



Governor
Douglas 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 Erbstoesser, D.O.
Jonathan Maitem, D.O.
Martin Reiss, D.O.
Christopher Spiekerman, D.O.
Jeffrey H. Burg
Executive Director
Justin Bohall

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

Held on Saturday, January 11, 2020

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

1. CALL TO ORDER

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

2. ROLL CALL AND REVIEW OF AGENDA

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

3. CALL TO THE PUBLIC

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

A. President Cunningham welcomed the medical students from Arizona College of Osteopathic Medicine at Midwestern University, A.T. Still University Kirksville College of Osteopathic Medicine and A.T. Still University School of Osteopathic Medicine in Arizona.

B. No individuals addressed the Board during the Call to the Public portion of the meeting.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

A. November 23, 2019 Open Session

MOTION: Dr. Maitem moved to approve the November 23, 2019 Open Session.

SECOND: Mr. Burg

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

MOTION PASSED.

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

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

B. November 23, 2019 Executive Session

MOTION: Dr. Maitem moved to approve the November 23, 2019 Executive Session.

SECOND: Mr. Burg

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

MOTION PASSED.

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

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

A. DO-18-0076A, Joseph Stephen Machuzak, DO, LIC. #3753

Dr. Machuzak was not present during the Board’s consideration of this case. Dr. Erbstoesser commented that the patient appeared to be under the impression that he would be undergoing an incision and closure within the same procedure. He noted that the patient underwent incision and was instructed to return for closure. Dr. Erbstoesser stated the patient was understandably upset as there seemed to be a communication issue as it related to the patient not being aware that he would need to return for a second procedure. Dr. Erbstoesser commented that current practice for most surgeries involve two separate procedures for incision and closure, and he questioned whether this rises to the level of a statutory violation.

Dr. Maitem stated it was unclear whether the conduct was appropriate and that he would like to hear from the patient and physician at an Investigative Hearing. Mr. Landau stated that the physician did not appear to respond to the complaint in relation to the communication issue, and stated that he too would like to hear from the physician in person. Dr. Reiss stated that he did not find that the physician deviated from the standard of care in this case. He noted that the Board’s Medical Consultant explained the reasoning for the procedure to be performed in two parts related to Medicare payment. Mr. Landau commented that Medicare payment in itself does not justify performing the procedure in two parts, and stated that he wanted to question the physician regarding what was communicated to the patient. President Cunningham stated that the information did not appear to have been communicated well to the patient. President Cunningham spoke in favor of proceeding to Investigative Hearing to allow the physician the opportunity to better explain his reasoning and what was discussed with the patient.

MOTION: Dr. Reiss moved for the matter to proceed to Investigative Hearing.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

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

Dr. Lundquist was present during the Board's consideration of this case. Dr. Maitem questioned whether the patient was able to consent for the procedure, noting that it was documented that the patient was having trouble putting words together. Dr. Lundquist confirmed that the patient consented to the procedure and continued to refer patients to her thereafter. She pointed out that the physician filed the complaint two and one half years after the procedure was performed, and stated that there was no question that the patient was confused regarding the billing.

Dr. Maitem noted that there were issues with obtaining information from the physician during the course of the Board's investigation. Dr. Lundquist stated that her billing staff had attempted to respond to the complaint notice, but that the information was not sent via certified mail and did not make it to the Board. Mr. Landau stated that the investigation regarded the physician's license and she is expected to respond to the Board's inquiry. Dr. Lundquist stated that the matter concerned billing and that she does not get involved in the billing, and thought it was appropriate for her billing staff to respond. She added that she sees 30-40 patients daily and was very busy running her clinic.

President Cunningham reiterated that the investigation related to the physician's license, and stated that the Board wants to hear from the physician and not her billing office. He also questioned the physician regarding the injections performed and whether it involved stem cells. Dr. Lundquist stated that the platelet rich plasma is injected as the stem cells act as growth factors inside the body. President Cunningham stated that the Board had enough information to proceed to Investigative Hearing.

