



State of Arizona Naturopathic Physicians Medical Board

“Protecting the Public’s Health”

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Douglas A. Ducey – Governor

Dr. Bruce Sadilek, ND – Chair, Dr. Brian J. Popiel, ND – Vice Chair, Karen Tibbitts – Secretary/Treasurer

Diva Galan – Public Member, Vacant – Public Member

Dr. Tam Spat – Physician Member, Dr. Daniel Rubin – Physician Member

BOARD MEETING MINUTES

Thursday, October 10, 2019 • 12:30 p.m. • Board Room C

1740 W. Adams Phoenix, AZ 85007

1. CALL TO ORDER BY PRESIDING OFFICER

A. Roll call of Board members and establishment of a quorum to conduct meetings.

Dr. Sadilek called the meeting to order at 12: 36 p.m.

	VOTE	SADILEK Chair	POPIEL Vice Chair	TIBBITTS Sec. / Tres.	GALAN	Vacant	RUBIN	SPAT
Present	6	x	x	x	X via phone		x	x
Absent	0							
Vacant	1					x		

B. Acknowledgement of presence of Board staff and legal counsel.

Mr. Marc Harris, Assistant Attorney General

Ms. Gail Anthony, Executive Director

2. DECLARATIONS OF CONFLICTS OF INTEREST

Dr. Popiel recused from Agenda item 5 (C).

Dr. Rubin recused from Agenda item 6.

3. CIVILITY STATEMENT

Dr. Sadilek read the statement into the record.

4. CONSENT AGENDA – REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPROVAL OF THE FOLLOWING APPLICATIONS.

A. Naturopathic Medical License by Examination

Anglow, Daisey (temporary license issued in accordance with A.R.S. § 32-1522.01)
Carlblom, Bronwyn (temporary license issued in accordance with A.R.S. § 32-1522.01)
Cavanaugh, Shannon (temporary license issued in accordance with A.R.S. § 32-1522.01)
Chambers, Andrew (temporary license issued in accordance with A.R.S. § 32-1522.01)
Denzer, Dara (temporary license issued in accordance with A.R.S. § 32-1522.01)
Dugan, Carli (temporary license issued in accordance with A.R.S. § 32-1522.01)
Farrow, Bobi (temporary license issued in accordance with A.R.S. § 32-1522.01)
Fok, Katarina (temporary license issued in accordance with A.R.S. § 32-1522.01)
Gallegos Reichelt, David (temporary license issued in accordance with A.R.S. § 32-1522.01)
Garcia, Roxanna (temporary license issued in accordance with A.R.S. § 32-1522.01)
Gerstel, Johanne (temporary license issued in accordance with A.R.S. § 32-1522.01)
Golightly, Carleigh (temporary license issued in accordance with A.R.S. § 32-1522.01)
Houtan, Houtaneh (temporary license issued in accordance with A.R.S. § 32-1522.01)
January, Chelsea (temporary license issued in accordance with A.R.S. § 32-1522.01)
Lupo, Kelly (temporary license issued in accordance with A.R.S. § 32-1522.01)
Morris, Neil (temporary license issued in accordance with A.R.S. § 32-1522.01)
Murdoch, Jessica (temporary license issued in accordance with A.R.S. § 32-1522.01)
Myers, Kaitlyn (temporary license issued in accordance with A.R.S. § 32-1522.01)
Nelson, Erik (temporary license issued in accordance with A.R.S. § 32-1522.01)
Nelson, Michela (temporary license issued in accordance with A.R.S. § 32-1522.01)
Petersons, Amber (temporary license issued in accordance with A.R.S. § 32-1522.01)
Ramhit, Kashmeer (temporary license issued in accordance with A.R.S. § 32-1522.01)
Riley, Jade (temporary license issued in accordance with A.R.S. § 32-1522.01)
Roodvoets, Chelsea (temporary license issued in accordance with A.R.S. § 32-1522.01)
Royer, Lacey (temporary license issued in accordance with A.R.S. § 32-1522.01)
Scooler, Rosa-Elise (temporary license issued in accordance with A.R.S. § 32-1522.01)
Sharaf, Sydney (temporary license issued in accordance with A.R.S. § 32-1522.01)
Taylor, Sasha (temporary license issued in accordance with A.R.S. § 32-1522.01)
Vogler, Danielle (temporary license issued in accordance with A.R.S. § 32-1522.01)
Wilhelm, Tasmin (temporary license issued in accordance with A.R.S. § 32-1522.01)
Young, Aria (temporary license issued in accordance with A.R.S. § 32-1522.01)

