



Governor
Douglas A. Ducey

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

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

Executive Director
Amber Brake, JD, MHA, FACHE

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

Saturday, August 11, 2018

BOARD MEMBERS PRESENT:

Douglas Cunningham, D.O. President
Jerry G. Landau, J.D., Vice-President
Jonathan A. Maitem, D.O.
Martin Reiss, D.O.
Christopher Spiekerman, D.O.

ABSENT:

Gary A. Erbstoesser, DO

STAFF / OTHERS PRESENT:

Amber Brake, JD, MHA, FACHE, Executive Director
Rachel Shepherd, Investigations Manager
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Jenny Webb, Administrative Assistant
Jeanne Galvin, Assistant Attorney General
Debora Mitchell, CVR, Ottmar & Associates (a.m.)
Lauren Kuhnhenh, RPR, Ottmar & Associates (p.m.)

1. CALL TO ORDER

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

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the Roll. Five (5) board members were present, establishing quorum for the meeting.

3. CALL TO THE PUBLIC

Dr. Cunningham read the Board's mission statement: "The mission of the Board is to protect the public by setting educational and training standards for licensure, and by reviewing complaints made against osteopathic physicians, interns, and residents to ensure that their conduct meets the standards of the profession, as defined in law (A.R.S. § 32-1854)."

- A. Dr. Cunningham welcomed the Medical Students from Arizona College of Osteopathic Medicine at Midwestern University, A.T. Still University Kirksville College of Osteopathic Medicine and A.T. Still University School of Osteopathic Medicine in Arizona. Dr. Cunningham also recognized the staff.
- B. If any member of the public who is not a respondent/licensee or applicant or complainant wishes to address the Board on a matter that appears on the agenda, you will be asked to speak during the Call to the Public. If you want to address the Board on an issue not on the agenda, you will also be asked to speak during the Call to the Public. All those wishing to speak should fill out a speaker form and give it to a staff member.

Mr. Steven Feldman addressed the Board. His concern is with case DO-17-0304A, Robert Downey, D.O., being listed on the Committee A agenda. He states he was denied the ability to speak to the committee before they had made a decision to dismiss this case. He explained that if the committee only meets for 5 minutes how can he give his input. He believes the Board is excluding the public. On the Boards website it mentions there is public parking, but why is there covered parking only for the Board members and not the public? He would like to see the staff accountable for his questions. He would also like to see case DO-17-0304A, Dr. Downey, off the consent agenda. He asked if it is legal to even have a meeting at 8 am. He would like to see Dr. Downey receive a letter of concern and the doctor should not write in his file that a patient is psychotic then change it later because he is coming before the Board. Mr. Feldman stated that he will go to the press if nothing is done.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

A. April 21, 2018 Open Session

Tabled to September 15, 2018 meeting.

B. April 21, 2018 Executive Session

Tabled to September 15, 2018 meeting.

C. May 19, 2018 Open Session

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

D. May 19, 2018 Executive Session

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

E. June 23, 2018 Open Session

Tabled to September 15, 2018 meeting.

F. June 23, 2018 Executive Session

Tabled to September 15, 2018 meeting.

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

A. Daniel John Aschenbrener, DO DO-17-0145A License No. 4378

The Respondent was present with his attorney Sig Krolls. The case was opened after receiving notice of a medical malpractice settlement. The Board determined there was no statutory violation.

MOTION: Dr. Reiss moved for dismissal. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

B. Morris William Schaner, DO DO-17-0270A License No. 005181

The Respondent was not present. The case was opened after receiving notice of a medical malpractice settlement. The Board determined there was no statutory violation.

MOTION: Dr. Maitem moved for dismissal. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

C. Mitchell Elliot Edelstein, DO DO-17-0291A License No. 2070

The Respondent was not present; his attorney Steve Myers was present on his behalf. The complaint alleged that a clinic is charging a patient's credit card. The Board determined there was no statutory violation.

