There was no controlled substance agreement or urine drug screens.

Dr. Fruchtman apologized that Board staff did not get all the medical records regarding this patient due to being switched to a new computer system. Dr. Fruchtman stated the appropriate tests were done before being prescribed documentation. Dr. Fruchtman stated the patient did not tell him that she was a heavy drinker or chronic alcoholic. Dr. Fruchtman did admit to prescribing her medications but the patient did follow up with Dr. Fruchtman on a regular basis. Dr. Fruchtman stated that his office advised the patient not to drink and take these medications.

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion to issue an Order for an Administrative Warning.

**MOTION: Vice President Maitem motioned to issue an Order for an Administrative Warning.**

**SECOND: Dr. Ota**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

**6. 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-23-0018A, Joseph Cook, DO**

Dr. Cook participated in the virtual meeting during the Board’s consideration of this matter. Dr. Cook was not represented by legal counsel.

Board staff provided a summary of the case.

Dr. Cook disclosed on his application that his Ohio medical license was suspended and he temporarily relinquished his DEA during the course of an investigation. Board staff confirmed Dr. Cook was found not guilty by a jury in 2021 and his Ohio medical license was reinstated.

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion to grant an unrestricted license.

**MOTION: President Erbstoesser motioned to grant unrestricted licensure**

**SECOND: Vice-President Maitem**

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

**MOTION PASSED.**



	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
Aye:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

B. DO-23-0061A, John Garrison, DO

The applicant requested a continuance of the matter. The Board reviewed the request and Granted the continuance.

**7. CONSENT AGENDA**

A. DO-22-0139A, Michael Barry, DO

The Board made a motion to accept the Consent Agenda as presented.

**MOTION: Vice President Maitem motioned to accept the Consent Agenda as presented.**

**SECOND: President Erbstoesser**

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

**MOTION PASSED.**

	Vote	Gary Erbstoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
Aye:	6	X	X		X	X	X	X
Nay:	0							
Abstain/ Recuse:	0							
Absent:	1			X				

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

There were no student's in attendance at this meeting. The Board proceeded with the Agenda as scheduled.

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

**A. DEA Requirement for 8 Hours of One-time CME on Opioid Prescribing**

The Board discussed the DEA requirement of 8 Hours of One-time CME on Opioid Prescribing. They directed staff to contact the AOMA and to put together a newsletter to licensees.

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

**A. Report from Board Members**

FSMB 2023 Meeting

President Erbstoesser and Vice-President Maitem provided a verbal update on the Federation of State Medical Boards Annual Meeting held in Minneapolis, Minnesota.

**B. Executive Director Report**

1. Financial Report
2. Current Events that Affect the Board
3. Licensing and Investigations Update
4. Report on Director Dismissed Complaints

Executive Director Bohall provided a verbal update for the Board. Executive Director Bohall advised the Board there had been 15 dismissed complaints since the last Board meeting.

**11. Adjournment**

**MOTION: Vice-President Maitem motioned for the Board to adjourn.**

**SECOND: President Erbstoesser**

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

**MOTION PASSED.**

	Vote	Gary Erbsfoesser, DO	Jonathan Maitem, DO	Jeffrey Burg	Ken Ota, DO	Dawn Walker, DO	Samara Shipon, DO	Michael Goodman
<b>Aye:</b>	<b>6</b>	X	X		X	X	X	X
<b>Nay:</b>	<b>0</b>							
<b>Abstain/ Recuse:</b>	<b>0</b>							
<b>Absent:</b>	<b>1</b>			X				

The Board's meeting adjourned at 2:52pm.

Justin Bohall, Executive Director