MOTION: Dr. Reiss moved for the case to proceed to Investigative Hearing.

SECOND: Mr. Landau

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

MOTION PASSED.

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

C. DO-19-0039A, Wallace Rumsey, DO, LIC. #N/A

Dr. Rumsey was present during the Board's consideration of this case. He stated that he worked at

the clinic in question for three weeks, and that he had never in his career experienced the level of hostility, disrespect, and toxic work environment that he encountered there. He stated that he has had no other issues in the four years that he has been working for the VA. Dr. Rumsey explained that the issues involved what he perceived to be insubordination from the panel of health care providers assigned to him that included a NP, LPN, and MA.

The Board noted the allegation that Dr. Rumsey had some sort of neurocognitive defect, and observed that the results of his initial neuropsychological evaluation were not favorable, while two subsequent evaluations resulted in favorable reports. Mr. Landau stated that the discussion was more appropriate for Investigative Hearing, and the Board members discussed issuing an Interim Order for PACE evaluation to be completed while the matter is pending.

MOTION: Mr. Landau moved for the Board to issue an Interim Order requiring the physician to complete a PACE evaluation within three months.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

MOTION: Mr. Burg moved for the case to proceed to Investigative Hearing.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

D. DO-19-0109A, Michael Craig Weiss, DO, LIC. #4780

Attorney Bruce Smith appeared before the Board, and Dr. Weiss participated telephonically during the Board's consideration of this case. Dr. Maitem stated that the care appeared to be appropriate from the surgery through the initial follow up. He noted that the company for which Dr. Weiss worked subsequently closed and created follow up problems for the patient. Dr. Maitem questioned whether the physician engaged in unprofessional conduct. President Cunningham questioned what actions were taken by the physician following the company's closing to try to follow up with the patient and resolve the situation.

Dr. Weiss explained that he presented the company with a set of guidelines he obtained from a medical association in Florida relating to what actions should be taken when closing a practice. He stated that a letter was formulated to be sent to patients, but that he was later informed that the letter was not sent out due to the costs related to postage. Dr. Weiss stated that he made attempts to have the information sent to patients, and stated that the company ultimately mailed the patients a list of physicians available at their facilities. Dr. Weiss stated that he was not made aware that the patient was attempting to contact him for follow up care. He added that he was not able to obtain any patient contact information as he was informed that the list of patients were an asset of the company and not able to be made available to him.

President Cunningham stated it was clear that the physician did the best he could do under the circumstances. Dr. Reiss stated that the physician did not have control over what took place and found that an Investigative Hearing was not warranted.

MOTION: Dr. Maitem moved for dismissal.

SECOND: Dr. Reiss

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

MOTION PASSED.

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

E. DO-19-0113A, David E. Hatfield, DO, LIC. #2913

Dr. Hatfield was not present during the Board's consideration of this matter. Dr. Erbstoesser stated that he had several questions in this case and President Cunningham stated he felt that the matter needed to proceed to Investigative Hearing.

MOTION: Dr. Maitem moved for the case to proceed to Investigative Hearing.

SECOND: Dr. Reiss

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

MOTION PASSED.

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

F. DO-19-0083A, Christine Marie Brass-Jones, DO, LIC. #3135

Dr. Brass-Jones was not present during the Board's consideration of this matter.

MOTION: Dr. Maitem moved for the case to proceed to Investigative Hearing.

SECOND: Dr. Erbstoesser

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

MOTION PASSED.

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

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

A. DO-17-0201A, John Nicholas Gietzen, DO, LIC. #4158

Dr. Gietzen was not present during the Board's consideration of this case. The Board noted that the matter was previously referred to Formal Hearing, and that additional questions were raised by counsel that resulted in the matter returning to the Board for Investigative Hearing. Dr. Gietzen was notified of today's proceeding and did not appear before the Board. Board members discussed proceeding to Formal Hearing and requesting that the Administrative Law Judge consider imposing reimbursement of investigation costs.

