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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: 9:30 A.M.

BOARD ROOM C

One Penn Center

2601 North Third Street

Harrisburg, Pennsylvania 17110

Wednesday, October 24, 2018

1                    State Board of Osteopathic Medicine  
2                                    October 24, 2018  
3  
4

5 BOARD MEMBERS:  
6

7 Randy G. Litman, D.O., Chairman  
8 William B. Swallow, D.O., Vice Chairman  
9 Burton T. Mark, D.O., Secretary  
10 Katelin Lambert, Deputy Commissioner, Bureau of  
11 Professional and Occupational Affairs, on behalf of  
12 Ian J. Harlow, Commissioner of Professional and  
13 Occupational Affairs  
14 Arlene G. Seid, M.D., M.P.H., Department of Health,  
15 present on behalf of Rachel Levine, M.D., Physician  
16 General  
17 John B. Bulger, D.O.  
18 Christopher S. Poggi, D.O.  
19 Frank M. Tursi, D.O.  
20  
21

22 BUREAU PERSONNEL:  
23

24 Wesley J. Rish, Esquire, Board Counsel  
25 Kenneth J. Suter, Esquire, Board Counsel  
26 Anita P. Shekletski, Esquire, Board Prosecution  
27 Liaison  
28 Keith E. Bashore, Esquire, Board Prosecutor  
29 Adam Williams, Esquire, Board Prosecutor  
30 Tara J. Smith, Esquire, Board Prosecutor  
31 Jason T. Anderson, Esquire, Board Prosecutor  
32 Aaron Hollinger, Board Administrator  
33  
34

35 ALSO PRESENT:  
36

37 Michael DePalma, Pennsylvania Society of Physician  
38 Assistants  
39 Mary Marshall, Director, Workforce & Professional  
40 Services, The Hospital and Healthsystem Association  
41 of Pennsylvania  
42 Brenda R. Dill, Director, Communications and  
43 Education, Pennsylvania Osteopathic Medical  
44 Association  
45 Andrew C. Harvan, Esquire, Pennsylvania Medical  
46 Society  
47  
48  
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1 \*\*\*

2 State Board of Osteopathic Medicine

3 October 24, 2018

4 \*\*\*

5 The regularly scheduled meeting of the State Board of  
6 Osteopathic Medicine was held on Wednesday, October  
7 24, 2018. Randy G. Litman, D.O., Chairman, called the  
8 meeting to order at 9:30 a.m.

9 \*\*\*

10 Approval of Minutes of the August 22, 2018 meeting

11 CHAIRMAN LITMAN:

12 Has everybody reviewed the minutes from  
13 the August 22 meeting, and do I have a  
14 motion for approval?

15 DR. POGGI:

16 So moved.

17 DR. BULGER:

18 Second.

19 CHAIRMAN LITMAN:

20 All in favor?

21 [The motion carried unanimously.]

22 \*\*\*

23 [John B. Bulger, D.O. and Burton T. Mark, D.O.,  
24 Secretary, exited the meeting at 9:31 a.m. for recusal  
25 purposes.]

1 \*\*\*

2 Report of Prosecutorial Division

3 [Keith E. Bashore, Esquire, Board Prosecutor,  
4 presented the Consent Agreement for File No. 18-53-  
5 04113.]

6 \*\*\*

7 [John B. Bulger, D.O. and Burton T. Mark, D.O.,  
8 Secretary, reentered the meeting at 9:32 a.m.]

9 \*\*\*

10 [Aaron Hollinger, Board Administrator, exited the  
11 meeting at 9:32 a.m. and reentered the meeting at 9:32  
12 a.m.]

13 \*\*\*

14 [Keith E. Bashore, Esquire, Board Prosecutor,  
15 presented the Consent Agreement for File No. 17-53-  
16 010294.]

17 \*\*\*

18 [Adam Williams, Esquire, Board Prosecutor, presented  
19 the Consent Agreement for File No. 18-53-03201. He  
20 also presented the Consent Agreement for File No. 14-  
21 53-01240 on behalf of Ray Michalowski, Board  
22 Prosecutor.]

23 \*\*\*

24 [Wesley J. Rish, Esquire, Board Counsel, reminded  
25 Board members and associates that Act 6 of 2018

1 requires every licensee to report disciplinary actions  
2 and criminal convictions against their license to the  
3 Board within 30 days.]

4

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5 [Tara J. Smith, Esquire, Board Prosecutor, presented  
6 the Consent Agreement for File No. 18-53-005559.]

7

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8 [Jason T. Anderson, Esquire, Board Prosecutor,  
9 presented the Consent Agreement for File No. 18-53-  
10 006886.]

11

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12 Report of Regulatory Counsel

13 [Kenneth J. Suter, Esquire, Regulatory Counsel, noted  
14 the need for approval of the proposed Preamble  
15 16A-5334 regarding application and renewal fees.