MOTION: Dr. Maitem moved for dismissal. Dr. Reiss seconded.
VOICE VOTE: The motion carried unanimously.

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

A. David Craig Izenberg, DO DO-16-0133A License No. 2253

The Respondent was present with attorney Steve Myers and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the case. The Respondent read a statement acknowledging his error in prescribing and underestimating his knowledge in Pain Management. He should have referred patients to a Pain Management doctor. He has benefited from the PACE courses and would like the restriction lifted. He has learned from the mistakes he has made.

Mr. Myers read a statement. The Respondent has been on a 14 month prescribing restriction, CSPMP shows no controlled substances have been filled since May of 2017 for the Respondent. He stated that the DEA did not suspend his license to prescribe but they would if there is not an outcome today.

The Board had a discussion with the Respondent and attorney. The Board feels the Respondent is remorseful and is understanding of his faults.

MOTION: Mr. Landau moved to affirm the interim findings of fact that were previously approved by the Board on May 22, 2017. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Mr. Landau moved to affirm the interim conclusions of law that were approved by the Board on the May 22, 2017. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Mr. Landau moved for a decree of censure for the prescribing practices as set forth in the interim findings of fact and the interim conclusions of law, further the Respondent will be placed on five (5) years' probation with the following terms:

- 1) Each week he shall provide, to the Board's Medical Consultant, by confidential form the CSPMP records showing all prescriptions issued by Respondent (controlled substances 2-5) and filled.
- 2) He shall be subject to random chart audits after Practice Monitor completed.
- 3) A Practice Monitor shall be obtained by the Respondent, approved by Executive Director, for the purpose of monitoring charts and manner of record keeping. The Practice Monitor shall report to the Board monthly, for 6 months, effective the date of the order.
- 4) Complete ten (10) hours of CME for record keeping.
- 5) Notify the Board's Medical Consultant 24 hours after he recommends marijuana.
- 6) Shall pay a civil penalty fine of \$1,000 to be payable within 90 days of the effective date of the order.

Dr. Maitem seconded.

The Board noted that the restrictions placed on Respondent's prescribing of Schedule 2-5 will be lifted and replaced with the terms of the probation.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

B. David Craig Izenberg, DO DO-17-0148A License No. 2253

The Respondent is still under oath.

MOTION: Mr. Landau moved to affirm the interim findings of fact and conclusions of law that were issued on March 27, 2018. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Mr. Landau moved to vacate the suspension that was issued on March 27, 2018. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: As to the disposition of this case, incorporate that which was voted on by this Board in DO-16-0133A as a separate disposition in the 2017 case with the addition that the five (5) year probation run concurrently and a fine not be imposed. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

The Board recessed for a break at 9:02 a.m. and returned to Open Session at 9:17 a.m.

C. Vinson Michael DiSanto, DO DO-17-0164A License No. 005457

The Respondent was present and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Investigator reviewed the case. The Respondent self-reported that he agreed to a Stipulation and Order with the Idaho Board of Medicine for not complying with the states telemedicine laws and rules.

The Respondent answered the Board's questions.

MOTION: Mr. Landau moved for a non-disciplinary Letter of Concern for violating Medical Procedures Act from Idaho. Dr. Reiss seconded.

ROLL CALL VOTE: The motion carried 4-1.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 4 | X | | X | X | X | |
| NO | 1 | | | | | | X |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

D. Kevin Andrew Kline, DO DO-17-0077A License No. 006727

Respondent did not appear. To be placed on the October agenda.

E. Brian Samuel Page, DO DO-16-0266A License No. 3416

The Respondent was present with attorney Teresita Mercado and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the Outside Medical Consultants review. The case was opened due to the Board receiving a call from another agency informing the Board patient D.B. may be using her sister’s identification to obtain controlled substances through Respondent. There was an allegation that patient D.B. told a witness she ran into the Respondent at a bar and he agreed to continue writing prescriptions for her in exchange for her performing oral sex on him.

