



**Tennessee Board of Osteopathic Examination
Regular Board Meeting**

Wednesday, May 1, 2019

MINUTES

The regular meeting of the Tennessee Board of Osteopathic Examination (hereinafter, “the Board”) was called to order at 9:00 a.m. in the Poplar Room Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Michael Wieting.

Members Present: Dr. Michael Wieting, D.O.
Dr. Jan Zieren, DO
Dr. Jeffrey Hamre, D.O.
Dr. Shant Garabedian, D.O.
Ms. Penny Judd, Consumer Member
Dr. Shannon Kilkelly, D.O.

Staff Present: Rene Saunders, MD, Medical Consultant
Angela Lawrence, Director
Candyce Wilson, Administrative Director
Stacy Tarr, Administrative Director
Brandi Allocco, Board Administrator
Frances Baca-Chavez, Office of General Counsel

APPROVAL OF MINUTES

The Board reviewed the minutes from the March 6, 2019 regular meeting. Dr. Shant Garabedian made a motion to approve the minutes. Dr. Jeffrey Hamre seconded the motion. The motion passed.

The Board reviewed the minutes from the November 15, 2019 Informed Consent Taskforce Meeting. Dr. Hamre made a motion to approve the minutes. Dr. Garabedian seconded the motion. The motion passed.

APPLICANT INTERVIEWS

Dr. Eric Groen-Dr. Groen appeared without counsel. Dr. Groen was invited to appear to discuss voluntary suspension of license during residency. Dr. Groen explained he voluntarily suspended his license due to substance abuse issues. Dr. Groen sought treatment and entered into a five (5) year monitoring agreement which was completed. Dr. Michael Baron with Tennessee Medical Foundation (hereinafter "TMF") informed the Board Dr. Groen had contacted TMF and documents had been requested, however not yet received. Dr. Shannon Kilkelly made a motion to approve the license contingent upon of TMF evaluation, if the evaluation should require monitoring, maintaining a monitoring agreement would become a condition on the license. Ms. Penny Judd seconded. Dr. Baron explained to the Board that a triage assessment can be done to determine if a full evaluation is necessary. Dr. Kilkelly withdrew his original motion after Dr. Baron's clarification of triage assessment and evaluation. Dr. Kilkelly made a motion to approve the license contingent upon a TMF triage assessment and letter of findings by TMF which Dr. Kilkelly will review. Should the letter reveal indication of needed monitoring or negative findings Dr. Groen will be asked to appear at a subsequent Board meeting to discuss. Dr. Jan Zieren seconded. The motion passed.

Dr. Darlene Jones-Dr Jones appeared without counsel. Dr. Jones was invited to appear to discuss previous disciplinary action in the states of Maryland, Michigan and Utah and failure to disclose those issues. Dr. Jones reported staff for the position she was obtaining in Utah completed her application for temporary and permanent licensure. Dr. Jones stated she was unaware of a misdemeanor on her record for writing bad checks in 2000. She applied for licensure in Utah in 2007. Dr. Jones stated her temporary license was denied due to an incomplete and incorrect application. Dr. Jones then stated she was asked to appear before the Utah Board to discuss her application for a permanent license. Dr. Jones stated they offered her a limited license because she was not Board Certified but that she no longer needed the license as the fellowship was no longer available so Utah told her to withdraw the application. Dr. Jones stated she never knew this was a problem. Dr. Jones then stated she applied for a Maryland license and was unclear about the application as part of it was written in Latin and so she neglected to report the Utah discipline and was asked to appear before the Maryland Board. Dr. Jones did receive a Maryland license. Dr. Jones reported Michigan sanctioned her for failure to report the Maryland action. Dr. Jones was asked why she failed to report all licenses held on her current Tennessee application to which she replied she had forgot about the Arizona license and she had just received the South Carolina license. The Board pointed out several inconsistencies in the submitted application concerning dates regarding the bad checks and employment history including omitted dates. Dr. Jones reported she attended a class and the misdemeanor was dismissed so she had forgotten. Dr. Jones reported she does not have an encumbered license in any state. The Board discussed how difficult it was to review the application as information was omitted, inconsistent and not presented correctly. Dr. Zieren made a motion to table the application for three (3) months so Dr. Jones may submit a correctly completed, organized application with all supporting documents. Dr. Hamre seconded. The motion passed.