16 MR. SUTER:

17 I need a motion to approve the preamble  
18 language.

19 DR. TURSI:

20 So moved.

21 DR. POGGI:

22 Second.

23 CHAIRMAN LITMAN:

24 All in favor?

25 [The motion carried unanimously.]

1 \*\*\*

2 [Kenneth J. Suter, Esquire, Regulatory Counsel,  
3 addressed the ongoing medical education regulation.  
4 Mr. Suter noted a comment from the Indiana Regional  
5 Medical Center (IRMC) Orthopedics Physician Group who  
6 do not have any problems with the regulation. He also  
7 noted comments from the American Osteopathic  
8 Association who provided detailed information as to  
9 how they would amend the regulation.

10 Mr. Rish noted the need for discussion regarding  
11 comments by the American Osteopathic Association (AOA)  
12 and the Pennsylvania Osteopathic Medical Association  
13 (POMA). He stated that the Board defined and approved  
14 internship as an osteopathic rotating internship  
15 completed before June 30, 2020, approved by AOA or an  
16 osteopathic-recognized training program accredited by  
17 the Accreditation Council for Graduate Medical  
18 Education (ACGME) that includes at least 24 weeks of  
19 rotation in certain categories.

20 Mr. Rish noted that their suggestion is to define  
21 the approved internship as a postgraduate year (PGY)  
22 of one year approved by AOA.

23 Dr. Bulger stated that the first piece is  
24 editorial, noting a postgraduate (PG) one year  
25 approved by the AOA or designated osteopathic focused

1 or ACGME training that includes the 24 weeks.

2 Dr. Tursi noted that a problem would be an  
3 internship approved by the AOA, where they still do  
4 not seem to get the fact that the Board does not  
5 recognize Resolution 42, and that is not going away.

6 Dr. Bulger commented that he is fine with the PGY  
7 one year and a designated osteopathic position, which  
8 they editorially corrected. He suggested taking the  
9 editorial language for the middle one and leaving the  
10 rest of it. He noted concern regarding their comment  
11 that the proposed changes reflect the fact that state  
12 survey agencies (SAs) will not change the need or the  
13 availability of Resolution 42.

14 Mr. Rish explained that their proposed amendment  
15 would provide for acknowledgement of Resolution 42.

16 Mr. Suter stated that it is easier to deal with  
17 their comments now even if the Board does not change  
18 it because they will have the opportunity to  
19 officially comment, and the Board will have to show  
20 IRRC that they have responded to comments.]

21 \*\*\*

22 Report of Board Chair - No Report

23 \*\*\*

24 Report of Vice Chair - No Report

25 \*\*\*

1 Report of Department of Health  
2 [Arlene G. Seid, M.D., M.P.H., Department of Health,  
3 present on behalf of Rachel Levine, M.D., Physician  
4 General, addressed the Pennsylvania Medical Marijuana  
5 Program.

6 Dr. Seid discussed noted key aspects, including  
7 patient safety and administration of the law signed by  
8 Governor Wolf on April 17, 2016, which authorized the  
9 Pennsylvania Department of Health to create the Office  
10 of Medical Marijuana. She stated that the  
11 Pennsylvania's Department of Health will administer  
12 the program; issue the medical marijuana card; and  
13 issue permits to grow, process, and distribute.

14 Dr. Seid explained that patients need to be a  
15 resident of the Commonwealth, have a serious medical  
16 condition as designed by the law, and have a condition  
17 certified by a physician.

18 Dr. Seid stated that medical marijuana acts as an  
19 antiemetic in cancer, reduces chronic pain, provides  
20 palliative and/or therapeutic treatment, and decreases  
21 spasticity related to MS. She noted that the American  
22 Academy of Neurology has created guidelines and  
23 provided support for the use of medical marijuana to  
24 treat MS symptoms.

25 Dr. Seid commented that medically supervised



1 marijuana's use is associated with decreases in opioid  
2 prescribing and self-reports of opioid misuse. She  
3 stated that Act 16 allows vaporization or  
4 nebulization, pill or capsule, topical tincture or  
5 oil, liquid suspension, and the addition of dry leaf  
6 in August. She noted eight facilities that are  
7 allowed to research medical marijuana under Act 43 of  
8 2018.

9 Dr. Seid discussed marijuana supply from seed to  
10 use and the process to meet pharmacological standards,  
11 noting a set concentration in each bottle that is  
12 grown to have a specific concentration of  
13 tetrahydrocannabinol (THC) vs. cannabinoid  
14 concentration. She commented that there is an issue  
15 with dosage.

16 Dr. Seid commented that the key participants of  
17 the distribution line are the grower/processor,  
18 laboratory, practitioner dispensary, and then the  
19 patient and the caregiver. She noted regulations,  
20 inspections, labeling, laboratory testing, and  
21 physician training.

