



**TENNESSEE BOARD OF
PHYSICIAN ASSISTANTS
REGULAR BOARD MEETING**

October 1, 2021

MINUTES

The regular meeting of the Tennessee Board of Physician Assistants (hereinafter, “the Board”) was called to order on October 1, 2021 at 9:00 a.m. in the Iris Room, Ground Floor, MetroCenter Complex, 665 Mainstream Drive Nashville, TN 37243 by Bret Reeves.

Board Members Present: Bret Reeves, PA-C
 Barbara Thornton, Consumer Member
 Marie Patterson, PA-C
 Christina Free, PA-C

Board Members Absent: Gregory Cain, PA
 Donna Lynch, PA

Staff Present: Angela Lawrence, Executive Director
 Stacy Tarr, Executive Administrator
 Candyce Wilson, Executive Administrator
 Tracy Alcock, Senior Associate General Counsel
 Courtney Lilly, Disciplinary Coordinator
 Alicia Grice, HRB Finance Division

Ms. Angela Lawrence made opening remarks and provided an overview of the requirements for the PA Board meeting. All the requirements were not satisfied to conduct such meeting; however, the Board may vote on a disciplinary matter, include discussions, and not vote on any other matter. Roll call was taken.

Discuss Legislation

Ms. Alcock reviewed the new legislative update as follows:

Public Chapter 7-This act extends the committee of physician assistants to June 30, 2026. The act took effect March 23, 2021.

Public Chapter 37-This act prohibits agencies subject to sunset review from promulgating rules or adopting policies to exempt members solely by virtue of their status as members. This act took effect March 23, 2021.

Public Chapter 106-This act revises existing powers granted to county boards of health as well as county health departments. Specifically, it prohibits both county boards of health as well as health departments from prohibiting or regulating agriculture. This act took effect April 7, 2021.

Public Chapter 136-This act was one of the Department of Health's legislative initiatives, relative to the Controlled Substance Monitoring Database (CSMD). First, the act authorizes the state's chief medical examiner, or county medical examiner, to allow designees to approve death investigations. Next, this act allows deidentified CSMD data, rather than only aggregate, to be shared, with the intent of improving information access. Additionally, this act allows for CSMD data to be shared with additional state, county, or federal agencies outside of Tennessee. Lastly, this act decreases the quorum requirements of the CSMD committee by one member, but still have a majority of members present to conduct regular committee business (6). This act took effect April 13, 2021.

Public Chapter 153-This act creates a new definition of "store-and-forward telemedicine services" to include the use of asynchronous computer-based communications between the healthcare provider and the patient for the purpose of diagnoses, consultation, or treatment of a patient at a distant site where there may be no in-person exchange. This act took effect April 13, 2021.

Public Chapter 179-This act authorizes unlicensed graduates of certain medical training programs to provide telehealth services, provided they maintain the same existing standards for telehealth that licensed providers must meet. This act took effect April 20, 2021.

Public Chapter 230-This act revises the definition of marijuana to clarify that it does not include a product approved as a prescription by the Food and Drug Administration (FDA). This act took effect April 22, 2021.

Public Chapter 242-This act authorizes records custodians to petition a court for injunctive relief from individuals making frequent public records requests with the intent of disrupting government operations, following a fifth (5th) public records request. A records custodian can only petition a court if they notify the person in writing stating the specific conduct may constitute intent to disrupt government operations, and that the person continues to do so. The individual upon a court enjoinder would not be able to

make public requests at the agency for up to one (1) year. This chapter took effect April 28th, 2021 and will sunset July 1, 2025.

Public Chapter 259-This act establishes requirements for a healthcare provider to follow when either an inpatient in a health care facility, or someone who is seeking services in an emergency department, expresses to the provider recent threat or attempt at suicide or infliction of bodily harm to themselves. In this scenario, the healthcare provider shall enter the attempt or threat into the patient's medical record. Upon discharge from the facility, the facility shall provide the patient with contact information to access a qualified mental health professional or counseling resource unless the patient is discharged to another facility. This referral requirement can be satisfied by providing contact information for this state's mobile crisis services or the statewide crisis hotline. Lastly, the act states that a healthcare provider who violates this section is subject to discipline by the licensing authority. This act took effect July 1, 2021.

Public Chapter 291-This act requires the attorney general and reporter to not approve an emergency rule if the emergency rule does not meet the statutory criteria for adoption of the rule. This act took effect July 1, 2021.