B. Initial Certificate to Dispense

Gallegos Reichelt, David
Myers, Kaitlyn
Porter, Alexandra Marie
Roodvoets, Chelsea

C. Reinstatement Certificate to Dispense

Jackson, Janice
Lane, Kiera
Smithers, Jillian

D. Retire Naturopathic Medical License
O'Connell, Racheal

E. Initial Certificate to Engage in a Clinical Training Program
Saba, David

F. Renewal Certificate to Engage in a Clinical Training Program
Hart, Cynthia
Rebeyka, Alexis

G. Initial Certificate to Engage in a Preceptorship Training Program
Linneman, Kimberly

Consent Agenda Vote: Dr. Popiel made a motion to approved items 4 A-G. Seconded by Dr. Rubin. Motion Carried 6 Ayes, 1 Vacant.

	VOTE	SADILEK Chair	POPIEL Vice Chair	TIBBITTS Sec. / Tres.	GALAN	Vacant	RUBIN	SPAT
Yes	6	x	x	x	x		x	x
No	0							
Abstain	0							
Absent	0							
Recused	0							
Vacant	1					x		

5. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING THE FOLLOWING BOARD CASES.

A. Dr. Allison Pritchard, Case No. 20-130, Initial Review

Dr. Popiel made a motion to dismiss the case. Seconded by Dr. Rubin.
Motion Carried 6 Ayes, 1 Vacant.

B. Dr. Ty Tallman, Case No. 20-129, Initial Review

Dr. Tallman was present with Representing Attorney Ms. Brianna Jagelski.

Ms. Anthony summarized that on July 26, 2019 the State of Arizona Naturopathic Physicians Medical Board received a complaint by AG alleging respondent refused to supply medical records in a timely manner.

Dr. Tallman explained AG was referred to him by an attorney and that he provided a computerized neurocognitive assessment.

AG was present stating he had 3 neuro assessment from Dr. Tallman, after sustaining a concussion. That he received the results of the first two, but did not receive the results of the third one. AG stated he reached out to Dr. Tallman on several occasions email or text, but did not receive them. Ms. Tibbitts asked AG if he ever attempted to call Dr. Tallman, and he confirmed he had not.

Dr. Rubin confirmed with AG that he was being treated by several physicians during this time, one being a Dr. Robb, an Oto-Neurologist.

Dr. Tallman acknowledges a length of time did occur between the test and the report of the results to Dr. Robb. Dr. Tallman provided a signed letter by Dr. Robb, stating in part that the receipt of data from Dr. Tallman neither altered the diagnosis nor the pace of the treatment plan I recommended for (AG). Moreover, the date of receipt of clinical data from Dr. Tallman did not results in harm to my patient.

Dr. Rubin made a motion to dismiss the complaint. Seconded by Ms. Galan.

Roll Call: Dr. Rubin, Aye; Dr. Spat, Aye; Dr. Popiel, Aye; Dr. Sadilek, Aye; Ms. Tibbitts, Aye; Ms. Galan, Aye. Motion Carried 6 Ayes, 1 Vacant.

	VOTE	SADILEK Chair	POPIEL Vice Chair	TIBBITTS Sec. / Tres.	GALAN	Vacant	RUBIN	SPAT
Yes	6	x	x	x	x		x	x
No	0							
Abstain	0							
Absent	0							
Recused	0							
Vacant	1					x		

C. Dr. Jose, Ortiz, Case No. 19-128, Initial Review

Dr. Popiel recused.

12:40 p.m. Dr. Sadilek made a motion to go into Executive Session for Legal Advice. Seconded by Dr. Rubin. Motion Carried 5 Ayes, 1 Recused, 1 Vacant.

The Board returned to Open Session at 12:53 p.m.

Dr. Ortiz was present.

Ms. Anthony summarized that on July 15, 2019 the Board received a complaint by BT alleging Dr. Ortiz performed an out of scope procedure without a signed consent to treat form, failed to provide the appropriate compression garment post procedure, and the procedure left him in need of corrective surgery.

