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BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

IN THE MATTER OF
S. FOSTER EASLEY, D.O.
Holder of License No. 3212

For the Practice of osteopathic medicine
in the State of Arizona,

Respondent.

Case Nos. DO-13-0135A, DO-14-0208A
and DO-15-0100A

**INTERIM CONSENT AGREEMENT
FOR LICENSE SUSPENSION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Board of Osteopathic Examiners in Medicine and Surgery ("Board") and S. Foster Easley, D.O. ("Respondent"), the parties agreed to the following interim action in this matter.

1. Respondent has read and understands this Interim Consent Agreement and the stipulated Findings of Fact, Conclusion of Law and Order ("Interim Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Interim Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Interim Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Interim Consent Agreement.

3. This Interim Consent Agreement will not become effective until signed by the Executive Director.

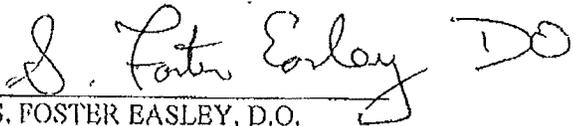
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4. All admissions made by Respondent are solely for interim disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, or civil or criminal court proceedings, in the State of Arizona or any other state or federal court.

5. Respondent may not make any modifications to the document. Upon signing this agreement, and returning this document (or a copy thereof) to the Executive Director, Respondent may not revoke acceptance of the Interim Consent Agreement. Any modifications to this Interim Consent Agreement are ineffective and void unless mutually approved by the parties.

6. This Interim Consent Agreement, once approved and signed, is a public record that will be publicly disseminated as a formal action of the Board and will be reported to the National Practitioner Databank and on the Board's website.

8. If any part of the Interim Consent Agreement is later declared void or otherwise unenforceable, the remainder of the Interim Consent Agreement in its entirety shall remain in force and effect.


S. FOSTER EASLEY, D.O.

Dated: 11/10/15

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- a. The controlled substance dosage and number of pills prescribed were not documented in the medical record.
- b. The patient received a large amount of opioids.
- c. The patient received multiple early refills.
- d. The patient was not referred for consultation.

7. Patient D.K. (DOB 5/4/1983), a then 29 year old male, was seen by Respondent from May 29, 2012, through December of 2014. The Board's medical consultant noted the following concerns:

- a. The controlled substance dosage and number of pills prescribed were not documented in the medical record.
- b. The patient received multiple early refills.
- c. The patient's occupation involved his operation of heavy equipment and there is no indication he was warned not to use the medication while working.

8. Patient L.R. (DOB 9/21/1960), a then 52 year old female, was first seen by Respondent from April 1, 2013, through November 2014. The Board's medical consultant noted the following concerns:

- a. The controlled substance dosage and number of pills prescribed were not documented in the medical record.
- b. The patient received a large amount of opioids.
- c. The patient's UD was inconsistent with her stated medications.

9. Patient M.N. (DOB 12/12/1991), a then 21 year old female, was first seen by Respondent from April 24, 2013, and continued to be seen at least to January 2015. The Board's medical consultant noted the following concerns:

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- a. The controlled substance dosage and number of pills prescribed were not documented in the medical record.
- b. The patient's UDS (urine drug screen) was inconsistent in that it was positive for THC, an active ingredient in marijuana. The patient was not referred to any specialist regarding either her abdomen or ankle pain.
- c. The patient was started on Adderall to help with her chronic fatigue syndrome symptoms. Adderall is not a recognized treatment for chronic fatigue syndrome.