22 Dr. Bulger commented that the physician is not  
23 writing a prescription and just certifying they have a  
24 disease.

25 Dr. Seid clarified that physicians can write it

1 like a regular prescription or delegate that  
2 responsibility to the dispensary.

3 Dr. Swallow questioned how a physician can write  
4 for dosage when it is a Schedule I.

5 Dr. Seid explained that a physician can write it  
6 but cannot dispense it.

7 Dr. Poggi suggested physicians supplying  
8 certification for conditions but dispensaries giving  
9 the dosage, stating that physicians cannot write  
10 prescriptions for something that there is no evidence  
11 on, and if the Drug Enforcement Administration (DEA)  
12 states that physicians cannot do that, then it becomes  
13 a whole other issue for the Board.

14 Chairman Litman noted concerns with online  
15 registered physicians in the Commonwealth who  
16 satisfied the requirements for medical marijuana  
17 leading to unregulated use of this medication.

18 Dr. Swallow noted that Pennsylvania's licensed  
19 physicians who work for federal institutions or  
20 facilities are prohibited from participating in any of  
21 this.

22 Dr. Tursi noted concerns with conditions on the  
23 list being too broad and being rubber stamped. He  
24 stated that there is no regulation and the correct  
25 dose or correct form is not known.

1 Dr. Seid commented that issues regarding  
2 qualified standards would be the Department of State.

3 Ms. Shekletski stated that there have been  
4 complaints of this nature, noting attorneys from the  
5 Department of Health and attorneys from the Department  
6 of State are meeting tomorrow to discuss the program  
7 and enforcement. She also noted that a licensed  
8 medical consultant will be attending the meeting.

9 Dr. Swallow noted concerns regarding liability  
10 issues with no established dosages for the THC that is  
11 being dispensed.

12 Dr. Seid noted a Medical Marijuana Advisory Board  
13 made up of mostly physicians and other practitioners  
14 for advice on policies and principles. She commented  
15 that medical marijuana is dispensed to registered  
16 patients and caregivers and that every dispensary must  
17 employ a medical professional who is registered and  
18 has completed at least the 4-hour course.

19 Chairman Litman questioned whether there is a  
20 mechanism similar to the Prescription Drug Monitoring  
21 Program (PDMP).

22 Dr. Seid explained that there is access to a  
23 system for marijuana similar to the PDMP once an  
24 individual has completed the education and is  
25 registered.

1 Mr. Rish commented that the primary care  
2 physician who is not prescribing would not be aware  
3 that their patient has been prescribed medical  
4 marijuana.

5 Dr. Seid explained that physicians know when  
6 patients tell them or the physician took the course  
7 and is registered.

8 Dr. Swallow stated that the practitioner or  
9 physician may not issue a patient's certification at  
10 the dispensary, the physician at the dispensary cannot  
11 certify that the patient has a disease, the physician  
12 at the dispensary makes sure what is being dispensed  
13 is appropriate for whatever disease, and the same  
14 person cannot be the one titrating the dose and  
15 dispensing.

16 Chairman Litman commented that if a physician is  
17 registered, the physician is privy to what is  
18 happening with their patient but may also receive  
19 referrals from others beyond their own caseload.

20 Dr. Seid discussed steps to become eligible for  
21 an ID card, minors and homebound patients, and  
22 caregivers.

23 Dr. Seid discussed Phase 1 and Phase 2 permits  
24 for growers/processors and dispensaries. She noted  
25 Chapter 20, where they have their research partners

1 and need to choose their dispensary partners.

2 Dr. Tursi questioned who is responsible for  
3 regulating the cases that are being rubber stamped.

4 Mr. Rish noted that the Department of State has  
5 not pursued any medical marijuana regulations and that  
6 it would be the responsibility of the State Board of  
7 Osteopathic Medicine and State Board of Medicine who  
8 still have the authority to regulate practitioners who  
9 violate the Practice Act. He commented that  
10 Ms. Shekletski and her prosecutors would be bringing  
11 those type of cases to the Board based on complaints.]

12 \*\*\*

13 Report of Regulatory Counsel

14 [Kenneth J. Suter, Esquire, Regulatory Counsel, noted  
15 Act 90 of 2018, which was recently passed and signed  
16 by Governor Wolf. Mr. Suter stated that the bill  
17 establishes a comprehensive framework for public  
18 education about organ and tissue donation and  
19 clarifies the methods for making anatomical donations  
20 and updates the law to reflect the best clinical  
21 practices to support anatomical donations for  
22 transplants. Act 90 will require the Board to  
23 promulgate additional regulations.]

24 \*\*\*

25 [John B. Bulger, D.O. exited the meeting at 10:29 a.m.]

1 and reentered the meeting at 10:35 a.m.]

