



**TENNESSEE BOARD OF OSTEOPATHIC EXAMINATIONS
Regular Board Meeting**

March 4, 2015

MINUTES

A regular meeting of the Tennessee Board of Osteopathic Examination was held in the Poplar Conference Room, at 665 Mainstream Drive, Nashville, TN 37243 on March 4, 2015.

Members Present: Donald H. Polk, D.O.
J. Michael Wieting, D.O.
Jeffrey L. Hamre, D.O.
Shant H. Garabedian, D.O.
Jan Day Zieren, D.O.
R. Fletcher Lance, Consumer Member

Members Absent: None

Staff Present: Candyce Waszmer, Administrator
Stacy Tarr, Administrative Manager
Maegan Carr Martin, Executive Director
Rene Saunders, MD, Medical Board Consultant
Francine Baca-Chavez, Deputy General Counsel

The necessary number of Board members joined the meeting and a quorum was established. Board of Osteopathic Examination Chair, Donald Polk, DO, called the meeting to order at 9:01 a.m.

Election of Officers

Pursuant to TENN. COMP. R. & REGS. 1050-02-.09, the Board must annually elect from its members a president, vice president and secretary.

Dr. Hamre made a motion to nominate Dr. Polk for chair and Dr. Wieting seconded the motion. The motion carried by unanimous vote.

Dr. Wieting made a motion to nominate Dr. Hamre for vice chair and Dr. Garabedian seconded the motion. The motion carried by unanimous vote.

Dr. Polk requested to no longer remain secretary. Dr. Zieren made a motion to nominate Dr. Wieting for secretary and Dr. Garabedian seconded the motion. The motion carried by unanimous vote.

Applicant Interview(s):

Bradley J. Goad, DO – Dr. Goad appeared before the Board to address his prior discipline. Dr. Goad was disciplined by the Virginia Board of Medicine after it was determined that he left signed, blank prescriptions on-site at a long term care facility. Following his Virginia Discipline, the North Carolina Board took reciprocal action. Dr. Goad explained the facts of his situation and answered questions regarding his future practice plans. He confirmed that his discipline was limited to a public reprimand; no penalties, suspensions or monitoring. The Board was interested in whether he intended to supervise APNs and/or PAs. Dr. Garabedian made a motion to grant Dr. Goad an unrestricted license. Dr. Hamre seconded the motion. The motion carried unanimously.

David E. Miller, DO – Dr. Miller appeared before the Board to address a prior arrest. Dr. Miller was arrested in 2010 for battery/touch or strike and disorderly intoxication. Dr. Miller explained the facts surrounding this arrest and the disposition of his case. Ultimately, Dr. Miller entered pre-trial diversion and the charges were nolle prosequi with completion of public service. At the conclusion of Dr. Miller's interview, Dr. Garabedian made a motion to grant Dr. Miller an unrestricted license. Dr. Hamre seconded the motion. The motion carried unanimously.

Dr. Jeffrey S. Reed, DO – Dr. Reed appeared before the Board to address his history of chemical dependency. Dr. Reed self-reported to the Georgia Medical Board in 2007 and ultimately entered treatment. After several relapses, Dr. Reed entered into a Public Consent Order placing his license on probation. The Board interviewed Dr. Reed regarding his length of sobriety, previous treatment and its effectiveness, and current mental health treatment. Dr. Reed probation was lifted in September 2014. Dr. Gray from TMF was present and concurred that Dr. Reed was already in contact with TMF to discuss future monitoring. Dr. Wieting made a motion to grant an unencumbered license contingent on informal monitoring through TMF as prescribed by the Georgia Board. Dr. Zieren seconded the motion. The motion carried unanimously.

Dr. Daniel B. Powers, DO – Dr. Powers appeared before the Board to address his indefinitely suspended Massachusetts license. Dr. Powers was disciplined for multiple boundaries violations involving at least one patient and members of his staff. Dr. Powers confirmed the suspension is still in effect and his petition to lift the suspension has been denied. At this point, he is uncertain of what recourse he may take to attempt to lift the suspension. The Board engaged in a discussion about the Board's history of not granting licensure until after other state Boards have resolved pending disciplinary issues. Ms. Martin addressed a newly identified file discrepancy regarding the final order from the Massachusetts Board which was not included in Dr. Powers' file. Dr. Wieting made a motion to table the application until more information from the Massachusetts Board is obtained for consideration at the next Board meeting on May 6th, 2015. Dr. Hamre seconded this motion. Dr. Garabedian abstained and the motion carried.

Minutes

Dr. Wieting made a motion to approve the minutes from the November 5, 2014 meeting of the Board and Dr. Hamre seconded the motion. The motion carried.

Dr. Wieting made a motion to approve the minutes from the November 25, 2014 special teleconference meeting of the Board and Dr. Hamre seconded the motion. The motion carried.