10. Patient P.H. (DOB 8/9/1979), then 33 year old male, was first seen by Respondent on October 24, 2012, and continued to be seen until August 2014. The Board's medical consultant noted the following concerns:

- a. The controlled substance dosage and number of pills prescribed were not documented in the medical record.
- b. Respondent had evidence that the patient had used multiple pharmacies and providers yet Respondent still chose to prescribe to this patient.
- c. The patient's UDS was inconsistent on multiple occasions. On October 1, 2013, the UDS was positive for marijuana but negative for benzodiazapines and oxycodone. The patient claimed he was taking Oxycodone and Xanax. On October 31, 2013, the UDS was positive for oxycodone and marijuana but negative for benzodiazapines. In November 2013, the UDS was positive for oxycodone and marijuana but negative for benzodiazapines. In June 2014, the patient's medications were Oxycontin, Xanax, Klonopin and oxycodone. The UDS was positive for oxycodone, marijuana and benzodiazapines but negative for Xanax. In December 2014, the UDS was positive for amphetamines only.

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- d. Respondent started the patient on Adderall for an unknown reason.
- e. The patient demonstrated drug seeking behavior on multiple occasions when he was not truthful in his first visit regarding being discharged from the pain management physician's care. He asked for early refills on multiple occasions and visited emergency rooms between refills on numerous occasions. He did not follow up with physical therapy even though he had been referred several times. He used multiple pharmacies and his urine drug screens were inconsistent with the medications he was to be taking. Respondent noted in the medical record concerns that the patient may be diverting medications and was seeking drug seeking behavior but continued to prescribe large amounts to the patient.
- f. Respondent was notified by the patient's insurance company that he was using multiple providers and multiple pharmacies, taking a high dosage of opioids (over 200mg Morphine equivalents per day), and taking two benzodiazepines at the same time, yet Respondent continued prescribing opioids to P.H.
- g. The patient demonstrated possible diversion on multiple occasions which was documented in the medical record. The patient was being prescribed large doses of opioids until July of 2014 and then in August those were discontinued. It appears the patient was not weaned off the opioids yet no signs of withdrawal were reported.

11. Pursuant to Board order the Board's medical consultant visited Respondent's office on April 14, 2015. Charts of Respondent's patients were randomly selected for review from the previous six (6) months of Respondent's appointment book. The Board's medical consultant noted the following concerns:

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- a. In the chart for patient A.M. (DOB 12/18/1968) there were nine incidents in which the patient was seen in the office but the medical record was not completed by Respondent. A physical exam was not noted for those nine incidents.
- b. In the chart for patient K.B. (DOB 10/30/1987) there were four incidents when the patient was seen by Respondent, but the medical records were not complete.
- c. In the chart for patient M.B. (DOB 4/4/1965) there were three incidents where the medical records were not complete.
- d. In the chart for patient D.C. (DOB 5/4/1963) there were five incidents which did not have complete medical records. Thus, no physical examination was noted on those visits.
- e. In the chart for patient R.S. (DOB 8/14/1950) there was one medical record that was not complete.
- f. In the chart for patient T.T. (DOB 6/16/1973) there was one medical record that was not complete.
- g. In the chart for patient V.O. (DOB 7/3/1982) there were three medical records that were not complete.
- h. In the chart for patient K.L. (DOB 7/11/1988) there were five medical records that were not complete.
- i. In the chart for patient D.L. (DOB 4/12/1956) there were 14 visits where medical records were not complete. Thus, no physical examination was noted on those visits.

1 12. On April 20, 2015 the Board held an Investigative Hearing in this matter. Dr. Easley
2 appeared with counsel. During testimony, Respondent stated he was an addiction specialist
3 and that he was no longer board certified in family practice. As a result of the proceedings, the
4 Board entered an interim order as follows:

- 5 1. Licensee shall undergo a psychiatric evaluation by a psychiatrist who is pre-
6 approved by the Executive Director. The evaluation is to be completed within
7 ninety (90) days of the effective date of this Order. The Executive Director
8 may provide the evaluating psychiatrist with background information and
9 reports to assist in the evaluation.
- 10 2. By 5:00 p.m. on the 30th day following service of this document, Respondent
11 shall notify the Board's Executive Director of the date(s) of the appointment
12 for the psychiatric evaluation and which physician will be conducting the
13 evaluation. The notification shall be in writing, by facsimile (480-657-7715)
14 or email (jenna.jones@azdo.gov).
- 15 3. If it is recommended by the psychiatrist or the practice assessment provider,
16 Respondent shall undergo a neuropsychological evaluation to be scheduled
17 within ninety (90) days of the recommendation with either Phillip Lett, PhD,
18 (602-852-0911), David Leighton, PhD (602-482-0048), or by a
19 neuropsychologist designated and directly affiliated by with the PACE I and
20 II Programs. The neuropsychological evaluation is to be completed within
21 ninety (90) days of the date that it is recommended by the Board offices. The
22 Executive Director may provide the evaluating neuropsychologist with
23 background information and reports to assist in the evaluation.
- 24 4. If a neuropsychological evaluation is recommended, by 5:00 p.m. on the 30th
25 day following the recommendation, Respondent shall notify the Board's
26 Executive Director of the date(s) of the appointment for the
neuropsychological evaluation and who will be conducting the evaluation.
The notification shall be in writing, by facsimile (480-657-7715) or email
(jenna.jones@azdo.gov).
5. Respondent shall have his primary physician provide a report to the Board of
Respondent's health profile within sixty (60) days of the effective date of this
Order.
6. Respondent shall undergo the Phase I and II evaluations by the Physician
Assessment and Clinical Education Program ("PACE"), at the University of
San Diego (619-543-6770. / www.paceprogram.ucsd.edu) or undergo a
physician practice assessment through The Center for Personalized Education
for Physicians ("CPEP") in Denver, Colorado (303-577-3232 or
www.cpepdoc.org), or an equivalent program that is pre-approved by the
Board's Executive Director. The evaluation or assessment is to be completed
within ninety (90) days of the effective date of this Order.
7. By 5:00 p.m. on the 30th day following service of this document, Respondent
shall notify the Board's Executive Director of the date(s) of the appointment

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for the physician practice assessment or evaluation and which organization will be conducting the assessment or evaluation. The notification shall be in writing, by facsimile (480-657-7715) or email (jenna.jones@azdo.gov).

- 8. Respondent shall provide a copy of his board certification in addictionology to the Board's office within ten (10) days of the effective date of this Order.
- 9. Respondent shall present copies of certificates of completion of Continuing Medical Education (CME) completed regarding addiction medicine during 2013 and 2014 to the Board office within ten (10) days of the effective date of this Order.
- 10. Respondent shall cause the reports resulting from the evaluations or assessments listed in paragraphs 1, 3 and 6 of this Order to be delivered directly from the evaluator to the Executive Director of the Board.
- 11. Pursuant to A.R.S. § 32-1855 (B) these evaluations/assessments shall be at the licensee's expense. Respondent shall bear all costs for complying with any and all portions of this Order.
- 12. This is an interim order and not a final decision by the Board regarding the pending investigative files and as such is subject to modification and further consideration by the Board.
- 13. Failure to comply with this order may be construed as a ground for disciplinary action and may constitute unprofessional conduct. (A.R.S. § 32-1854(25))

13. Respondent represents to the Board that for financial reasons he has been unable to comply with the Board's April 20, 2015 Order.

14. Respondent has not complied with the Order set forth in paragraph number 12 (#1 through 13).

DO-14-0208A

15. This complaint was filed by the mother of P.H. (a 20 year old female) who alleges that Respondent treated P.H. for a heroin addiction with Suboxone but did not wean her off properly and that he also prescribed her two different sleeping medications at the same time. The concerns set forth in the following paragraphs (16-21) were noted.

16. P.H. was first seen by Respondent on 05/23/2014 for opioid dependency and acknowledged that she had received drug addiction treatment in the past. She used marijuana daily and stated here daily medications were Adderall, sleeping pills, Naprosyn, Dramamine

1 and Suboxone. She reported a 40lb. weight loss in the last year. No vital signs or weight were
2 documented and the physical exam documented was minimal. Respondent prescribed
3 Suboxone 8mg and Restoril 15mg.