MOTION: Mr. Landau moved to refer the case to the Office of Administrative Hearings for Formal Hearing and to pursue reimbursement of investigation costs in accordance to statute.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

B. DO-18-0159A, Jennessa Fay Iannitelli, DO, LIC. #005493

Dr. Iannitelli was present with Attorney Stephen Myers. Mr. Myers requested the Board grant a continuance as he was engaged by the physician late in the day prior, to allow him the opportunity to review the file in its entirety. He stated that prior counsel did not provide Dr. Iannitelli with a copy of the Medical Consultant's report and did not provide the Board with the patient's preoperative records. Mr. Myers stated that he would like to prepare a response to the Medical Consultant's findings and provide the complete patient record for review.

In response to the Board’s questioning regarding the change in legal representation, Dr. Iannitelli explained that she was not initially aware that the attorney would not appear before the Board to represent her, that she was not provided the Medical Consultant’s report, and that she was not aware that the preoperative records were missing from the chart that was provided.

Mr. Landau stated that the motion for continuance was not unreasonable, and spoke in favor of granting the request in order to ensure that the Board has the complete file for review and has heard from all parties involved.

MOTION: Mr. Landau moved to grant the request for continuance to the February 29, 2020 meeting.

SECOND: Mr. Burg

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

MOTION PASSED.

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

President Cunningham instructed the physician to be prepared for her appearance at the Investigative Hearing. He stated that this matter is serious and affects her license, and that he felt the physician should have been on top of communicating with her attorney during the course of the investigation. Dr. Iannitelli stated that she takes this matter extremely seriously, and that she wrongly assumed that the matter was being taken care of by her prior counsel. She stated that since becoming aware of the issue, she has done her best to ensure that all of the information has been transmitted for the Board’s review.

C. DO-19-0122A, Eric D Mann, DO, LIC. #2677

Dr. Mann was present without counsel during the Board’s consideration of this case. Dr. Maitem stated that he knows Dr. Mann professionally, but that it would not affect his ability to adjudicate the case. Board staff summarized that the case was reviewed by a board-certified emergency medicine physician, who found that Dr. Mann deviated from the standard of care by failing to obtain an EKG prior to proceeding to CT scan to rule out cardiac etiology for the patient’s complaint of chest pain. The Medical Consultant felt that because the patient was unstable at the time of presentation with respiratory distress, low oxygen saturation and high pulse rate, the patient should have been stabilized prior to being sent for CT scan.

Dr. Mann stated that he was sorry for the family and for the patient coding during the CT scan. He assured the Board that the appropriate testing was ordered, and pointed out that the patient had multiple comorbidities and was sent to CT to rule out any other problems. Dr. Mann reported that he was not informed when the patient coded, and that the rapid response team was involved and intubated the patient before transfer to ICU. Dr. Mann stated that he did not have any further direct involvement in the patient’s care thereafter.

Dr. Maitem commented that an EKG would not have helped the situation, and stated that in this case, the physician appeared to be on the right course by proceeding to CT scan. Dr. Reiss stated he was not sure that an EKG would have benefited the situation. Dr. Mann reported that he subsequently resigned from the VA after finding that they had a lot of problems within their processes and he was no longer comfortable being in that environment. Dr. Erbstoesser stated he believed that an EKG would not have made a difference. Dr. Maitem stated that the physician acted appropriately by sending the patient for CT scan to address any abdominal etiology. Dr. Maitem stated that he did not

find a clear violation of statute in this case. President Cunningham questioned the physician regarding what he would do differently if faced with a similar situation. Dr. Mann stated that he would ensure airway protection and treat more aggressively at the start as well as throughout the course of treatment.

MOTION: Dr. Erbstoesser moved for dismissal.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

D. DO-18-0166A, Thomas Edward Masters, DO, LIC. #2951

Prior to the Board meeting, at the request of the Attorney representing Dr. Masters, this matter was continued to February 29, 2020.

E. DO-17-0258A, Jamison Mark Foster, DO, LIC. #006198

Dr. Foster was not present during the Board's consideration of this matter. The Board noted that Dr. Foster's license is currently suspended and noted his prior history with the Board.

