



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

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

Executive Director
Justin Bohall

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

Held on Friday, March 17, 2023

1. CALL TO ORDER

Board President Erbstoesser called the meeting to order at 8:35am.

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

2. ROLL CALL AND REVIEW OF AGENDA

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

Other Board Staff Present during the Board Meeting:

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

3. CALL TO THE PUBLIC

- A. President Erbstoesser welcomed the Medical Students from Midwestern University Arizona College of Osteopathic Medicine, A.T. Still University Kirksville College of Osteopathic Medicine, and A.T. Still University School of Osteopathic Medicine in Arizona.
- B. President Erbstoesser made a call to the public. Complainant GB provided a written statement which was read by the Executive Director.

4. REVIEW, CONSIDERATION, AND APPROVAL OF MINUTES

- A. January 20, 2023, Open Session

MOTION: Vice-President Maitem motioned to approve the January 20, 2023, Open Session minutes

SECOND: Dr. Shipon

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

MOTION PASSED.

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

B. January 20, 2023, Executive Session

MOTION: President Erbstoesser motioned for the Board to approve the January 20, 2023, Executive Session minutes.

SECOND: Mr. Burg

VOTE: 4-aye, 0-nay, 2-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

C. February 22, 2023, Open Session

MOTION: Vice-President Maitem motioned for the Board to approve the February 22, 2023 Open Session minutes.

SECOND: Dr. Ota

VOTE: 4-aye, 0-nay, 2-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

D. February 22, 2023, Executive Session

MOTION: Vice-President Maitem motioned for the Board to approve the February 22, 2023, Executive Session minutes

SECOND: Dr. Walker

VOTE: 4-aye, 0-nay, 2-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

5. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON INTERIM SUSPENSION OF LICENSE ACCORDANCE WITH A.R.S.§32-1855 including a status update, possible referral to formal hearing or other remedies available to the Board.

A. DO-23-0015, E. Griffin Cipolla, DO

Dr. Cipolla participated in the virtual meeting during the Board's consideration of this matter. Dr. Cipolla was represented by legal counsel Flynn Carey. Dr. Cipolla stated that his legal counsel would be speaking on his behalf for the duration of the meeting. The complainant, SE, was also present for the virtual meeting.

Board staff provided a summary of the case.

Complainant, SE, states in his initial Board complaint that he had been seeing Dr. Cipolla for 3 years and the first occurrence when he felt uncomfortable was about 18 months ago when Dr. Cipolla examined his genital area with no gloves and used non-medical terms when referring to certain body parts. During another occurrence Dr. Cipolla asked SE if he was single and if Dr. Cipolla was his type. SE also received inappropriate text messages and pictures from Dr. Cipolla and felt he needed to go along with his advances in order to maintain treatment from him as his doctor. SE stated this has affected his mental health and he has been unable to see another primary care provider due to his interactions with Dr. Cipolla.

SE provided a statement to the Board and was available to be questioned by the Board.

Mr. Carey offered terms of an interim consent agreement for suspension beginning in 30 days for Dr. Cipolla to obtain an evaluation.

Vice-President Maitem motioned for the Board to move into Executive Session for legal advice.

MOTION: Vice-President Maitem motioned for the Board to move into Executive Session for legal advice

SECOND: Mr. Burg

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

MOTION PASSED.

The Board reviewed the evidence presented as well as the statements made by SE. Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion to take emergency action to protect the health, safety, and welfare of the public and adopt the Interim Findings of Fact and Conclusions of Law.

MOTION: President Erbstoesser motioned for the Board to take emergency action to protect the health, safety, and welfare of the public and adopt the Interim Findings of Fact and Conclusions of Law.

SECOND: Mr. Burg

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

MOTION PASSED.

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

MOTION: President Erbstoesser motioned for the Board to Summarily Suspend the license and direct the Board's Executive Director to refer the case to Formal Hearing with the Office of Administrative Hearing with the recommendation to Revoke the license.

SECOND: Vice-President Maitem

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

MOTION PASSED.

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

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

A. DO-22-0094, Johnny Serrano, DO

Dr. Serrano participated in the virtual meeting during the Board's consideration of this matter. Dr. Serrano was represented by legal counsel Flynn Carey. Dr. Serrano provided a summary of his training and work experience.

Board staff provided a summary of the case.

This came to the Board as a malpractice settlement and was reviewed by a Board Certified General Surgeon. On February 3, 2019, a 69 year old female went to the ER with left lower quadrant abdominal pain. After diagnostic tests, Dr. Serrano was consulted and saw the patient at 2 am. Dr. Serrano took the patient to surgery and performed an exploratory laparotomy at around 4 am. The patient had complications several days after the surgery and underwent additional surgery with a different surgeon. The expert who reviewed this case felt that Dr. Serrano fell below the standard of care and the complications could have been due to operator error.

