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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF OSTEOPATHIC MEDICINE**

TIME: 9:29 A.M.

BOARD ROOM C

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Wednesday, June 12, 2019

1                    State Board of Osteopathic Medicine  
2                                    June 12, 2019

3  
4  
5 BOARD MEMBERS:

6  
7 Randy G. Litman, D.O., Chairman  
8 Kalonji Johnson, Acting Commissioner, Bureau of  
9 Professional and Occupational Affairs - Absent  
10 William B. Swallow, D.O., Vice Chairman  
11 Burton T. Mark, D.O., Secretary - Absent  
12 Carolyn Byrnes, M.P.H., C.P.H., Secretary of Health  
13 designee, on behalf of Rachel Levine, M.D.,  
14 Physician General/Secretary of Health  
15 John B. Bulger, D.O.  
16 Christopher S. Poggi, D.O.  
17 Frank M. Tursi, D.O.  
18  
19

20 BUREAU PERSONNEL:

21  
22 Kenneth J. Suter, Esquire, Board Counsel  
23 Kerry E. Maloney, Esquire, Board Counsel  
24 Anita P. Shekletski, Esquire, Board Prosecution  
25 Liaison  
26 Jason T. Anderson, Esquire, Board Prosecutor  
27 Keith E. Bashore, Esquire, Board Prosecutor  
28 Adam Williams, Esquire, Board Prosecutor  
29 Aaron Hollinger, Board Administrator  
30  
31

32 ALSO PRESENT:

33  
34 Andy Sandusky, Executive Vice President, Public Policy  
35 and Association Affairs, Pennsylvania Osteopathic  
36 Medical Association  
37 Michael DePalma, PA-C, Pennsylvania Society of  
38 Physician Assistants  
39 Brenda R. Dill, Director, Communications and  
40 Education, Pennsylvania Osteopathic Medical  
41 Association  
42 Michael Siget, JD, MPA, Legislative & Regulatory  
43 Counsel, Pennsylvania Medical Society  
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2 State Board of Osteopathic Medicine

3 June 12, 2019

4 \*\*\*

5 The regularly scheduled meeting of the State  
6 Board of Osteopathic Medicine was held on Wednesday,  
7 June 12, 2019. Randy G. Litman, D.O., Chairman,  
8 called the meeting to order at 9:29 a.m.

9 \*\*\*

10 Approval of minutes of the April 10, 2019 meeting

11 CHAIRMAN LITMAN:

12 Do I have a motion to approve the  
13 minutes from April 10?

14 DR. SWALLOW:

15 So moved.

16 DR. POGGI:

17 Second.

18 CHAIRMAN LITMAN:

19 All in favor?

20 [The motion carried unanimously.]

21 \*\*\*

22 Report of Prosecutorial Division

23 [Keith E. Bashore, Esquire, Board Prosecutor,

24 presented the Consent Agreements for File No. 18-53-

25 004420 and File No. 18-53-00476.]

1

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2 [Adam Williams, Esquire, Board Prosecutor, presented  
3 the Consent Agreement for File No. 18-53-002682.]

4

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5 [Jason T. Anderson, Esquire, Board Prosecutor,  
6 presented Consent Agreements for File No. 18-53-04133  
7 and File No. 18-53-007315.]

8

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9 [Jason T. Anderson, Esquire, Board Prosecutor, on  
10 behalf of Mark R. Zogby, Esquire, Board Prosecutor,  
11 presented the Consent Agreement for Case No. 18-53-  
12 002465.]

13

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14 [Christopher S. Poggi, D.O. and John B. Bulger, D.O.,  
15 exited the meeting at 9:37 a.m. for recusal purposes.]

16

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17 [Jason T. Anderson, Esquire, Board Prosecutor, on  
18 behalf of Mark R. Zogby, Esquire, Board Prosecutor,  
19 presented the Consent Agreement for Case No. 19-53-  
20 003362.]

21

\*\*\*

22 [Anita P. Shekletski, Esquire, Board Prosecution  
23 Liaison, presented the Consent Agreements for File No.  
24 16-53-11839.]

25

\*\*\*

1 [Christopher S. Poggi, D.O. and John B. Bulger, D.O.,  
2 reentered the meeting at 9:40 a.m.]

3 \*\*\*

4 [Anita P. Shekletski, Esquire, Board Prosecution  
5 Liaison, presented the Consent Agreements for VRP File  
6 No. 19-53-001578, File No. 19-53-002097, VRP File No.  
7 19-53-002114, VRP File No. 19-53-002525, and VRP File  
8 No. 19-53-007570.]