Public Chapter 328-This act requires that starting December 1, 2023, state agencies submit a report of their effective rules to the chairs of the government operations committee every eight (8) years. The report is required to include a brief description of the department's operations that each chapter affects, as well as each rule and its administrative history, which would include the original promulgated date and the dates the rule was last amended, if applicable. Additionally, the report would include a determination of each rule on whether it adheres to current state or federal law or court rulings, should be amended or repealed, reviewed further, or continue in effect without amendment. Lastly, if there are any intentionally false statements in the report, the government operations committee would have the ability to vote to request the general assembly to remove a rule or suspend the department's rulemaking authority for any reasonable period of time. This act took effect July 1, 2021.

Public Chapter 348-This act requires fetal remains from a surgical abortion to be disposed of solely by burial or cremation. Under this act, an abortion facility is defined as any ASTC, private office, or other facility as defined by TCA 68-11-201 in which abortions are induced or performed. The act does not include hospitals licensed under Title 68 as long as the hospital policies and regulations concerning disposal of fetal remains substantially complies with the requirements of this act. A pregnant woman who has a surgical abortion has the right to choose burial or cremation of the fetal remains as well as the location for the final disposition. The woman is to be provided with forms created by the Department of Health informing her of that right and selecting the means and location. If the woman does not wish to exercise this right, the abortion facility shall determine whether disposition is by cremation or interment. The act also establishes a variety of record keeping requirements on the facility. This act took effect on May 6, 2021 for rulemaking purposes. The rest of the public chapter takes effect July 1, 2021.

Public Chapter 357-This act authorizes an exception to existing telehealth requirements governing healthcare providers in Tennessee. In doing so, it allows individuals licensed in another state to practice telehealth in Tennessee while providing healthcare services on a volunteer basis through a free clinic. This act took effect May 11, 2021.

Public Chapter 362-This act is known as the “Jim Coley” Protection for Rape Survivors Act,” and revises existing provisions relative to the protocol for forensic medical examinations of victims of sexually oriented crimes. It requires healthcare providers to notify law enforcement that an evidence collection kit is ready for release within 24 hours of concluding the examination. It also requires law enforcement to pick up the kit for storage or transmission within 48 hours of being notified and revises the storage requirements for maintaining records of the kits. Lastly, in the event that a victim elects not to report the alleged offense to police at the time of examination, the collection kit becomes a hold kit and the healthcare provider is required to assign a number to identify the kit rather than using the victim’s name. This act partly took effect May 11, 2021, but not for TDH concerns. The rest of the act took effect July 1, 2021.

Public Chapter 453-This act requires public or private entities or businesses that operate a building open to the general public o post signage regarding public restroom access in certain situations. Specifically, this applies to entities or businesses that have restroom policies allowing either biological sex to use any public restroom within their building. The act includes requirements for language, size, location, and even color for the signage. The act excludes unisex, single occupant restrooms or family restrooms intended for use by either sex. This act took effect July 1, 2021.

Public Chapter 460-This acts specifies that standard medical practice does not involve prescribing hormone treatment for gender dysphoric or gender incongruent prepubertal minors. Additionally, this act prohibits a healthcare prescriber from prescribing a course of treatment that involves hormone treatment therapy for gender dysphoric or gender incongruent prepubertal minors, except when prescribing a course of treatment for diagnoses of growth deficiencies or other diagnoses unrelated to gender dysphoria or gender incongruency. This act took effect May 18, 2021.

Public Chapter 461-This act requires TDH licensing authorities, upon learning a healthcare prescriber was indicted of certain criminal offenses (controlled substance violations or sexual offenses), to automatically restrict the prescriber’s ability to prescribe Schedule I controlled substances until the case reaches a final disposition. The restriction shall be removed upon sufficient proof of acquittal or dismissal/nolle prosequi. The act further requires licensing authorities to automatically revoke the license of a practitioner that is convicted of those same criminal offenses. A new license shall be granted if the conviction is overturned or reversed (but shall be restricted related to prescribing if the case has not reached final disposition). In addition, the act requires the licensing authority to suspend the license of midlevel practitioner (APRN/PA) upon finding the healthcare professional failed to comply with physician collaboration requirements. Finally, this act requires facility administrators to report

certain disciplinary actions concerning licensed personnel to the professionals' respective boards. This act took effect May 18, 2021.