Dr. Wieting made a motion to approve the minutes from the December 5, 2014 special teleconference meeting of the Board and Dr. Hamre seconded the motion. The motion carried.

Review and Ratification of Licenses

Dr. Garabedian made a motion to ratify all new osteopathic physicians' licenses. Dr. Wieting seconded the motion. The motion carried.

Dr. Hamre made a motion to ratify all new osteopathic physicians' reinstatement of licenses. Dr. Garabedian seconded the motion. The motion carried.

Lapsed License

Ms. Baca-Chavez presented the proposed lapsed license policy to the Board. The Board does not currently have a policy in place. The policy presented was prepared so that it is consistent with the policy generally observed in the Division of Health Related Boards. After review and consideration of the document, Dr. Wieting made a motion to adopt the lapsed license policy and Dr. Zieren seconded the motion. The motion carried unanimously.

Dr. Saunders stated that she has been contacting licensees who are expired to notify them of their status in an effort to prevent licensees from working on a lapsed license. Ms. Martin stated that the administrative office is looking at technological innovations that may allow a second notice to be generated notifying licensees that their license is about to expire. A technological innovation is necessary because the Administrative Office does not have the resources to provide multiple updates to licensees regarding the status of their license. The Board discussed whether a single notification of an impending expiration was sufficient. Ms. Martin stated that a single notification is what is required pursuant to statute. Dr. Saunders added that it is the responsibility of the licensee to renew their license. After further discussion, Dr. Garabedian made a motion directing the administrative office to provide notice to licensees of their expired status so that they can renew within thirty days of their expiration with the payment of a late fee and submission of a renewal application. Dr. Zieren seconded the motion. The motion carried unanimously.

Agreed Citation(s)

Wendell B. Thomas, DO – Dr. Thomas's Agreed Citation was presented to the board by Ms. Baca-Chavez. Dr. Thomas applied for licensure reinstatement after his license recently expired. The administrative staff was alerted that Dr. Thomas had been working on a lapsed license after his reinstatement application was approved. Dr. Thomas was presented with an Agreed Citation that is congruent with the newly ratified Lapsed License policy. He was given notice that the Policy would be considered by the Board at its next meeting and given the option to agree to the terms of the citation or appear before the board on March 4, 2015. Dr. Thomas returned the signed Agreed Citation to the administrative staff prior to the Board meeting. Dr. Hamre made a motion to ratify Dr. Thomas' Agreed Citation and Dr. Wieting seconded the motion. The motion carried unanimously.

PICC Lines

Mary Katherine Bratton, Advisory Attorney for the Respiratory Care Board, presented a summary of the PICC Line discussions from the Respiratory Care Board meeting. Per her summary, the BME has expressed its opposition to the Respiratory Therapists inserting and placing PICC Lines on the record. In response to concerns raised by the BME and other stakeholders, the Respiratory Care Board has tabled the issue for further discussion. The Board engaged in a discussion regarding the training and scope of practice presently required and further needed training in order to insert/place PICC Lines. The Board requested to receive future reports.

Collaborative Pharmacy Practice Taskforce Report

Dr. Hamre provided an update on the Collaborative Pharmacy Practice Taskforce's deliberations. The Taskforce met on February 3rd, 2015. Dr. David Reagan, TDH Chief Medical Officer, BME representatives and BOE representatives were present. The group discussed "fine-tuning" the agreement terminology. The tenor of the meeting was much improved from the initial gathering. The Collaborative Pharmacy panel was set to meet March 3, 2015 but was postponed for a few weeks with the current rescheduled date unknown. Ms. Martin reported there is a draft that will be shared to panelists soon and per Dr. Polk's request, all members of the Board can be presented this draft for review. Dr. Polk discussed a separate meeting between the Tennessee Medical Association (TMA), Tennessee Pharmacy Association (TPA) and Tennessee Osteopathic Medical Association (TOMA). At that meeting, the associations acknowledged that TOMA had not been consulted on the legislative initiative, nor had the Board. Also at that meeting, Dr. Reagan acknowledged that progress may need to be slowed in order for there to be true collaboration.

Board of Medical Examiners' Deliberation on Telemedicine

Ms. Martin presented the Board with an update on the BME's telemedicine deliberations. Per her report, the BME now has a revised proposed rule and will be holding a notice of rulemaking hearing on Monday, March 16th, 2015. Ms. Martin noted that with this change, the BOE will be one of perhaps three regulatory Boards in the country that continue to issue a Telemedicine license. She urged the Board to consider whether it is time to consider revising its own regulatory scheme.

Board Compensation

Ms. Baca-Chavez reviewed her research regarding the Board's request to receive compensation for consultants' review of applications files. She addressed several options the Board could consider. The Board engaged in a discussion on the options. Ms. Martin and Ms. Baca-Chavez addressed the need to further research if the option of reviewing applications remotely is permissible by the Telework policy.