Dr. Ortiz stated he had been doing this procedure for 10 years and summarized his training, and that he trains other healthcare providers in the treatment. Dr. Ortiz stated on the date of the procedure, he was informed that BT had signed all the appropriate paperwork, and prepared BT for the procedure. After BT had taken medications in order to prepare him for the procedure, Dr. Ortiz was informed BT had not signed a consent to treat form. Dr. Ortiz stated he proceeded with the procedure because it had been rescheduled twice before, and did not have BT sign the consent to treat at that time, because he had been medicated. Dr. Ortiz pointed out that BT was in no way incapacitated, and chose to have to procedure performed. Post procedure, the compression garment ordered had not arrived, so BT was wrapped in an ace wrap which is customary for this type of procedure. He verbally followed up with BT two days post procedure and BT reported he was doing well. BT presented to his office for the scheduled follow up appointment which noted appropriate healing process and BT reported he was happy with the procedure. Dr. Ortiz left on a few days vacation,

during that time he did not have cell phone capabilities. Upon his return he was made aware BT was then unhappy, follow up appointments were offered, but that BT refused them.

Dr. Sadilek asked if a consultation was performed and if post procedure information was provided. Dr. Ortiz stated the consultation was performed by Mr. Pearson and post procedure instructions were provided verbally.

Dr. Rubin asked about the patient processes, and physical examination. Dr. Ortiz explained he was a subcontractor for a medspa owned by Mr. Skyler Pearson, that Mr. Pearson is a MedTech, performed the original consultation, and referred BT to him for the procedure. Dr. Ortiz stated prior to giving the medications to the patient, he performs a physical exam. In addressing the post procedure instruction, Dr. Ortiz stated he does have a post procedure packet of printed information which should have been provided to BT, but that Mr. Pearson failed to provide it.

Dr. Spat asked how long he had been doing this procedure and how long he had worked with Mr. Pearson. Dr. Ortiz stated he had been doing this procedure for 10 years, but had only worked as a subcontractor for Mr. Pearson since May 2019.

Dr. Rubin asked if specific certification was required in order to perform the procedure and who can perform it. Dr. Ortiz stated there is no specific certification required, and that you need to be a physician, nurse practitioner or PA, adding he has personally trained people in this procedure nationwide. Dr. Ortiz stated that the procedure is not as invasive as even a lipoma removal because you have to go deep and it requires sutures, and that this procedure does not require sutures.

BT was present and stating he presented for the procedure based on a Groupon ad, and that he was under the impression Dr. Ortiz was a plastic surgeon. BT stated he cancelled the second scheduled appointment because he had doubts about the doctors' qualifications, but decided to have it done.

Ms. Tibbitts pointed out that on the Groupon, it clearly states Naturopathic Physician, not plastic surgeon.

2:06 pm. Dr. Sadilek made a motion to go into Executive session for Legal advice.

Seconded by Ms. Tibbitts. Motion Carried 5 Ayes, 1 Recused, 1 Vacant.

2:14 pm Executive Session ended. The Board took a break.

3:06 pm. The Board returned to Open session.

Dr. Rubin stated he does not see an actual chart note, he sees a procedure note. The process seems disjointed and the physician does not have control over the situation. He performed the procedure without proper administrative preparation. Dr. Spat stated he has concerns regarding records and no consent to treat form, commenting everything needs to be recorded.

Dr. Sadilek, commented there are several issues, that one was there was no compression garment available, no post procedure documentation was provided, and seemed to be issues with communications.

3:15 pm. Dr. Sadilek made a motion to go into Executive Session for Legal Advice. Seconded by Ms. Tibbitts. Motion Carried 5 Ayes, 1 Recused, 1 Vacant.

3:37 pm The Board returned to Open session.

Dr. Rubin commented that records are kept so you can clearly tell what happened, and that he is unable to tell who did what. That the records are just sloppy.

Dr. Sadilek made a motion to issue a Letter of Concern for failure to keep adequate medical records and issue a non-disciplinary order for 12 hours of CME in the areas of medical charting and procedure process. The 12 hours are in addition to the 30 hours required each year for renewal, and are to be completed within 6 months of the execution date of the order.

Seconded by Ms. Tibbitts. Roll Call: Dr. Rubin, Nay; Dr. Spat, Aye; Dr. Sadilek, Aye; Ms. Tibbitts, Aye; Ms. Galan, Aye. Motion Carried 4 Ayes, 1 Nay, 1 Recused, 1 Vacant.