Dr. John Murphy-Dr. Murphy appeared with attorney Alex Fischer. Dr. Murphy was invited to appear to discuss previous malpractice settlements for which documentation was not submitted. Dr. Murphy reported he was the medical director for a methadone clinic in 2006 responsible for treating five hundred (500) patients. A patient requested an increase in methadone and Dr. Murphy stated it was clear the patient was fearful of a relapse and having cravings. Dr. Murphy said the policy at the time was to send a

letter to anyone prescribing benzodiazepine informing the prescribers the patient is on methadone and the risk of adding benzodiazepines. Dr. Murphy checked and the letter had gone out. Dr. Murphy increased the patient's dose by 10 milligrams and stated a week later the patient was found deceased. The autopsy report revealed both methadone and benzodiazepine were in his blood. The lawsuit was dismissed and Dr. Murphy's lawyer settled out of court. The National Practitioner Data Bank report was reviewed by the Board regarding this case and there were no further questions. Dr. Murphy reported in 2010 he was working as staff physician in a hospital handling detoxification from opiates and alcohol. A patient was admitted with a blood alcohol level of .507 and was intubated to protect her airway and treated her for acute bronchitis. Four (4) days later after completing detoxification the patient was transferred to rehab in the same hospital. Dr. Murphy was on call two (2) to three (3) days later and the patient's roommate called 911 to report the patient was short of breath. Dr. Murphy stated when he received a phone call that the patient was short of breath he immediately ordered transfer to St. Vincent hospital. Dr. Murphy reported this was settled for one hundred twenty five thousand dollars (125,000) to avoid the cost of a trial. There were no questions from the Board regarding this settlement. Dr. Murphy shared with the Board his practice has evolved over the past thirteen (13) years and he no longer prescribes methadone and his intended practice is in Knoxville providing detox from alcohol and opiates and outpatient work with a suboxone taper. Dr. Murphy reported he is Board certified by American Board of Addiction Medicine. Dr. Kilkelly made a motion to grant Dr. Murphy a license. Dr. Hamre seconded. Dr. Garabedian abstained. The motion passed.

Lisa Coomer-Ms. Coomer appeared without counsel. Ms. Coomer was invited to appear to discuss working on a lapsed license as a Certified Professional Midwife (hereinafter "CPM"). Ms. Coomer reported she submitted her renewal application in April 2018 and she left the state and returned in December 2018, checked the status of her license and her license has not been renewed. Ms. Coomer then spoke with the Board Administrator and was told she had to submit a reinstatement application and then in March was told due to Statute she would have to complete and submit the initial application. Ms. Coomer appeared in front of the Midwifery Council in April where they agreed to grant her license. Ms. Coomer practiced in January, February and March. Administrative staff shared that the license was granted by the Midwifery Council without penalty as there is not a current policy in place. The Board asked Ms. Coomer if she had delivered patients during the time of her lapsed license which she reported she had. The Board asked Ms. Coomer if her collaborating physicians were aware of the lapsed license to which Ms. Coomer reported they did not. Ms. Baca-Chavez informed the Board to deny a license it must be found that the applicant did not comply with the standard set forth in the Midwifery statute, which does not apply in this situation. Dr. Garabedian made a motion to approve the license based on the Midwifery Council recommendation. Dr. Zieren seconded. Dr. Hamre and Dr. Kilkelly abstained. The motion passed.