Dr. Serrano provided the Board with details as to how the surgery was performed and there was no evidence of any leak. Dr. Serrano saw the patient everyday and on the 4th day a nurse called Dr. Serrano and advised him of a complication and the patient was taken back to surgery. Dr. Serrano stated that the patient's previous hysterectomy could have been the reason for the complication. Dr. Serrano contacted another physician who helped perform the surgery and treat the complication. Dr. Serrano provided information and clarification to questions Board members had.

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion to dismiss the case.

MOTION: Dr. Ota motioned for the Board to dismiss the case.

SECOND: Vice-President Maitem

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

MOTION PASSED.

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

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

Granted a continuance.

C. DO-22-0151A, Linda Sodoma, DO

Granted a continuance.

D. DO-22-0024A, Sheldon Wagman, DO

Dr. Wagman participated in the virtual meeting during the Board’s consideration of this matter. Dr. Wagman was represented by legal counsel Artie Eaves. Dr. Wagman provided a summary of his education and work experience.

Board staff provided a summary of the case.

The complainants are the family of patient RP. The complainants state they are concerned about the patient being prescribed benzodiazepines because of his significant history of alcohol and drug use. They state, since 2018, the patient has had a significant mental decline and becomes hostile when asked about his use of benzodiazepines. The Board’s expert felt Dr. Wagman may have fallen below the standard of care due to not documenting accurately and for failing to query the CSPMP except for one time during the patient's treatment.

Dr. Wagman stated that patient RP was evaluated in 2016 and has a long history of psychological issues starting at age 9. Dr. Wagman stated the only indication that the family was upset was in 2018 where they held a meeting and expressed their concerns. Dr. Wagman provided suggestions for treatment to the family but they never moved forward with the suggestions. Dr. Wagman stated he is still prescribing medication to this patient and sees the patient about every 2 months. Dr. Wagman states he does check the CSPMP after every prescription he writes. Dr. Wagman also

advised the Board that he does not have his patients complete periodic drug screening tests. Dr. Wagman stated that he would implement drug screening tests immediately if that is seen to be below the standard of care.

MOTION: Dr. Erbstoesser motioned for the Board to move to Executive Session for legal advice.

SECOND: Vice-President Maitem

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

MOTION PASSED.

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

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion for an Interim Order for an Evaluation.

MOTION: Dr. Vice-President Maitem motioned for an Interim Order for an Evaluation.

SECOND: President Erbstoesser

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

MOTION PASSED.

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

E. DO-22-0048A, Travis Lam, DO

Dr. Lam participated in the virtual meeting during the Board’s consideration of this matter. Dr. Lam was represented by legal counsel, Sara Stark. Complainant CL was present for the virtual meeting. Dr. Lam provided a summary of his education and work history.

Board staff provided a summary of the case.

The complainant, CL, is the Chief Medical Director for Affiliated Dermatology, where Dr. Lam worked previously, and alleges Dr. Lam instructed medical assistants to complete procedures out of their scope of practice. CL noted that on April 12th 2022, an MA stated she was asked to perform a biopsy by Dr. Lam and she declined. The CMO sent an email to Dr. Lam reiterating that under no circumstances should he instruct, request or demand an MA do procedures outside of their scope of practice. An MA stated that MA’s do these procedures for Dr. Lam “all the time” and that Dr. Lam is a doctor and they figured he knows what MA’s can or cannot do.

Ms. Stark stated that Dr. Lam sometimes allowed MA’s to perform certain procedures under his supervision. Dr. Lam acknowledges that he spoke with the complainant previously about this concern and that he would have MA’s stop helping with these procedures.

Complainant, CL, stated Dr. Lam had been having MA’s perform these procedures “for a while” without their knowledge. During their internal investigation, Affiliated Dermatology, Dr. Lam did not seem to want to follow the company’s policies and procedures which led to the decision to terminate his employment.

MOTION: Dr. Erbstoesser motioned for the Board to move to Executive Session for legal advice.

SECOND: Vice-President Maitem

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

MOTION PASSED.

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

Upon hearing the summary of the case and reviewing all materials provided, the Board made a motion for an Administrative Warning with Continuing Medical Education in Supervision and professional Ethics.

MOTION: Dr. Vice-President Maitem motioned for an Administrative Warning with Continuing Medical Education in Supervision and professional Ethics.

SECOND: Dr. Ota

VOTE: 4-aye, 2-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

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

7. 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 with medical students to discuss topics and issues related to the practice of osteopathic medicine. No action was taken on this item.

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

A. No discussion on this item occurred. The Board moved forward with the agenda.

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

A. Report from Board Members

No discussion on this item occurred. The Board moved forward with the agenda.

B. Executive Director Report

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

Executive Director Bohall provided a verbal update for the Board. Executive Director Bohall advised the Board there had been 12 dismissed complaints since the last Board meeting.

10. Adjournment

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

SECOND: President Erbstoesser

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

MOTION PASSED.

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

The Board's meeting adjourned at 12:43pm.

Justin Bohall, Executive Director