MOTION: Dr. Maitem moved to refer the matter to the Office of Administrative Hearings for a Formal Hearing.

SECOND: Mr. Burg

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

MOTION PASSED.

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

F. DO-17-0292A, DO-19-0076A, David Lavon Payne, DO, LIC. #1640

Dr. Payne was not present during the Board's consideration of this matter. Board staff summarized that the complaint under case number DO-17-0292A was received in November of 2017, and that in April of 2018 the Committee referred it to Investigative Hearing. In October of 2018, the case was scheduled for Investigative Hearing and Dr. Payne appeared before the Board. At that time, the Board voted to continue the Investigative Hearing and issued an Interim Order for neuropsychiatric evaluation. Dr. Payne received two extensions to complete the neuropsychiatric evaluation pursuant

to the Interim Board Order, and the Board subsequently initiated case number DO-19-0076A for Dr. Payne’s non-compliance, and his license was subsequently suspended due to non-renewal. The Board discussed referring the cases for Formal Hearing for license revocation.

MOTION: Mr. Landau moved to refer the cases to the Office of Administrative Hearings for Formal Hearing for revocation of licensure.

SECOND: Dr. Maitem

President Cunningham stated that the Board has offered the physician multiple opportunities to comply with the Interim Order, and noted that the physician declined to surrender his license in lieu of formal license revocation. President Cunningham stated that the physician’s appears to be unregulatable in that he has refused to participate in the Board’s proceedings.

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

MOTION PASSED.

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

G. DO-19-0213A, Thomas Zachary Emel, DO, LIC. #007877

Dr. Emel was present during the Board’s consideration of this case.

MOTION: President Cunningham moved for the Board to enter into Executive Session to obtain legal advice and to discuss information that is confidential by State or Federal law pursuant to A.R.S. § 38-431.03(A)(2) and (3).

SECOND: Dr. Maitem

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

MOTION PASSED.

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

The Board entered into Executive Session at 9:56 a.m.
 The Board returned to Open Session at 10:19 a.m.
 No legal action was taken by the Board during Executive Session.

Dr. Emel reported that the protective order had expired and that he was not aware of any pending

renewal. The Board noted that there had been on instance wherein Dr. Emel was found to have violated that protective order by texting his ex-wife, which resulted in him entering the Court’s diversion program. Dr. Emel informed the Board that he completed the diversion program and that the charge was ultimately dismissed.

MOTION: Mr. Landau moved for the Board to proceed pursuant to its discussion in Executive Session.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

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

A. DO-17-0229A, Joseph Stephen Machuzak, DO, LIC. #3753

Dr. Machuzak was not present during the Board’s consideration of this case. Board staff summarized that in July of 2018, the Board ordered Dr. Machuzak to complete 10 CME hours in boundaries and ethics. Board staff reported that according to the physician’s latest correspondence, he could not afford to complete the CME. The Board recognized that the Order was issued on July 11, 2018, and that the physician’s last correspondence was dated December 3, 2019.

The Board discussed initiating a new investigation into the physician’s non-compliance with the CME Order. President Cunningham spoke in favor of initiating a new investigation, noting that the physician has had over a year to comply with the CME requirement. Mr. Landau also spoke in support of initiating a new investigation to address the physician’s non-compliance.

MOTION: Mr. Landau moved for the Board to initiate a new investigation to address the physician’s failure to comply with the Board’s Order.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

B. DO-19-0145A, DO-19-0005A, Anthony Christopher Pozun, DO, LIC. #3684

Dr. Pozun was present during the Board’s consideration of this matter. Board staff summarized that Dr. Pozun was initially issued an Order for Two Year Probation in May of 2019 for aftercare monitoring. Dr. Pozun relapsed in violation of his Order, and as a result the Board and Dr. Pozun entered into an consent agreement for 5 years of probation with monitoring. Board staff reported that Dr. Pozun has been compliant with the terms of his monitoring and that his drug screen tests have been negative.