The Respondent had a discussion with the Board. The respondent stated the nurse practitioner was the main provider for patient D.B. Only on one occasion did he order a fentanyl patch and oxycodone for patient D.B. Respondent had no contact with patient outside of his practice. The Board had concerns that the Respondent is not reviewing patient’s records to determine who the other providers are and what they have done. The Respondent provided the Executive Director a copy of his new procedures implemented in 2017.

MOTION: Dr. Cunningham moved to refer this case to the Nursing Board. Dr. Maitem seconded.
VOICE VOTE: The motion carried unanimously.

MOTION: Dr. Maitem moved for dismissal. Dr. Spiekerman seconded.
ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

F. Jeffery Ray Gamber, DO DO-17-0165A License No. 4326

The Respondent was present and was sworn in by the court reporter. Dr. Maitem disclosed that he has a working relationship with the Respondent but sees no conflict today. At the request of the Board, the Respondent stated his education and training.

Dr. Cunningham moved to enter Executive Session for medical information. Dr. Spiekerman seconded. The Board entered Executive Session at 10:09 a.m. and returned to Open Session at 10:48 p.m.

MOTION: Mr. Landau moved for dismissal within the parameters which were discussed in the Executive Session. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

Cases will be called after 1:00 p.m.

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

G. Marvin Allen Borsand, DO DO-17-0151A License No. 2261

The Respondent was present with attorney Ms. Kristina Chaffe and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the outside medical consultant's review. The complaint alleged improper care.

The Respondent gave a statement and provided a handout of a timeline to the Board Members; he also had a display board with the timeline. The Board had a discussion with the Respondent about the outside medical consultants review. Respondent disagreed with the review, he stated that he spoke and met with the patient numerous times. He prescribed oral antibiotics and felt she was slowly improving; she also had hyperbaric treatments. He gave her a referral for a second opinion which she did not go to.

The Complainant was present with a certified interpreter, Carmen Cota, and was sworn in by the court reporter. She feels sad and disappointed because what the doctor said doesn't make sense. She contacted the doctor after surgery letting him know she was ill and it didn't look right and she felt she was going to die. She states that she never received a referral for a second opinion. She was taken to the Mayo Clinic where one (1) liter of pus was removed. She has issues with sitting down for long periods of time.

The Board members requested that the Respondent locate the referral for the second opinion. The Respondent and Board could not find it in the medical records.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 2:14 p.m. and returned to Open Session at 2:21 p.m.

MOTION: Mr. Landau moved for a finding of Unprofessional Conduct for violation of A.R.S. § 32-1854(6) and (38) failing to identify the infection. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

MOTION: Mr. Landau moved for a Decree of Censure, based on the previous facts, with 20 hours of disciplinary CME for post-operative management and care and recognition of infections specifically related to surgical care & plastic surgery to be approved by the Executive Director. No online CME will be accepted. Respondent must sign up within 90 days and completed within six (6) months from the effective date of the order. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

H. Charles Walter Welly, DO DO-17-0069A License No. 2248

The Respondent was present and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed six (6) patient charts.

The Respondent had a discussion with the Board about documenting charts. Respondent has utilized CME to change procedures and educate patients about following up on referrals. Respondent has completed six (6) hours of CME for EMR. The Board has concerns that although new chart reviews were conducted he has not improved and may not be providing exams to patients. Respondent states that documenting procedures is time consuming, but he is looking into utilizing voice EMR. He states he is doing thorough exams.

Dr. Spiekerman moved to enter Executive Session for legal advice. Mr. Landau seconded. The Board entered Executive Session at 2:50 p.m. and returned to Open Session at 2:58 p.m.

MOTION: Dr. Cunningham moved for a PACE Evaluation to be scheduled within 90 days and completed within 6-9 months. Dr. Spiekerman seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

I. Teresa Marie Borchers, DO DO-15-0213A License No. 3681

The Respondent was present with attorney T’shura-Ann Elias and was sworn in by the court reporter. At the request of the Board, the Respondent stated her education and training. The Medical Consultant reviewed the CPEP evaluation completed October 2017. She also completed a professional boundary course and 21 hours of CME in opioid prescribing.