4 17. In July of 2014, Respondent increased the Restoril to 30mg and also gave P.H.
5 Ambien 10mg and stated it should not be taken at the same time as Ambien. No vital signs or
6 weight were documented and the documentation of the physical exam was minimal. She
7 returned at the end of July for a refill of her prescriptions and stated that she had Chlamydia in
8 the past and thought it was back. No pelvic exam or cultures were performed. Respondent
9 prescribed Suboxone, azithromycin, Ambien 10mg, Restroil 15mg and Lexapro 10mg. No vital
10 signs or weight were documented. No pelvic examine was documented.
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12 18. P.H. returned on August 28, 2014, for a mediation refill. There is no physical
13 exam, assessment or plan documented. The patient failed to show for the next scheduled
14 appointment.

15 19. In November of 2014, the patient returned and Respondent noted she had not
16 been in compliance with his protocol since she had no showed for several appointments and
17 had been off Suboxone. The physical exam documented was minimal and no pelvic exam was
18 noted. P.H. was prescribed Lamictal and Ativan (dose and amount not documented). The UDS
19 was positive for opiates (codeine and morphine and 6-monacetlymorphone (heroin) but
20 negative for benzodiazepines or buprenorphine.
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22 20. There is no corresponding office visit but a UDS was performed on December
23 10, 2014 that was negative for benzodiazepines and negative for norburepnorphine, which is
24 inconsistent with the patient's stated medications.
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1 21. Generally, in this case, there was no controlled substance agreement signed and
2 no pharmacy audit was completed after the first visit. The only audit performed by Respondent
3 demonstrated that she was not truthful in her history. The UDS were inconsistent on multiple
4 occasions and not compliant, yet Respondent continued to prescribe controlled substances.
5 Respondent also prescribed two different benzodiazepines at the same time (Restoril and
6 Clonazepam).

7 22. As part of its investigation into this matter, the Board ordered its Medical
8 Consultant to perform a chart review of ten (10) randomly selected patients from a pharmacy
9 query. The following concerns were noted:
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11 a. Patient J.F. (DOB 1/20/77), a then 37 year old male, was first seen by
12 Respondent in May of 2014, for opioid dependence. Prior medical records were not requested
13 or reviewed; no UDS was documented, no controlled substance agreement was signed, and the
14 controlled substance amount and dose were not documented. According to the medical records,
15 the patient was seen only one time but was prescribed Suboxone until November of 2014.

16 b. Patient J.D. (DOB 1/21/73), a then 39 year old male, was first seen on
17 November 9, 2012 for opioid dependence. The patient noted he had been on methadone and
18 was requesting Suboxone. The patient stated he had been on Suboxone in the past from a
19 physician in Utah. The patient also noted he had a past medical history significant for
20 hypertension, left leg pain and insomnia. A urine drug screen was performed that same day and
21 was positive for Suboxone. A history and physical was completed and Respondent discussed
22 attending 12 step meetings and safeguarding his Suboxone. The patient was started on
23 Suboxone and old medical records were requested from his physician in Utah. The patient
24 returned to the office on December 27, 2012 complaining of leg pain. The patient was given a
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1 refill of his Suboxone and Respondent again emphasized attending meetings for recovery. The
2 patient called on January 7, 2013 noting that he was leaving town and was short on money from
3 the holidays so wanted a refill with without an office visit.

4 A pharmacy audit was performed on May 12, 2015 (after the complaint was
5 filed). The audit for this patient shows Respondent prescribed Suboxone to the patient
6 from November 9, 2012 until March 12, 2013. Respondent handwrote on the form that he
7 only wrote for two prescriptions, November 9 2012, December 27, 2012 and January 7,
8 2013. Apparently Respondent was disputing that he wrote the Suboxone prescriptions for
9 December 31, 2012 and March 11, 2013. It is noted in August of 2014 the patient started
10 back on opioids from other providers. It should be noted that no controlled substance
11 agreement was documented, no pharmacy audit was documented until after the complaint
12 was filed and the controlled substance amount and dose were not documented.