Public Chapter 513-This act prohibits the Governor from issuing an executive order and a state agency, department or political subdivision from promulgating, adopting, or enforcing an ordinance or resolution that requires a person to receive an immunization, vaccination, or injection for the SARS-CoV-2 virus or any variant of the SARS-CoV-2 virus. It also deletes the previous override during an epidemic or immediate threat of an epidemic of an objection against vaccination that was made on the basis of religious tenets. The law prohibits requiring the COVID-19 vaccine to attend k-12 schools. The prohibition against requiring vaccines does not apply to governmental entities subject to federal or state statute or rule that prohibits the entity from requiring medical treatment for those who object on religious grounds or right of conscience. The law also does not apply to students of a public institution of higher education delivering healthcare services when the student is participating in/fulfilling requirements of a program in medicine, dentistry, pharmacy, or another healthcare profession. This act took effect May 25, 2021.

Public Chapter 531-This act limits an agency's authority to promulgate rules without a public hearing. There are exceptions to the public hearing requirement. These exceptions include emergency rules, rules that are no substantive modifications to existing rules (like clerical updates), rules that repeal existing rule, or rules that eliminate or reduce a fee described by an existing rule. This act took effect July 1, 2021.

Public Chapter 532-This act authorizes the joint government operations committee to stay an agency's rule from going into effect for a period of time not to exceed ninety (90) days. If the government operations committee determines that subsequent stays are necessary, then the joint committee may issue consecutive stays, each for an additional ninety (90) day period, so long as such stays do not extend beyond the fifth legislative day of the year following the year in which the rule is filed with the secretary of state. The initial stay may be done by either the house or senate government operations committee, but subsequent stays must be by agreement by the committees of both chambers. A stay is effective when the respective committee files written notice with the secretary of state, and the respective committee shall specify the length of effectiveness of the stay. This act took effect May 25, 2021.

Public Chapter 565-This act transitions the Committee on Physician Assistants under the Board of Medical Examiners to an independent Board of Physician Assistants. The board will receive its transferred rules from the Secretary of State's office from its original committee and those will have full force and effect while new rules are drafted and adopted. The new board will consist of nine members appointed by the Governor. The board will have a sunset date of June 30, 2024. This act took effect May 26, 2021.

Public Chapter 577-This public chapter establishes the medical cannabis commission which is administratively attached to the department of health for purposes of budgeting, audit, use of IT systems, HR support, clerical assistance, and administrative support.

The commission is composed of 9 members. The Governor appoints 3 members (1 from each grand division), the Lt. Governor appoints 3 members (1 must be a physician and 1 a pharmacist), and the Speaker of the House appoints 3 members (1 must be a physician and 1 a pharmacist). The commission must be impaneled and hold its first meeting by October 1, 2021. The commission is required to meet at least once every two months prior to March 2023. The commission shall appoint an executive director. The commission is to examine federal laws and other states' laws regarding medical use of cannabis, including issues relating to patient qualification, patient registration, role of practitioners in recommending/prescribing, establishing guidelines for acceptable medical uses, development of a standard of care, etc. This act took effect May 27, 2021.

Discuss Rule Making Hearings, Rule Amendments, and Policy Statements

Discuss Continuing Education Policy

Ms. Alcock discussed the CME policy to the Board and wanted to check with the board to see if they would like additional changes.

Ms. Alcock spoke about the high prescriber's policy and brought that information to the Board.

Ms. Wilson informed the Board of the CME audit that is currently in place and the Board may discuss, however may not vote on due to not establishing a quorum. Discussion was held by the Board of the processes within the audit structure.

Ms. Alcock informed the Board of the Executive Order 83, which outlines the ability to give licensure to an applicant without demonstrating competency during the ongoing Covid-19 pandemic.

Discuss New Business

Ms. Lawrence informed the Board that we no longer have a consultant, therefore no one to review applicant files in the final review phase. Ms. Patterson and Ms. Free advised they would volunteer to review the applications in the final phase of processing and will review files going forward. Board members may outsource the task at a later date.

Mr. Reeves outlined the task of contributing to the Controlled Substance Committee and Ms. Patterson advised that she will be available if needed to maintain a presence during those sessions.

Update from the Tennessee Medical Foundation

Ms. Hooper (Case Manager) presented information and presentation from the TMF. Information reviewed was the quality of members who worked in the role of program director in the years past as well as other individuals who worked with practitioners to maintain a healthy lifestyle so they may have successful careers. Physicians under a monitoring contract include two hundred and twenty-two (222). Since the year 2000, TMF has assisted 2,589 physicians in Tennessee. Ms. Hooper outlined the safe haven clause, which includes information to decrease the stigma of mental health issues and obtain assistance if needed.