Dr. Pozun provided the Board with an update regarding his current employment and personal matters. He reported that life is going really good for him, and stated he has joined another cardiologist in the Arrowhead area and has returned to performing procedures at the hospital. Dr. Pozun stated that he has been sober for six months, and that he has a great sponsor. He requested that the Board increase his work hour restriction increased from 40 hours so that he can assist his partner with weekend hospital rounds. The Board discussed increasing the work hour restriction to 52 hours per week and having the physician return in six months for an update.

MOTION: Mr. Landau moved for the Board to modify the Order to increase the work hour restriction from 40 to 52 hours.

SECOND: Mr. Burg

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

MOTION PASSED.

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

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

A. DO-19-0241A, Jon Robert Brown, DO, LIC. #N/A

Prior to the Board meeting, the license application was withdrawn.

9. REVIEW, CONSIDERATION, AND ACTION ON MOTION FOR REHEARING.

A. DO-18-0101A, E. Griffin Cipolla, DO, LIC. #2811

President Cunningham was recused from this case.

Board staff summarized that the Board issued an Order for Censure and Probation with a chaperone requirement at the conclusion of its Investigative Hearing in October of 2019. Dr. Cipolla’s counsel filed a Motion for Rehearing, and subsequently submitted a supplemental Motion for Rehearing for the Board’s consideration.

Board members discussed the Motion for Rehearing, and itemized the grounds outlined in the attorney’s correspondence. Specifically, counsel requested a rehearing based on their belief that there was an irregularity in the Board’s proceedings, the penalty was excessive, the Board’s decision was a result of passion or prejudice, and the end result was not justified by the evidence and is contrary to law. The Board noted that counsel challenged the original notification to the physician relating to the statutory violation of A.R.S. § 32-1854(38) while the Board’s Order references A.R.S. § 32-1854(39). AAG Mary Williams

informed the Board that the number changed from (38) to (39) due to a statutory renumbering change. AAG Williams also noted for the record that Dr. Cipolla and his attorney were provided a new updated notice that referenced the corrected statute A.R.S. § 32-1854(39) for the Investigative Hearing that occurred on October 19, 2019. The Board also observed that the supplemental motion filed by counsel regarded premature posting of the Order on the Board’s website prior to the expiration of the appeal timeframe. Board staff reported that once this was brought to the Board’s attention, the Order was pulled from the Board’s website.

The Board found that the physician was provided sufficient notice of the allegations against him as the language referenced in the statute did not change, the change in statutory reference only applied to the renumbering of the Board’s statutory definitions of unprofessional conduct. With regard to the alleged excessive penalty, Mr. Landau stated that the Board takes sexual boundaries cases very seriously. He pointed out that the discipline was imposed under only one of the three cases reviewed by the Board. Mr. Landau stated that based on his review of the Motion for Rehearing, he did not find that a rehearing was warranted in this case. He stated that he believed the sanction imposed by the Board was appropriate.

MOTION: Mr. Burg moved to deny the Motion for Rehearing.
SECOND: Dr. Maitem

The Board noted that the next step in the appeal process is Superior Court, if the physician wished to pursue the matter further. Dr. Maitem spoke in favor of the motion.

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

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

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

A. Updated Board Website – www.azdo.gov

Executive Director Bohall reported that he has been working with the IT Team from the Medical Board to update the Board’s public facing website that is scheduled to go live one week after today’s meeting. He stated that the new webpage is rather comprehensive and will provide more information to the public community as well as the profession. He added that the staff is currently testing upgrading the Board’s system to Windows 10, and that the Board should expect the upgrade to occur within a few weeks, after staff has been able to work out any issues identified.

B. Annual Meeting of the Federation of State Medical Boards (FSMB) – April 30th – May 2nd.

Executive Director Bohall informed the Board that the FSMB will be holding its Annual Meeting in San Diego, California, and that the Chair has requested Arizona to make a strong presence due to how close in proximity the location. The Board discussed selecting a voting delegate. Dr. Erbstoesser was nominated by the Board to attend and participate in the FSMB’s meeting as voting delegate.