9 Ms. Shekletski provided an overview of the new  
10 mediation program, noting it to be a cost-saving  
11 measure with no cost to either party or the Board.  
12 She stated the Office of General Counsel has trained  
13 mediators who are attorneys and a few prosecutors in  
14 the office who have gone through the training program  
15 and have done mediation for other agencies.

16 Ms. Shekletski encourage mediation and believes  
17 that it would be good in a situation where prosecution  
18 is not sure what the Board would want. She noted  
19 mediation to be totally voluntary. She stated  
20 mediation cases cannot be appealed. She noted that  
21 the Board would still be free to accept or reject it  
22 like an ordinary consent agreement.]

23 \*\*\*

24 Report of Board Counsel

25 [Kenneth J. Suter, Esquire, Board Counsel, provided

1 guidelines regarding the Pennsylvania Sunshine Act for  
2 the Board's review. He discussed exceptions to the  
3 Sunshine Act that include seeking legal advice,  
4 consent agreements, and personnel issues that are to  
5 be discussed in executive session.

6 Mr. Suter provided guidelines regarding recusal  
7 for the Board's review. He discussed mandatory  
8 recusal, where individuals had some role in a  
9 prosecution matter or have a direct personal or  
10 financial interest in the outcome of the proceeding.

11

12 Mr. Suter discussed strongly suggested recusal  
13 matters, where individuals have a personal affection  
14 for somebody directly involved in the proceedings or  
15 knowledge from the outside.

16 Mr. Suter also discussed discretionary  
17 situations, where individuals do not feel they can be  
18 impartial in a proceeding.

19 Mr. Suter encouraged the Board to call or email  
20 him for his assistance if they are ever uncertain  
21 about a situation.]

22

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23 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
24 9:55 a.m. the Board entered into executive session  
25 with Kenneth J. Suter, Esquire, Board Counsel, and

1 Kerry E. Maloney, Esquire, Board Counsel, for the  
2 purpose of conducting quasi-judicial deliberations and  
3 to receive legal advice from Board counsel. The Board  
4 returned to open session at 11:07 a.m.]

5 \*\*\*

6 MOTIONS

7 MR. SUTER:

8 As the Chair indicated, the Board was in  
9 executive session. The purpose of the  
10 executive session was to discuss items  
11 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
12 15, 16, 17, and 18 on the agenda.

13 I will also note that in Item No.  
14 9, Item No. 10, and Item No. 16, the  
15 following members were not present in  
16 the room and were recused: Dr. Poggi  
17 and Dr. Bulger.

18 As a result of executive session, I  
19 understand that the Board will entertain  
20 some motions. The first motion is to  
21 approve Item No. 3 on the agenda, File  
22 No. 18-53-004420.

23 DR. TURSI:

24 So moved.

25 DR. POGGI:

1 Second.

2 CHAIRMAN LITMAN:

3 All in favor?

4 [The motion carried. The Respondent's name in this  
5 case is Robert J. Fanning, D.O.]

6 \*\*\*

7 MR. SUTER:

8 The next item is Item No. 4 on the  
9 agenda. It is File No. 18-53-00476.

10 I understand the Board will  
11 entertain a motion to approve this  
12 Consent Agreement.

13 DR. POGGI:

14 So moved.

15 DR. TURSI:

16 Second.

17 CHAIRMAN LITMAN:

18 All in favor?

19 [The motion carried unanimously. The Respondent's  
20 name is Scott D. Gordon, D.O.]

21 \*\*\*

22 MR. SUTER:

23 The next item is Item No. 5. It is File  
24 No. 18-53-002682.

25 I understand the Board will



1 entertain a motion to approve this  
2 Consent Agreement.

3 DR. POGGI:

4 So moved.

5 DR. TURSI:

6 Second.

7 CHAIRMAN LITMAN:

8 All in favor?

9 [The motion carried unanimously. The Respondent's  
10 name is Gabriel G. Ruggiero, D.O.]

11 \*\*\*

12 MR. SUTER:

13 The next item is Item No. 6 on the  
14 agenda. It is File No. 18-53-04133.

15 I understand the Board will  
16 entertain a motion to approve this  
17 Consent Agreement.

18 DR. TURSI:

19 So moved.

20 DR. POGGI:

21 Second.

22 CHAIRMAN LITMAN:

23 All in favor?

24 [The motion carried unanimously. The Respondent's  
25 name is Murray Soss, D.O.]