Respondent discussed with the Board her CPEP evaluation and receiving a low score, she stated this was prior to her taking CME which she had learned quite a lot from. She stated her area of practice was OB/GYN. Prior to her suspension she switched to office gynecology and adult primary care.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 3:23 p.m. and returned to Open Session at 3:25 p.m.

The Board strongly recommends that the Respondent practice gynecology.

MOTION: Dr. Cunningham moved to lift the suspension. Dr. Maitem seconded.

ROLL CALL VOTE: The motion carried 4-1.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 4 | X | | | X | X | X |
| NO | 1 | | | X | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

J. Carl Edward Ferguson, DO DO-17-0253A License No. 2244

Case DO-18-0097A will be combined with this case. The Respondent was present and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Investigator reviewed the case. The complaint alleged the Respondent is utilizing his Physician Assistant and Nurse Practitioner to unlawfully prescribe controlled substances to his patients.

The Respondent stated he did not violate the sanctions of the Board. His name is at the top of the script but it is signed by other practioners. The prescriptions were written by nurse practioner, Alex Keo, attributed to the Physician Assistant, Michelle Roy, but there were 3 prescriptions attributed to the P.A. (from the PMP), but only 1 was written by the P.A. during the dates in question.

MOTION: Dr. Cunningham moved to send the case to the Nursing Board and the Physician Assistants Board. Mr. Landau seconded.

VOICE VOTE: The motion carried unanimously.

MOTION: Dr. Spiekerman moved for dismissal. Dr. Reiss seconded. The Board had a discussion. The Respondent has sold his practice and is in a new organization and will be electronically prescribing. The Board withdrew the motion and the second. The Board directed the Investigator to:

1. Research the prescriptions written by the P.A. while under the Respondents supervision.
2. Provide the document showing the P.A. is being supervised by another physician.

Place the case on the agenda in September.

The Board recessed for a break at 3:55 p.m. and returned to Open Session at 4:0 p.m.

K. Jack Jessen Hawks, DO DO-17-0194A License No. 4049

The Respondent was present with attorney Scott King and was sworn in by the court reporter. At the request of the Board, the Respondent stated his education and training. The Medical Consultant reviewed the case. The complaint alleged prescribing body building medication.

The Board discussed the case with the Respondent. The Respondent stated that he switched over to Honor Health and they were unable to access or unlock the medical records and many medical records were lost during the switch. The only records available were from 2015. He did refill the Clomid that she initially received from the OB/GYN. The Respondent refilled the ADHD medication because she had the empty bottle which was originally filled by the Psychiatrist. He refilled the prescription because the patient had changed insurances and her psychiatrist was not on her plan.

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

VOICE VOTE: The motion carried unanimously.

L. Jack Jessen Hawks, DO DO-18-0007A License No. 4049

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 4:17 p.m. and returned to Open Session at 4:24 p.m.

Case DO-18-0018A will be combined with this case. The Respondent is still under oath with attorney David Seldon. The Investigator reviewed the case. The complaint alleged sexual relations with at least 3 female patients. The Chief Medical Officer of Honor Health reported 2 separate allegations of unprofessional conduct. Both patients (S.S. and M.P.) were contacted and stated they had a long term sexual relationship with the Respondent while they were his patients. The sexual activities were conducted both in exam rooms and outside of the doctor's office.

The attorney made a statement. Before these complaints were made the Respondent recognized that he had some boundary issues and sought treatment. He has made changes in his practice since the complaints; he is now in a new medical practice not Honor Health. He now has a chaperone or scribe present during all interactions. He does not see patients outside of the office. Patient S.S. requested an appointment to be treated by the Respondent this year in his new office, the Respondent informed the office to reject the request. Patient S.S. then sent her daughter to try to be treated by the Respondent which he intercepted so there wouldn't be any issues. The record reflects what he has admitted and what he has denied and most of what has been alleged by the complainants he has denied. The Respondent has obtained an order of protection against harassment from S.S.