Ms. Webb (Case Manager) was present and spoke on behalf of the TMF who outlined the confidential tract of services they provide in the State of Tennessee. Ms. Webb wanted to provide outreach for practitioners.

Ms. Williamson (Development Assistant) presented information that may be helpful to practitioners. Many practitioners have used the link provided from TMF for the services rendered which includes taking the TN Professional Screening Questionnaire. As of September 30, 2021, three hundred ninety-five (395) practitioners have used the link for services. Out of this group, seventy-three (73) individuals, or 18%, were screened and considered tier 1A, which is a high/severe distress including suicidal thoughts or ideation. One hundred thirty-eight (138) or 35% were tier 1B which includes high/severe distress with no suicidal ideation. TMF has received great feedback from healthcare providers who use their services.

DEPARTMENTAL REPORTS

Receive reports and/or requests from the Office of Investigations

Ms. Lilly began with the currently monitored practitioners report, citing that twenty-three (23) physician assistants are currently being monitored.

Ms. Lilly advised the Board of the Investigative Reports as of mid FY 2021 in which thirty-three (33) new open complaints have been filed. Of those complaints, one (1) for falsification of records, one (1) for sexual misconduct, two (2) for action in another state, twenty-one (21) for unprofessional conduct, and one (1) for over prescribing.

Receive reports and or requests from the Financial Division

Ms. Grice presented the finance report for fiscal year 2021. Ms. Grice advised that fiscal year 2021 as not closed yet as they are continuing to complete.

Total direct expenditures are \$184,949
Allocated expenditures are \$234,956
Current year net of \$66,609
Cumulative carryover is \$197,716

Ms. Grice presented the comparison of direct expenditures for fiscal year 2019 through 2021. Revenue sources are 55% from renewal applications, 26% from initial applications, and 10% from case cost assessment.

Discussion was held on the revenue processes as well as expenditures.

Receive reports from the Administrative Office

Ms. Stacy Tarr reported that the following activity regarding Physician Assistants transpired in the administrative office between August 1, 2021 and September 30, 2021

New Applications Received:	100
Total New Licenses Issued:	89
Total Number of Renewals:	199
Total Number of Online Renewals:	174
Average Renewals Online:	87%
Total Number of Reinstatements:	5

Total number of active licensees as of September 30, 2021 is 3,072.

Total number of active licensees as of September 30, 2021 with a Tennessee mailing address is 2,579.

Total number of OPA licensees as of September 30, 2021 is 10.

Ms. Lawrence informed the Board in regard to the current Tennessee Medical Foundation contract as there have been no changes after changing from a Committee to a Board.

Receive report from the Office of General Counsel

Ms. Alcock reminded the Board of conflict of interest and advised the new rules proposed by Board member Ms. Patterson and Ms. Moffat, from the Tennessee Physician Assistant Association as they will expect more information at the next Board meeting.

Consent Order: Alicia Taylor, PA- Respondent has been licensed as a physician assistant in Tennessee, having first been granted Tennessee license number 2568 by the Committee on August 27, 2014, which expired on May 31, 2021. A criminal indictment was filed on or about April 16, 2019 in the matter of United States of America v. Babenco, et. al., Case No. 3:19-CR-60 in the United States District Court for the Eastern District of Tennessee at Knoxville, naming Respondent as a defendant for multiple offenses involving the distribution and dispensing of controlled substances. Respondent did not report her federal indictment to the Board within seven (7) calendar days of acquiring actual knowledge of the indictment as required by law. On or about

April 23, 2021, respondent entered into a plea agreement with the United States District Court for the Eastern District of Tennessee at Knoxville. Respondent pled guilty to the following felony offense: Conspiracy to distribute Oxycodone, Oxymorphone, and Morphine Sulfate controlled substances. The Tennessee physician assistant license of Alicia Taylor, P.A., license number 2568, is hereby permanently voluntarily surrendered, effective the date of entry of this consent order by the Board. These costs will be established by an assessment of costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be Five Hundred Dollars (\$500.00). Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.) and/or similar agency.

Motion made by Mr. Reeves to accept the consent order as presented and Ms. Thornton seconded the motion. Roll call vote was taken and motion passed.

Adjournment