1 \*\*\*

2 MR. SUTER:

3 The next item on the agenda is Item No.  
4 7. It is File No. 18-53-007315.

5 I understand the Board will  
6 entertain a motion to approve this  
7 Consent Agreement.

8 DR. POGGI:

9 So moved.

10 DR. TURSI:

11 Second.

12 CHAIRMAN LITMAN:

13 All in favor?

14 [The motion carried unanimously. The Respondent's  
15 name is Michael A. Alexander, D.O.]

16 \*\*\*

17 MR. SUTER:

18 The next item on the agenda is Item No.  
19 8. It is Case No. 18-53-002465.

20 I understand the Board will  
21 entertain a motion to approve this  
22 Consent Agreement.

23 DR. TURSI:

24 So moved.

25 DR. POGGI:



1                   D.O.

2                   I understand the Board will  
3                   entertain a motion to approve the  
4                   proposed Adjudication and Order.

5 DR. TURSI:

6                   So moved.

7 DR. POGGI:

8                   Second.

9 CHAIRMAN LITMAN:

10                   All in favor?

11 [The motion carried unanimously.]

12   \*\*\*

13 MR. SUTER:

14                   The next item is Item No. 18, Bryan  
15                   Douglas Moles, File No. 17-53-06219.

16                   The Board is directing their  
17                   counsel to make appropriate changes to  
18                   the proposed Adjudication and Order.

19 DR. TURSI:

20                   So moved.

21 DR. POGGI:

22                   Second.

23 CHAIRMAN LITMAN:

24                   All in favor?

25 [The motion carried unanimously.]

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MR. SUTER:

We need to vote on the items where individuals were recused. The first item is Item No. 9. It is Case No. 19-53-003362.

I understand the Board will entertain a motion to approve this matter. Dr. Poggi and Dr. Bulger recused themselves.

DR. TURSI:

So moved.

DR. SWALLOW:

Second.

CHAIRMAN LITMAN:

All in favor?

[The motion carried. Dr. Poggi and Dr. Bulger recused themselves from deliberations and voting on the motion. The Respondent's name is Richard I. Mintz, D.O.]

\*\*\*

MR. SUTER:

Next, the Board will entertain a motion to approve File No. 16-53-11839. I understand that several Board members

1 will recuse on this. Dr. Poggi and  
2 Dr. Bulger recused themselves.

3 DR. TURSI:

4 Motion to accept.

5 DR. SWALLOW:

6 Second.

7 CHAIRMAN LITMAN:

8 All in favor?

9 [The motion carried. Dr. Poggi and Dr. Bulger recused  
10 themselves from deliberations and voting on the  
11 motion. The Respondent's name is Mahmoud Ghaderi,  
12 D.O.]

13 \*\*\*

14 MR. SUTER:

15 The next item is Item No. 16, File No.  
16 18-53-01843, Jessica L. Carroll, PA-C.

17 I understand the Board will  
18 entertain a motion to approve this  
19 proposed Adjudication and Order and that  
20 certain members of the Board will  
21 recuse. Dr. Poggi and Dr. Bulger  
22 recused themselves.

23 DR. TURSI:

24 Motion to accept.

25 DR. SWALLOW:



1 I understand the Board will  
2 entertain a motion to approve this  
3 application as well.

4 DR. POGGI:

5 So moved.

6 DR. TURSI:

7 Second.

8 CHAIRMAN LITMAN:

9 All in favor?

10 [The motion carried unanimously.]

11 \*\*\*

12 MR. SUTER:

13 The next item is Item No. 24 on the  
14 agenda, Adam Morrow, D.O.

15 I would like the Board to entertain  
16 a motion to table this application.

17 DR. TURSI:

18 So moved.

19 DR. SWALLOW:

20 Second.

21 CHAIRMAN LITMAN:

22 All in favor?

23 [The motion carried unanimously.]

24 \*\*\*

25 MR. SUTER:



1                   Item No. 25 on the agenda is an  
2                   Application for a Written Agreement  
3                   Deviation filed by Caleb Nwosu, D.O.

4                   I understand the Board will entrain  
5                   a motion to deny this application.

6 DR. POGGI:

7                   So moved.

8 DR. TURSI:

9                   Second.

10 CHAIRMAN LITMAN:

11                   All in favor?

12 [The motion carried unanimously.]

13   \*\*\*

14 MR. SUTER:

15                   Item No. 26 on the agenda is a Written  
16                   Agreement Job Duty Change by Stephen  
17                   Purcell, D.O.

18                   I understand the Board will  
19                   entertain a motion to deny this  
20                   application.