PRESENTATION BY DR. MITCHELL MUTTER-CHRONIC PAIN GUIDELINES

Dr. Mutter presented the changes made for the third edition of the Chronic Pain Guidelines. Changes made to the following:

- New Introduction
- Statement added regarding Methadone
- Core Competencies

- TN Together
- Updates to reporting to the CSMD and Safety Net
- Deleted table of frequently prescribed pain medicines
- Acute Pain Guidelines
- Perioperative Pain Management
- Pediatric Pain
- New Definitions for MAT, and Palliative Care

Dr. Hamre made a motion to approve the third edition of the Chronic Pain Guidelines as policy. Dr. Garabedian seconded. The motion passed.

CONDUCT NEW BUSINESS

Ratification of New Licensees and Reinstatements

Dr. Garabedian made a motion to approve the list for licensure as presented. Dr. Hamre seconded. The motion passed.

Discuss and Consider Buprenorphine Guidelines

Dr. Wesley Geminn, Chief Pharmacy Officer and State Opioid Treatment Authority with the Department of Mental Health and Substance Abuse Services. Public Chapter 978 required a revision of the Buprenorphine Guidelines to include language requiring the provider to lead a discussion with the patient surrounding readiness to taper off the medication. The update states no later than the first year and every six (6) months thereafter, the provider has to lead this discussion with the patient or at the request of the patient. Dr. Zieren made a motion to accept the Guidelines. Ms. Judd seconded. The motion passed.

Discuss and Consider Midwifery Rule Changes

Ms. Kyonzté Hughes-Toombs presented the proposed rule changes approved by the Midwifery Council. Ms. Baca-Chavez asked for an edit to Osteopathic Examiners Board to Board of Osteopathic Examination. Dr. Hamre discussed that he understood the language was to include a written agreement between the Collaborating Physician and the Midwife, not an oral agreement. Ms. Hughes-Toombs agreed that it was to be a written agreement not written or oral. Ms. Hughes-Toombs clarified the language to be a written agreement between the CPM and the physician with whom they have a collaborative care plan in which both parties agree to discuss the care of the Midwives client. Ms. Hughes-Toombs conveyed the concerns of CPMs and having a written agreement is physicians are hesitant as CPMs are not covered by insurance and the physician does not want to jeopardize insurance. Dr. Hamre stated for the record that the collaborating physician, by definition, does not have to have any expertise in obstetrics. Ms. Baca-Chavez referred to Statute 63-29-107 which states that Council is to assist the Board, so the Board is the ultimate authority in determining the rules. It was stated that for the safety of the patients and consistency the agreement should be written. Dr. Zieren made a motion to approve the proposed rule change with the editorial change in point seven (7) to correct the name of the Board and in point four (4) the agreement must be written. Dr. Garabedian seconded. The motion passed.

Ms. Penny Judd Reported on the Interstate Medical Licensure Compact Commission (hereinafter “IMLCC”)

Ms. Judd reported the Committee approved the budget for 2020 and a lengthy discussion took place around technology which is the bulk of the budget next year. Ms. Judd also reported there is a legal matter with the Compact in South Dakota regarding expedited licensure, noting when states participate in the compact the rules must be followed regarding expedited licensure and states may after issuing the license pursue any legal or other issues. Ms. Judd stated there are currently twenty-nine (29) states participating in the IMLCC.

DEPARTMENTAL REPORTS

Investigations

Ms. Lori Leonard presented to the Board:

Currently Monitored Practitioners

- 3 for Reprimand
- 6 on Probation
- 3 on Suspension
- 1 Revoked/Surrendered

Investigations for 2019

- 26 New Opened Complaints:
 - 4 Action in Another State
 - 6 Malpractice
 - 10 Unprofessional Conduct
 - 2 Overprescribing
 - 1 Consumer Right to Know
 - 1 Prescribing to Friends/Family
 - 2 Outside of the Scope of Investigations

19 Closed Complaints

- 1 Insufficient Evidence to Discipline
- 5 Closed in Investigations and Sent to OGC
- 9 Closed with No Action
- 4 Closed with a Letter of Warning