Respondent stated he has completely changed the way he practices. He asked Honor Health for a chaperone with they did not afford him. In his new practice he requested and was granted a chaperone or scribe to be in room along with his medical assistant so this issue does not arise again.

Complainant S.S. was present telephonically and made a statement. She initially had a doctor-patient relationship with the Respondent in 2007, but after six (6) months it turned sexual. S.S. stated that her daughter never made an appointment and she doesn't know where the Respondents new practice is. The Board asked S.S. when she stopped having sexual relations with Respondent; she stated it was July 2017.

Complainant M.P. was present and sworn in by the court reporter. M.P. would like to testify against the Respondent for inappropriate sexual misconduct with her. Respondent took advantage of her when she was in an unstable period in her life. After experiencing several episodes of sexual misconduct with the Respondent she now has fear and trauma. She felt obligated to give sexual favors within the clinic on several occasions. She began seeing Respondent in November 2011 through August 2017. During an appointment she stated the Respondent would ask her if she wears granny panties. He then suggested she start wearing thongs. She states that the Respondent stalked her and made inappropriate remarks to her family. M.P. reported to the police of the Respondent stalking her. M.P. is asking the Board to surrender the Respondents license as a physician. The Board had a discussion with M.P. asking when she first came in contact with S.S.; she stated April 2018 through Facebook. M.P. stated that Respondent was able to remove her student loans of \$135,000 by entering in her chart notes that she was mentally retarded.

Respondent admitted to having oral sex with one patient outside of the office to the Investigator during an interview. Respondent stated he had sexual contact with patient S.S. in July 2017 but only one time. The Respondent stated he never had sexual contact with M.P. Respondent stated that he did show S.S. and M.P. his nipple rings.

Dr. Reiss moved to enter Executive Session for legal advice. Dr. Maitem seconded. The Board entered Executive Session at 5:26 p.m. and returned to Open Session at 5:40 p.m.

The Board asked M.P. if Respondent ever displayed his penis to her, she stated yes in April 2015 after he gave her a massage and while she was filling out her disability papers. He took his pants down and she gave him oral sex. He had sex with her many times in the clinic on Thunderbird.

Respondent knew he had boundary issues and took a boundary course in October 2017. Prior to the allegations he used to hug patients and now he does not because it can be misconstrued.

Dr. Cunningham moved to enter Executive Session to review medical records. Dr. Reiss seconded. The Board entered Executive Session at 5:51 p.m. and returned to Open Session at 6:07 p.m.

S.S. stated that she contacted Honor Health to make an appointment with the nurse practitioner, whom took over the Respondents patients. She did not want to stop all medications that Respondent had been prescribing to her.

Dr. Cunningham moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 6:12 p.m. and returned to Open Session at 6:17 p.m.

MOTION: Mr. Landau moved to refer this case to the office of Administrative Hearings for a formal hearing on Revocation of license and this is based on violation of ARS 32-1854 (6), (20), (38), (42) & (45) and incorporate the reports by the Medical Consultant and the Investigator and specifically state that the Respondent committed sexual conduct and contact with a patient, exposed chest piercings to a patient, admitted sexual conduct with a patient, medical records were incomplete, prescribed opioids and benzodiazepines at the same time. Respondent told inconsistent statements under oath regarding having sex with a patient. Dr. Spiekerman seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

The Interim Order will stay in place.

M. Jack Jessen Hawks, DO DO-18-0018A License No. 4049

Case DO-18-0007A will be combined with this case. The Respondent is still under oath with attorney David Seldon.