Ms. Martin requested the consent of the Board to grant permission for Dr. Zieren and Dr. Garabedian to begin reviewing applications. All Board members agreed this was appropriate and unanimously granted permission. To initiate the development of protocol for the application review process, there will be a thirty minute discussion with input from current reviewers at the next Board meeting on May 6, 2015.

AOA Certification changes pending

Ms. Martin reminded the Board that the transition to ACGME approval for all AMA and AOA programs is underway. Beginning this year, AOA programs will be able to apply for ACGME certification. Dr. Wieting stated that the AOA will continue to accredit post-graduate training programs until June 30, 2020 and there is a transition period that begins July 1, 2015. During the transition period, AOA accredited programs have the opportunity to apply for pre-accreditation, which will automatically be granted once the application is completed. Once pre-accreditation is achieved, a program can seek to apply for initial accreditation. Initial accreditation grants full ACGME accreditation. All AOA programs have to achieve initial accreditation by June 30, 2020. From a regulatory standpoint we will need to be cognizant of the fact that applicants are completing post graduate training programs within our rules. Ms. Martin stated that a rule change will have to take place to reflect this change; however, such change does not have to occur anytime soon.

Office of General Counsel

Per Francine Baca-Chavez, Dr. Bolton's case, from the November 2014 summary suspension, was scheduled to be heard today but opposing counsel filed a motion to continue. Opposing counsel's motion was not opposed, as there is currently a suspension in place which will continue until further action by the Board.

Ms. Baca-Chavez reported that the Board's disciplinary business includes one agreed order. Currently, the Office of General Counsel has twenty-one (21) cases open against seven (7) osteopathic physicians and no cases against midwives.

Ms. Baca-Chavez briefly discussed two cases for the information of the Board. The first case occurred in 2014 and dealt with the awarding of attorney's fees. A case was brought against four doctors by the Board of Medical Examiners, but ultimately dismissed by the Board. The attorneys for those doctors sought and were awarded attorney's fees. It was found that while the cases were brought in good faith, there weren't sufficient facts to warrant a case. Ms. Baca-Chavez also provided a summary of the recently issued *North Carolina Board of Dental Examiners v. Federal Trade Commission*. In that case, the Supreme Court held that when there is a controlling number of decision makers on a state licensing board who are active participants in the occupation the board regulates, the board can invoke state-action immunity only if it is subject to active supervision by the state.

Ms. Baca-Chavez discussed current bills which are pending before the legislature. Dr. Wieting inquired for more data on the Senate Bill 680 / House Bill 456, which would 1) change the title of advanced practice nurses to advance practice registered nurses; 2) change references to credentials from certificates to licenses; 3) etc.

Agreed Order – Mr. Marc Guilford, Assistant General Counsel, summarized the Armadeep Reddy Agreed Order which alleged that Dr. Reddy wrote eleven (11) prescriptions to a non-patient he was dating without keeping adequate medical records and while the patient was under the simultaneous care of a psychiatrist. These incidents occurred in a single year period. The order presented offers a reprimand of Dr. Reddy's license and the following requirements: Dr. Reddy must complete a course on medical record keeping and a course on controlled substance prescribing and he must pay all costs of the case. The Board engaged in a discussion on the order and requirements of reporting the

reprimand. Dr. Garabedian motioned to approve the agreed order as written and Dr. Zieren seconded the motion. This motion passed unanimously.

Manager's Report

Ms. Stacy Tarr provided the following statistical information: between November 1, 2014 and February 28, 2015 there were sixty-two (62) new osteopathic physician applications received, one (1) new osteopathic physician x-ray application received, fifty-six (56) new licenses issued and three (3) reinstatements. Of the 159 renewals processed during that time, one hundred and twenty (120) were completed online, bringing the online renewal percentage to 75% for the Board. The total number of active osteopathic licensees at the end of February 28, 2015 is 1,186. There were forty-four (44) active midwives and eleven (11) osteopathic x-ray operators as of this date.

Office of Investigations

Nichelle Dorroh informed the Board that there are six (6) open complaints against osteopathic physicians in the Office of Investigations and one is ready for a second review. This review will take place March 11, 2015.

Disciplinary Coordinator

Ms. Dorroh directed the Board to the list of individuals currently being monitored by the office of investigations. The Board had no questions or discussion.

Division of Health Licensure and Regulation

Ms. Martin confirmed the Division of Health Licensure and Regulation had no reports for the Board.

Other Board Business and Discussions

The Board discussed sponsoring Francine Baca-Chavez to attend the Federation of State Medical Boards (FSMB) Annual Meeting. Dr. Wieting motioned to approve sponsorship for Ms. Baca-Chavez, legal counsel, to attend the FSMB meeting and Dr. Zieren seconded the motion. The motion passed unanimously.

The meeting adjourned at 1:06 pm.

These minutes were ratified by the Board of Osteopathic Examination on May 6, 2015.