2 \*\*\*

3 Report of Deputy Commissioner

4 [Katelin Lambert, Deputy Commissioner, present on  
5 behalf of Ian J. Harlow, Commissioner of Professional  
6 and Occupational Affairs, provided an update on the  
7 osteopathic medicine renewals. Ms. Lambert commented  
8 that about 82 percent are complete with one week left  
9 in the renewal period.

10 Ms. Lambert commented that the Pennsylvania  
11 Licensing System (PALS) will be down on October 30  
12 between the hours of 5 p.m. and 11 p.m.]

13 \*\*\*

14 [The Board recessed from 10:46 a.m. until 10:51 a.m.]

15 \*\*\*

16 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
17 10:51 a.m. the Board entered into Executive Session  
18 with Wesley J. Rish, Esquire, Board Counsel, and  
19 Kenneth J. Suter, Esquire, Board Counsel, for the  
20 purpose of conducting quasi-judicial deliberations and  
21 to receive legal advice from Board Counsel. The Board  
22 returned to open session at 11:34 a.m.]

23 \*\*\*

24 MOTIONS

25 MR. RISH:



1 The next several matters, I could take  
2 items 4 through 8 as a group.

3 Based upon discussions in Executive  
4 Session, I understand the Board would  
5 entertain a motion approving items 4  
6 through 8 involving File No. 17-53-  
7 010294, File No. 18-53-03201, File No.  
8 18-53-005559, File No. 18-53-006886, and  
9 File No. 14-53-01240.

10 DR. MARK:

11 So moved.

12 DR. SWALLOW:

13 Second.

14 CHAIRMAN LITMAN:

15 All in favor?

16 [The motion carried unanimously. The Respondents'  
17 names are John Edward Love, D.O.; Michelle Daryanani,  
18 D.O.; Gary A. Matusow, D.O.; Joseph M. Prusakowski,  
19 D.O.; and Edward W. Sweeney, D.O.]

20 \*\*\*

21 MR. SUTER:

22 Further discussed in Executive Session  
23 were the following applications: Item  
24 No. 12 on the agenda, Kamaljeet Singh  
25 Kalsi, D.O. and Item No. 13, Jacob



1                   Michael Pennington, D.O.

2                   Based upon the discussions in  
3                   Executive Session, I understand the  
4                   Board would entertain a motion to  
5                   approve both of these applications.

6 DR. SWALLOW:

7                   So moved.

8 DR. POGGI:

9                   Second.

10 CHAIRMAN LITMAN:

11                   All in favor?

12 [The motion carried unanimously.]

13   \*\*\*

14 MR. SUTER:

15                   Further discussed in Executive Session  
16                   was Item No. 14, the Petition for  
17                   Exception of the COMPLEX Attempt Limit  
18                   Policy of Michael Duley.

19                   Based upon the discussions in  
20                   Executive Session, I understand the  
21                   Board would like to deny this  
22                   application.

23 DR. TURSI:

24                   So moved.

25 DR. POGGI:

1 Second.

2 CHAIRMAN LITMAN:

3 All in favor?

4 [The motion carried unanimously.]

5 \*\*\*

6 MR. SUTER:

7 Item No. 15, the Petition for Exception  
8 of the COMPLEX Attempt Limit Policy of  
9 Ashley Legg.

10 Based upon the discussions in  
11 Executive Session, I understand the  
12 Board would like to grant this  
13 exception.

14 DR. TURSI:

15 So moved.

16 DR. MARK:

17 Second.

18 CHAIRMAN LITMAN:

19 All in favor?

20 [The motion carried unanimously.]

21 \*\*\*

22 MR. SUTER:

23 Next in the discussions were all CME  
24 Waiver Requests of Asit P. Upadhyay,  
25 D.O.; Joshua A. Bloomberg, D.O.; Samira



1 [Chairman Litman thanked Board Counsel and  
2 Mr. Hollinger's department for all of their services.]

3 \*\*\*

4 Adjournment

5 CHAIRMAN LITMAN:

6 I make a motion to adjourn?

7 DR. POGGI:

8 So moved.

9 DR. SEID:

10 Second.

11 CHAIRMAN LITMAN:

12 Thank you.

13 [The motion carried unanimously.]

14 \*\*\*

15 [There being no further business, the State Board of  
16 Osteopathic Medicine Meeting adjourned at 11:45 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

October 24, 2018

TIME	AGENDA
9:30	Official Call to Order
9:30	Approval of Minutes
9:31	Report of Prosecutorial Division
9:38	Report of Regulatory Counsel
9:50	Report of Department of Health
10:39	Report of Deputy Commissioner
10:46	Recess
10:51	Return to Open Session
10:51	Executive Session
11:34	Return to Open Session
11:34	Motions
11:50	For the Board's Information/Discussion
11:45	Adjournment