12 c. Patient S.F. (DOB 6/12/80), a then 34 year old male, was first seen by
13 Respondent on May 14, 2014 for opioid abuse. The patient noted he had been using
14 opioids for approximately ten years and was requesting Suboxone. Respondent counseled
15 the patient regarding Suboxone use and substance abuse. He recommended the 12 step
16 program and noted he would be performing random urine drug screens. The patient was
17 also given a prescription for Lamictal.

17 The patient returned to the office on July 14, 2014 and was accompanied by his
18 employer. The patient noted he had been unable to afford this Suboxone and was again
19 buying it on the street. The employer noted that he would be willing to pay for the
20 patient's office visits as well as his Suboxone. A urine drug screen was positive for both
21 Suboxone and THC. Respondent noted he felt it was highly unlikely that this patient
22 would stay sober but he encouraged him to use Suboxone as well as the Lamictal he had
23 prescribed previously.

23 The patient no showed for an office visit on both August 11, 2014 and September
24 18, 2014.

24 The patient returned to the office on October 7, 2014 and his urine drug screen
25 was positive for Suboxone only. The patient was given a refill of his Suboxone and was
26 admonished to follow-up on his office visits and safeguarding his medications.

1 The patient no showed for an office visit on November 7, 2014 and was
2 discharged from the practice.

3 A pharmacy audit was performed on May 15, 2015 (which was after the
4 complaint was filed) which revealed the patient had received Suboxone from May 15,
5 2014 until October 30, 2014, from Respondent. The patient then began to receive
6 oxycodone and hydrocodone from other providers. It was of concern that no controlled
7 substance agreement was signed, no pharmacy audit was documented until after the
8 complaint was filed and the controlled substance amount and dose were not documented.

9 d. Patient K.K. (DOB 4/3/70), a then 45 year old male, was first seen by
10 Respondent at NO Appointment MD prior to 2012. There are no corresponding medical
11 records available. The patient was seen again on December 12, 2012 to reestablish as a
12 patient. A history and physical and blood work was obtained. It is unclear what
13 medications the patient was given at the time of this office visit.

14 The patient returned on December 26, 2012 and a urine drug screen was positive
15 for Klonopin but negative for Suboxone. The patient was prescribed Seroquel, Androgel,
16 Suboxone and Lipitor.

17 The patient returned to the office on December 18, 2013 to reestablish care. A
18 urine drug screen was positive for Suboxone and amphetamines. Respondent noted the
19 PMP showed the patient had been prescribed Suboxone monthly by another provider;
20 however, there is no corresponding PMP in the medical record.

21 The patient returned on October 28, 2013. His blood pressure was noted to be
22 elevated at 158/94. Respondent advised the patient that he needed to be seen by a
23 psychiatrist or to go to Magellan for follow-up and refilled the patient's Klonopin, Zoloft,
24 Adderall and Suboxone.

25 The patient no showed for an office visit on November 16, 2013 and November
26 22, 2013. A PMP was done on November 18, 2013 which showed that Respondent had
prescribed Suboxone to the patient from December 26, 2012 until February 3, 2013 and
then again from October 18, 2013 until November 9, 2013. This also showed the patient
had been prescribed Suboxone, clonazepam, Adderall and on one occasion, Ambien by
various providers from November of 2012 November of 2013, which were the dates
requested for the PMP. The patient was discharged from the practice on November 22,

1 2013. It should be noted that no controlled substance agreement was signed and the
2 controlled substance amount and dose were not documented.

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4 DO-15-0100A

5 23. On or about May 7, 2015, a complaint was filed with the Board asserting that
6 Respondent failed to complainant her medical records despite several requests from her and her
7 attorney. The Board sent Respondent two letters seeking a response to the request for records.
8 Respondent did not respond to either letter.

9 24. Board staff eventually made telephone contact with Respondent. He stated that
10 he had been busy with the other two Board complaints to address the Board's letters regarding
11 his failure to respond to the patient's request for records.

12 25. He further stated that his policy was to provide a patient's records to another
13 PCP at no charge or to release the records directly to the patient after payment of a \$50 fee.