21 DR. POGGI:

22                   So moved.

23 DR. TURSI:

24                   Second.

25 CHAIRMAN LITMAN:

1 All in favor?

2 [The motion carried unanimously.]

3 \*\*\*

4 Miscellaneous

5 [Brenda R. Dill, Director, Communications and  
6 Education, Pennsylvania Osteopathic Medical  
7 Association, requested clarification from the Board on  
8 the status of the exposure draft that was put before  
9 the Board in August 2018 regarding licensure  
10 qualifications.]

11 Mr. Suter stated the Board's first priority in  
12 terms of regulations has been the osteopathic medicine  
13 fee package, which is going through internal review.

14 Mr. Suter stated the piece of regulations that  
15 Ms. Dill is addressing had been drafted in terms of  
16 the regulation but is being drafted in terms of the  
17 package. It will not be put forward until approved by  
18 the Governor's Office as well as the Office of General  
19 Counsel. He reviewed the regulatory process to get  
20 through the Independent Regulatory Review Commission  
21 (IRRC).

22 Dr. Tursi noted confusion regarding whether  
23 Pennsylvania is going to accept Resolution 42 and the  
24 need to give direction to staff. He questioned what  
25 could be done with people who are caught in the middle

1 of old regs, new regs, and regs to come. He commented  
2 that the Board should be very liberal on their  
3 interpretation of accepting people for licensure.

4 Mr. Suter commented that the Board was free to  
5 interpret their regulations the way they wish to  
6 interpret those or even waive their regulations. He  
7 stated he preferred the regulatory route because  
8 everybody is on notice and they have notice of what  
9 the Board requires. He noted the importance of  
10 informing all of the Board's enforcement of certain  
11 provisions.

12 Dr. Tursi stated Pennsylvania is about the only  
13 state left that does not recognize Resolution 42 and  
14 may be a detrimental effect for the patients of  
15 Pennsylvania. He noted concern when rules are  
16 interpreted differently, where Boards may check to see  
17 if internships are approved by the American  
18 Osteopathic Association (AOA), not realizing that  
19 Pennsylvania is the exception to Resolution 42.

20 Mr. Suter discussed creating a nonbinding policy  
21 statement in the interim, which may be easier than  
22 getting a regulation through.

23 Dr. Bulger addressed the Board's rules that state  
24 individuals must successfully complete an approved  
25 internship and the pragmatic reality of getting a

1 "yes" or "no" answer, where staff have relied on AOA  
2 as their primary source for years in Pennsylvania.

3 Dr. Bulger commented on the need to clarify the  
4 confusion for people and students regarding the  
5 developments in Pennsylvania.]

6 \*\*\*

7 [Dr. Tursi addressed unification with the  
8 Accreditation Council for Graduate Medical Education  
9 (ACGME), commenting that they do not really recognize  
10 the term internship anywhere. He noted that the  
11 definition changed but questioned how can you say you  
12 must do an AOA internship when there are no AOA  
13 internships. He noted the point now of being too  
14 antiquated, especially with unification.

15 Dr. Tursi commented that it is time for even  
16 Pennsylvania to say an approved residency, which will  
17 be unified as of next year anyway, is enough criteria.

18 Mr. Suter noted that approved internship is  
19 defined as an osteopathic rotating internship program  
20 approved by the AOA and the Board.

21 Dr. Bulger commented that AOA has delegated their  
22 authority to the ACGME that any ACGME program is an  
23 approved program, noting the issue of there being no  
24 separate first year in an AOA program and it being too  
25 loose to interpret.

1 Mr. Suter requested a definition from the Board  
2 of an approved internship.

3 Dr. Bulger stated AOA approval is necessary if it  
4 was prior to a certain date; and after a certain date,  
5 individuals would need an osteopathic-recognized PGY1  
6 or have completed a residency. He stated this is what  
7 is in the current regulations, except rotations are  
8 more specific. He suggested getting rid of the  
9 specifics of the rotations, which would make it  
10 easier.

11 Michael Siget, JD, MPA, Legislative & Regulatory  
12 Counsel, Pennsylvania Medical Society, offered a  
13 possible solution by taking existing regulations and  
14 doing an interpretation, not through a statement of  
15 policy but in the Pennsylvania Bulletin as a notice.  
16 He referred to a notice in the Pennsylvania Bulletin  
17 by the Department of Health at 40 Pa.B. 7160 in 2010  
18 regarding electronically transmitted prescriptions for  
19 the Board's review.