Managers’ Report

Ms. Stacy Tarr present to the Board:

- 49 New Applications
- 0 DO X-ray Operator Applications
- 43 New License Issued
- 3 Compact License Issued
- 0 Reinstatements

135 Renewals - 97 were renewed online
There are currently 1,725 licensees of which 1,096 have Tennessee mailing address

28 Telemedicine License
15 DO X-ray Operators
52 Midwives

CONSENT ORDER-DR. GREGORY NORWOOD

Ms. Jennifer Puttman presented the Consent Order to the Board. No Board members had a conflict of interest. Ms. Puttman reviewed the Stipulations of Fact-In September of 2018 the respondent had his license temporarily suspended by the Mississippi Medical Board for sexual misconduct involving four (4) patients. Two (2) weeks later the respondent voluntarily entered into a consent order that suspended his license indefinitely pending the conclusion of the investigation. The consent order presented to the Board is the respondent agreement to voluntarily surrender his Tennessee license. It was stated Dr. Norwood would be assessed the cost and reported to the National Practitioners Data Bank. Dr. Zieren made a motion to approve the consent order. Dr. Hamre seconded. The motion passed.

Office of General Counsel Report

The Office of General Counsel report was presented by Ms. Baca-Chavez:

There are twenty-eight (28) open litigation cases against nine (9) Osteopathic Physicians. Twenty-three (23) of the twenty-eight (28) are involving allegations of over-prescribing. There are four (4) open cases against Midwives.

Ms. Baca-Chavez shared with the Board the permanent rule making hearing took place regarding the Opioid Minimum Disciplinary rules comprised by the taskforce. She reported the rules are now at the Attorney General's office and will be sent to the Secretary of States office until they become effective and the rule can be found in the Board of Osteopathic Examination Rules at 1050-02-.23.

Ms. Baca-Chavez shared with the Board the following legislation:

House Bill 0783 – a medical student in good academic standing with an accredited medical college in this state to receive priority consideration over a medical student attending medical college outside of the state in the process of assigning clinical rotations in a medical facility. The bill has been deferred to a summer study in the higher education committee. It was discussed if wording was included to say Osteopathy as it could present discrimination if it is not included and asked if the Board should draft a statement to the Health Committee to remind them to include Osteopathic when referring to physicians. Ms. Baca-Chavez stated she could relay the message to the Legislative liaison that could then pass on the information.

House Bill 0810-This Bill is dead for this legislative session.

House Bill 1377-This Bill is also dead for this legislative session.

Ms. Baca-Chavez reviewed the rules of a screening panel with the Board.

Ms. Baca-Chavez provided an update to the Board regarding the Federation of State Medical Boards conference.

Ms. Baca-Chavez requested the Board sponsor an attorney to attend the Federation of Association for Regulatory Boards (hereinafter “FARB”) Conference October 3-6, 2019. FARB is geared towards attorneys that work in similar practice areas and the cost would be approximately two thousand five-hundred dollars (\$2,500). Dr. Garabedian made a motion to sponsor an attorney to attend FARB. Dr. Kilkelly seconded the motion. The motion passed.

Dr. Wieting provided an update to the Board regarding the American Association of Osteopathic Examiners meeting that took place during the FSMB conference. Things discussed were:

- Significant increase in terms of scope of practice issue related legislation
- One state permits Naturopathic physicians to practice primary care independently with the exception of controlled substance prescribing
- Expanding the scope of practice for Physician Assistants and Nurse Practitioners
- Received a report from International Association of Medical Regulatory Authorities (hereinafter “IAMRA”) and as a result of their efforts and the Osteopathic profession U.S. trained DOs are able to be licensed in twenty (20) nations in Africa that had previously not granted licenses and they are targeting other countries to get the same unrestricted license.
- Potential outcomes of the commercial marijuana and how that may impact patient care and addiction issues.

Meeting Adjourned at 12:19 pm