14 26. As of September 2015, the patient still has not received the requested medical
15 records from Respondent. The records were received from Respondent on October 23, 2015.
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18 CONCLUSIONS OF LAW

19 1. The Board possesses jurisdiction over the subject matter hereof and over
20 Respondent.

21 2. The conduct, if proven, as set forth above constitutes a violation of A.R.S. §32-
22 1854 (5), (6), (16), (17), (20), (21), (25),(28), (36), (38), (39), (48).
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25 ORDER

26 IT IS HEREBY ORDERED THAT:

1 1. Respondent's license to practice osteopathic medicine, No. 3212, is
2 SUSPENDED. Respondent shall not practice osteopathic medicine of any kind or in any
3 manner, including medicine involving direct or indirect patient care. Further, Respondent is
4 prohibited from prescribing any form of treatment or medications, until Respondent applies to
5 the Board and receives permission to do so as set forth below. The suspension of Respondent's
6 license is effective upon signature of this Order by the Board's Executive Director.

7 2. This order of suspension does not apply to any prescription dated prior to September
8 19, 2015, that is presented to a pharmacy after that date. Respondent agrees to surrender all
9 DEA registrations within five days of the effective date of this Consent Agreement.

10 3. The suspension of Respondent's license shall continue until such time as Respondent
11 applies to the Board for relief from this order and the Board determines, in its sole discretion,
12 that Respondent may safely resume the practice of medicine. In making this determination the
13 Board may consider Respondent's compliance with all board orders (past and those in effect at
14 the time Respondent seeks reinstatement of his license), results of the Board-ordered
15 psychiatric evaluation, results of the Board-ordered practice assessments, and the findings and
16 completion of the recommendations made as a result of the psychiatric evaluation and practice
17 assessments. Upon a finding that Respondent may safely resume practice in the State of
18 Arizona, the Board may terminate or modify the license suspension and/or place other practice
19 restrictions on Respondent, as deemed necessary after notice and an opportunity for hearing.

20 4. This is an interim order and not a final decision by the Board.

21 5. Further, the parties understand that Respondent's current license to practice
22 Osteopathic medicine expires on December 31, 2015. Pursuant to the terms of this Order,
23 Respondent's license remains indefinitely suspended unless and until otherwise ordered by this
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1 Board. If Respondent fails to timely submit an application for renewal, his license remains
2 suspended pursuant to this Order, until the investigation of the suspended license is resolved
3 either by Respondent's surrender of his license or by process required for revocation of
4 Respondent's license. If Respondent seeks timely renewal of his license and if the Board grants
5 his application for renewal, the license shall remain indefinitely suspended until such time the
6 Board orders otherwise. Thus, the Board's approval of Respondent's application(s) for renewal
7 of license during the effective period of this Order means only the renewal of a suspended
8 license. The Board agrees that so long as Respondent has been compliant with the terms of this
9 Order, it shall not deny Respondent's application(s) for renewal of his license on grounds set
10 forth in the Findings of Fact and Conclusions of Law set forth in this "Interim Consent
11 Agreement for License Suspension" unless an adjudication of revocation of licensure has
12 occurred.
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15 DATED AND EFFECTIVE this 23rd day of November, 2015.
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ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

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By: Jenna Jones
Jenna Jones
Executive Director

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Original of the foregoing filed
this 23rd day of November, 2015, with:

Arizona Board of Osteopathic Examiners
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258-5539

Copy of the foregoing mailed U.S.
Certified Mail this 23rd day of November 2015 to:

Stephen W. Myers, Esq.
Myers & Jenkins, PC
714 E. Rose Lane, Suite 100
Phoenix Arizona 85014

Copy of the foregoing mailed U.S.
Certified Mail this 23rd day of November 2015 to:

S. Foster Easley, D.O.
Address of Record

Copy of the foregoing mailed U.S.
regular mail this 23rd day of November 2015 to:

Jeanne Galvin
Asst. Attorney General
Arizona Attorney General's Office
1275 W. Washington
Phoenix, Arizona 85007