C. Annual Performance Review of the Board’s Executive Director

MOTION: Mr. Landau moved for the Board to enter into Executive Session to discuss matters of employment pursuant to A.R.S. § 38-431.03(A)(1).

SECOND: Dr. Maitem

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

MOTION PASSED.

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

The Board entered into Executive Session at 11:34 a.m.
 The Board returned to Open Session at 11:40 a.m.
 No legal action was taken by the Board during Executive Session.

MOTION: Mr. Landau moved for the Board to grant a 5% salary increase for the Executive Director, effective the beginning of the next pay cycle.

SECOND: Dr. Erbstoesser

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

MOTION PASSED.

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

The Board applauded Executive Director Bohall for a job well done. Executive Director Bohall stated that it was a team effort, and the Board thanked the staff for their hard work.

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.

The Board met the medical students in attendance and discussed current issues surrounding the practice of Osteopathic Medicine.

12. ELECTIONS OF OFFICERS PURSUANT TO A.R.S. § 32-1802(B) AND COMMITTEE APPOINTMENTS PURSUANT TO A.R.S. § 32-1802(E).

President Cunningham stated that this was his last meeting as Board President, and that serving in that role has made him a better physician. Mr. Landau stated that President Cunningham’s work has been exceptional while navigating through some turbulent waters. Dr. Reiss stated that he could not thank President Cunningham enough for his dedication and passion for the job.

A. President of the Board

Dr. Reiss nominated Mr. Landau for Board President.

MOTION: President Cunningham moved for Mr. Landau to serve as Board President.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

B. Vice-President of the Board

Dr. Reiss nominated Dr. Erbstoesser for Vice-President.

MOTION: Dr. Reiss moved for Dr. Erbstoesser to serve as Board Vice-President.

SECOND: Dr. Maitem

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

MOTION PASSED.

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

C. Committee Appointments

1. Case Review Committee A

Mr. Landau appointed Dr. Maitem as Chair of Committee A with members Dr. Cunningham and Dr. Walker.

2. Case Review Committee B

Mr. Landau appointed Mr. Burg as Chair of Committee B with members Dr. Erbstoesser and Dr. Reiss.

3. Compliance Review Committee

Mr. Landau appointed Dr. Reiss to Chair the Compliance Review Committee with members Dr. Cunningham and Mr. Burg and will meet on an as needed basis. Mr. Landau stated that in February 2020, the Board will discuss appointing a statute and rules committee.

13. REVIEW, CONSIDERATION AND ACTION ON REPORTS FROM EXECUTIVE

DIRECTOR.

D. Report on Executive Director Dismissed Complaints

Executive Director Bohall reported that 16 cases were dismissed in the last month, including one medical malpractice case that was dismissed by the Committee.

E. Board Member Appointments

1. Welcoming Dawn Walker, DO – term expiring April 15, 2021.

Executive Director Bohall informed the Board that its newest member, Dr. Walker, will be starting next month, and that her first meeting with the Board will be February 29, 2020. Dr. Walker is a family practitioner from Wilcox, Arizona.

F. Executive Director Report

1. Financial Report
2. Current Events that Affect the Board
3. Licensing and Investigations Update

Executive Director Bohall reported that there are currently 164 pending cases that are moving through the adjudication process. He stated that the Agency is operating within its planned budget, and anticipates the Agency to be under the appropriated amount this year. Executive Director Bohall stated that he was thrilled to report that the average days to process a license application is 43. He stated that Board staff has done a fantastic job, and reported that 82% of renewal applications have been processed. Mr. Landau informed the Board that he is tracking pending legislation that may affect the Board, and stated that he will be forwarding that list for Board member review.

The Board's next meeting is scheduled for February 29, 2020.

14. ADJOURNMENT

MOTION: Mr. Landau moved for adjournment.

SECOND: Dr. Erbstoesser

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

MOTION PASSED.

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

The Board's meeting adjourned at 11:59 a.m.

Justin Bohall, Executive Director