MOTION: Mr. Landau moved to refer this case to the office of Administrative Hearings for a formal hearing on Revocation of license and this is based on violation of ARS 32-1854 (6), (20), (38), (42) & (45) and incorporate the reports by the Medical Consultant and the Investigator and specifically state that the Respondent committed sexual conduct and contact with a patient, exposed chest piercings to a patient, maintained incomplete medical records, did not order urine drug screens, prescribed Phentermine and Adderall together to a person known to have anxiety. Dr. Spiekerman seconded.

ROLL CALL VOTE: The motion carried 5-0.

| | Vote | Dr. Cunningham | Dr. Erbstoesser | Mr. Landau | Dr. Maitem | Dr. Reiss | Dr. Spiekerman |
|----------------|------|----------------|-----------------|------------|------------|-----------|----------------|
| YES | 5 | X | | X | X | X | X |
| NO | 0 | | | | | | |
| ABSTAIN/RECUSE | 0 | | | | | | |
| ABSENT | 1 | | X | | | | |

The Interim Order will stay in place.

Respondent shall submit records previously discussed.

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

F. Semone Barrie Rochlin, DO DO-17-0096A License No. 4462

The Respondent was not present; attorney Steve Myers was present on her behalf. Mr. Myers would like an indefinite postponement of this case. He stated there are seven (7) pending malpractice cases for an FDA approved medical device that the Respondent had used on a patient. The Respondent stopped doing the procedure in January of 2017 and disposed of the device. The Complainant has also filed a complaint to the Maricopa County Superior Court.

The Board discussed that the case could take many years to be resolved.

Dr. Maitem moved to enter Executive Session for legal advice. Dr. Spiekerman seconded. The Board entered Executive Session at 9:28 a.m. and returned to Open Session at 9:30 a.m.

MOTION: Dr. Cunningham moved to deny the request for a continuance. The matter will be placed on the November agenda. Dr. Maitem seconded.

VOICE VOTE: The motion carried unanimously.

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

A. Sean Konley Sackett, DO DO-16-0200A License No. 3872

The Respondent was not present. The Executive Director reported to the Board that the Respondent has completed 30 hours of CME issued by the Board Order and is in compliance. He has received his DEA license and after he has started prescribing he will need to have a 10 patient chart review completed.

10. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS FOR LICENSURE PURSUANT TO A.R.S. § 32-1822; PERMITS PURSUANT TO A.R.S. § 32-1829; AND RENEWALS OF LICENSES PURSUANT TO A.R.S. § 32-1825 (C-D) AND A.A.C. R4-22-207.

A. Carl Ferguson, DO DO-18-0097A License No. 2244

Case DO-17-0253A was combined with this case. The investigator reviewed the case. The applicant let his license expire. His prescribing restriction will carry over.

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

VOICE VOTE: The motion carried unanimously.

B. Stacey Monique Minter, DO DO-18-0121A License No. n/a

The Applicant was present. The Investigator reviewed the license application. The Applicant disclosed a yes answer under the professional conduct portion of the application.

The Respondent answered the Board's questions.

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

VOICE VOTE: The motion carried unanimously.

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

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

A. Report on ED Dismissed Complaints

The Executive Director provided a summary of dismissed, resolved and unresolved complaints.

B. President & Board Member reports
No reports were made.

C. Executive Director Report

Starting January 2019 the Board will be required to post audio of Board meetings to the website. Granikas is a supplier that is being looked at along with AZNET. The cost could be up to \$14,000 per year.

Ms. Brake would like to attend the AIM (Administrator in Medicine) conference in October; the Board members approved the request.

1. Financial Report

Ms. Brake provided the Board with an update.

2. Summary of Current Events that Affect the Board

No matters were discussed.

3. Legislation Update

No updates were provided.

D. Review and select Board meeting dates for the first six (6) months of 2019.

The November 17, 2018 board meeting has been rescheduled to December 1, 2018.

The Board asked Ms. Brake to set some board meeting dates in 2019 and send to them for review.

13. ADJOURNMENT

The Board adjourned at 6:25 p.m.