	VOTE	SADILEK Chair	POPIEL Vice Chair	TIBBITTS Sec. / Tres.	GALAN	Vacant	RUBIN	SPAT
Yes	4	x		x	x			x
No	1						x	
Abstain	0							
Absent	0							
Recused	1		x					
Vacant	1					x		

D. Dr. Ryan Ferchoff, Case No. 20-133, Initial Review

Dr. Ferchoff was present.

Ms. Anthony summarized on August 19, 2019, the Board received a complaint from JV, who alleges Dr. Tallman charged her for a wellness program she did not go through. That she was charged for a two week stay, but that she left early because the program was not what was advertised, and that the facility was filthy and unhealthy.

Dr. Ferchoff stated that the allegations are false. She enrolled in the program. She complained about the food during the time she was there. She complained to office staff she was used to going to more high-end retreats, and we did not cater to her comfort level of satisfaction. The website is clear on what we do and what we provide.

Dr. Popeil stated there was a question about the cleanliness around the IV's and asked where they are administered. Dr. Ferchoff stated there is a treatment room, there is a protocol regarding IV administration.

Dr. Sadilek asked about the treatments given there. Dr. Ferchoff explained nutritional IV's, nutritional supplements and diet.

Dr. Sadilek made a motion to dismiss the case. Seconded by Dr. Popiel.

Roll Call: Dr. Rubin, Aye; Dr. Spat, Aye; Dr. Popiel, Aye; Dr. Sadilek, Aye; Ms. Tibbitts, Aye; Ms. Galan, Aye. Motion Carried 6 Ayes, 1 Vacant.

	VOTE	SADILEK Chair	POPIEL Vice Chair	TIBBITTS Sec. / Tres.	GALAN	Vacant	RUBIN	SPAT
Yes	6	x	x	x	x		x	x
No	0							
Abstain	0							
Absent	0							
Recused	0							
Vacant	1					x		

6. CONSENT AGENDA VOTE. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING DRAFT MINUTES.

A. Draft Minutes of September 12, 2019 Regular Board Meeting.

B. Draft Minutes of September 12, 2019 Executive Session

Dr. Rubin recused. Dr. Popiel made a motion to approve the draft minutes.

Seconded by Dr. Sadilek. Motion carried 5 Ayes, 1 Recused, 1 Vacant.

7. REVIEW, CONSIDERATION, AND POSSIBLE ACTION REGARDING REQUEST FOR PROBATION TERMINATION AND REVIEW OF MEDICAL RECORDS, DR JORDAN KOPCIO, CONSENT AGREEMENT REGARDING BOARD CASE 15-025.

Dr. Kopcio was present.

Ms. Anthony summarized on October 13, 2016 Dr. Kopcio entered into a consent agreement for 3 years probation, practice restriction, 30 hours of additional CME and a \$3,000 Civil Penalty. As part of the agreement, records for three patients were subpoenaed. In review of the charts, they appear to meet the requirements for adequate medical records.

Dr. Popiel made a motion to grant the request for probation termination regarding case 15-025. Seconded by Dr. Rubin.

Roll Call: Dr. Rubin, Aye; Dr. Spat, Aye; Dr. Popiel, Aye; Dr. Sadilek, Aye; Ms. Tibbitts, Aye; Ms. Galan, Aye. Motion Carried 6 Ayes, 1 Vacant.

	VOTE	SADILEK Chair	POPIEL Vice Chair	TIBBITTS Sec. / Tres.	GALAN	Vacant	RUBIN	SPAT
Yes	6	x	x	x	x		x	x
No	0							
Abstain	0							
Absent	0							
Recused	0							

Vacant	1					x		
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8. REVIEW AND CONSIDERATION REGARDING CONSENT AGREEMENT AND ORDER FOR VOLUNTARY SURRENDER OF LICENSE, MARIE NIECHWIADOWICZ.

No Action required by the Board.

9. EXECUTIVE DIRECTOR'S REPORT

A. Budget

B. Current Licensee and Certificate Holder Numbers

C. Current Number of Board Cases under Investigation or Pending Before OAH

There were no questions by the Board. No Action required by the Board.

10. FUTURE AGENDA ITEMS

Review of language as it related to A.R.S. 32-1501 (28)

Review of H202 procedure.

11. CALL TO THE PUBLIC

None

13. ADJOURNMENT

The meeting was adjourned at 4:24 pm

Approved December 12, 2019