20 Mr. Suter referred to Senate Bill 699 for  
21 osteopathic medicine, which allows a third party to  
22 enter information into the Pennsylvania Licensing  
23 System (PALS) for a written agreement, will be voted  
24 on today in the Senate and sent to the House.]

25

\*\*\*

1 Report of Regulatory Counsel  
2 [Kenneth J. Suter, Esquire, Regulatory Counsel,  
3 addressed House Bill 15 of 2019 regarding  
4 telemedicine.

5 Chairman Litman addressed common points of  
6 agreement when researching telemedicine that included  
7 the physician providing the service is credentialed,  
8 carries insurance, and has an association with a  
9 referring party within the Commonwealth for patients  
10 who are evaluated and need follow-up care. He  
11 discussed interpretations in terms of what areas of  
12 medicine should be covered by telemedicine.

13 Mr. Suter commented that the standard of care  
14 does not change when utilizing telemedicine.]

15 \*\*\*

16 For the Board's Information/Discussion - New Business  
17 [Randy G. Litman, D.O., Chairman, addressed a letter  
18 from the Pennsylvania Society of Physician Assistants,  
19 PSPA President Kathryn Kugler, making reference to a  
20 bill in process. She also made the request for a  
21 physician assistant to have a permanent seat on the  
22 Osteopathic Board.

23 Chairman Litman recommended scheduling a formal  
24 presentation before the Board to evaluate interests  
25 and to get an idea of the structure of the bill. He

1 also suggested that they give a proposition for  
2 presence and a seat on the Board and what it would do  
3 to benefit citizens.

4 Mr. Suter stated the Board could weigh in to  
5 support or oppose the position, but the ultimate  
6 decision is done on a departmental level.

7 Dr. Tursi discussed the importance of following  
8 criteria based on CPT Code 99212 and 99213 concerning  
9 supervising and cosigning charts.

10 Michael DePalma, PA-C, Pennsylvania Society of  
11 Physician Assistants, would appreciate the opportunity  
12 to speak concerning licensure, approval process  
13 issues, and streamlining issues with the agreements.

14 Mr. Suter referred to existing language in the  
15 act in Section 2.1(a), as one member appointed by the  
16 governor who shall be a respiratory therapist,  
17 perfusionist, physician assistant, or licensed as an  
18 athletic trainer are appointed for a four-year term on  
19 a rotating basis. He stated the department would be  
20 interested in the Board's perspective regarding  
21 representation on the Board.

22 Chairman Litman welcomed a PSPA presentation  
23 before the Board to address concerns and provide a  
24 decision at the departmental level.]

25

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1 Report of Vice Chair - No Report

2 \*\*\*

3 Report of Acting Commissioner - No Report

4 \*\*\*

5 Report of Board Administrator - No Report

6 \*\*\*

7 Report of Department of Health

8 [Carolyn Byrnes, M.P.H., C.P.H., Secretary of Health  
9 designee, on behalf of Rachel Levine, M.D., Physician  
10 General/Secretary of Health, informed the Board that  
11 the Opioid Command Center continues to meet weekly,  
12 and patients and physicians are continuing to be  
13 registered for medical marijuana.

14 Ms. Byrnes mentioned that Dr. Levine has been on  
15 a visiting tour at all of the children's hospitals in  
16 the state to highlight maternal and child health  
17 issues. She stated the Lyme disease and tobacco  
18 cessation awareness prevention campaign began for the  
19 summer.]

20 \*\*\*

21 Report of Board Chair - No Report

22 \*\*\*

23 Adjournment

24 CHAIRMAN LITMAN:

25 Do I have a motion for adjournment?



1 DR. SWALLOW:

2                               So moved.

3 DR. TURSI:

4                               Second.

5 CHAIRMAN LITMAN:

6                               We're adjourned.

7 [The motion carried unanimously.]

8   \*\*\*

9 [There being no further business, the State Board of  
10 Osteopathic Medicine Meeting adjourned at 11:58 a.m.]

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## CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Osteopathic Medicine meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Osteopathic Medicine meeting.



Seth R. Baier,

Minute Clerk

Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF OSTEOPATHIC MEDICINE  
REFERENCE INDEX

June 12, 2019

TIME	AGENDA
9:29	Official Call to Order
9:30	Approval of Minutes
9:31	Report of Prosecutorial Division
9:55	Executive Session
11:07	Return to Open Session
11:07	Motions
11:21	Miscellaneous
11:44	Report of Regulatory Counsel
11:49	For the Board's Information/Discussion
11:57	Report of Department of Health
11:58	Adjournment