



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

November 5, 2014

MINUTES

A regular meeting of the Tennessee Board of Osteopathic Examination was held in the Poplar Conference Room, at 665 Mainstream Drive, Poplar Conference Room, Nashville, TN 37243 on November 5, 2014.

Members Present: Donald H. Polk, D.O.
Karen R. Shepherd, D.O.
J. Michael Wieting, D.O.
Jeffrey L. Hamre, D.O.
Shant H. Garabedian, D.O.

Absent Members: R. Fletcher Lance, Consumer Member

Staff Present: Devin Wells, Advisory Attorney
LaTonya Shelton, Administrator
Stacy Tarr, Unit Manager
Maegan Carr Martin, Executive Director Osteopathic Examinations

The Board convened at 9:09 a.m. with Dr. Polk, Chair and Secretary, presiding and determining a quorum was present to conduct the meeting.

Minutes

Dr. Weiting made a motion to approve the minutes from the August 13, 2014 meeting of the Board and Dr. Shepherd seconded the motion. The motion carried.

Applicant Interview(s):

Daniel C. O'Malley, DO - Dr. O'Malley appeared before the Board to address his five malpractice actions, two of which resulted in a settlement/payment and one action which is currently

pending. The Board interviewed Dr. O'Malley regarding these actions and inquired about his practice plans. Dr. Garabedian made a motion to grant Dr. O' Malley an unrestricted license. Dr. Hamre seconded the motion. The motion carried unanimously.

Office of General Counsel

Devin Wells reported that the Board's business includes a consent order. Currently, the Office of General Counsel has twenty (20) cases open against six (6) osteopathic physicians and no cases against midwives. Mr. Wells reported that rule 1050-02-.18 mammography and rule 1050-02-.12 continuing education rule amendments which were combined in a single rulemaking hearing held on November 6, 2013 will become effective on November 28, 2014.

Devin Wells presented the following Order of Compliance to the board:

Order of Compliance:

James Segó, DO - Dr. Segó was present and represented by legal counsel. Dr. Segó entered a final order on November 3, 2010 with the Tennessee Board of Osteopathic Examination and has been monitored by the Office of Investigations in accordance with the Board's Order and standard business practices. Nichelle Dorroh, the Disciplinary Coordinator for Health Related Boards within the Tennessee Department of Health certifies that Dr. Segó is in compliance with the terms and conditions of the Final Order. After a brief discussion Dr. Hamre made a motion to accept the order of compliance as written and Dr. Wieting seconded. This motion passed unanimously.

Office of Investigations

Nichelle Dorroh informed the Board that there is one (1) open complaints against osteopathic physicians in the Office of Investigations and two (2) are ready for a second review. There are currently no complaints pending relative to osteopathic x-ray licensees. year. Ms. Dorroh informed the Board that she is in the process of auditing all monitored physicians files to make sure they are current and up to date.

Review and Ratification of Licenses

Dr. Hamre made a motion to ratify all new osteopathic special training licensees. Dr. Shepherd seconded the motion. The motion carried.

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

Dr. Hamre made a motion to ratify all new osteopathic x-ray licensees. Dr. Shepherd seconded the motion. The motion carried.

Manager's Report

Ms. Stacy Tarr provided the following statistical information: between August 1, 2014 and November 31, 2014, there were forty-six (46) new osteopathic physician applications received, forty-one (41) new licenses issued and two (2) reinstatements. Of the 130 renewals processed during that time, eighty-seven (87) were completed online, bringing the online renewal to 66% for the Board. The total number of active osteopathic licensees at the end of October 31, 2014 was 1,167. There were forty-five (45) active midwives and four (4) osteopathic x-ray operators as of this date.

Financial Report

Ms. Vanessa Crutcher from the Bureau Office provided members with the actual revenue and expenditures report for the Fiscal Year ending June 30, 2014. The report showed that the Board had a cumulative carry-over of \$543,551.23 for FY 2014. The Board requested that Ms. Crutcher gather information regarding the training that was charged to the Board.

Pharmacy Collaborative Practice Proposed Rules (Updated July 2014)

Maegan Martin, Executive Director informed the Board that Public Chapter 832 was passed in early 2014 and went into effective July 1, 2014. The collaborative rule authorizes the Board of Pharmacy to form a subcommittee with the Board of Osteopathic Examination and Board of Medical Examiners to collaborate the finalize the proposed rules. Mr. Stefan Cange of the Ad Hoc Committee shared and discussed with the Board their comments and concerns regarding the legislation and the drafted rules. The Board decided that Dr. Polk, Dr. Shepherd and Dr. Wieting will represent the Osteopathic Examination Board on the subcommittee.

Dr. Polk made a comment regarding the new legislation being listed on the public notice and agenda for the Board meetings and the Pharmacy Collaborative Practice was never once mentioned as being new legislation that needed to be discussed. Mr. Wells stated to the Board that he would follow up why this legislation was not brought before the board sooner and have answer by the end of the day.

Office Based Surgery Rule

Vincent Davis presented the following on behalf of Health Care Facilities regarding suggested amendments to the Office Based Surgery Rule (1050-02-.21).

Summary of the Issue:

If an office based surgery facility upgrades to a level III facility, or undergoes renovations or modernizations, that facility becomes subject to more restrictive rules. Unfortunately, most renovations are completed before HCF has knowledge of the changes and/or an opportunity to inspect the premises to confirm that the plans comply with the more restrictive rules. A post-construction inspection by HCF may result in the removal of part or all of interior walls or other structures or fixtures and a post-construction finding by HCF that the renovations do not comply with the applicable rules may require an amendment to the building plan. These

suggestions seek to require applicable facilities to submit their building plans to HCF before commencing a renovation so as to avoid the burden of post-construction inspections or amendments.

Suggested edits:

1. Revise rule to require licensees who seek to operate a Level III facility/suite to submit building plans to Healthcare Facilities for approval [specify when].
2. Revise rule to specify that facilities/suites that upgrade to Level III will be subject to the applicable standards in effect at the time of the upgrade. Licensee operators of these facilities/suites must submit building plans to health care facilities for approval [specify when].
 - a) NOTE: The grandfather provision at 1050-02-.21(7)(d)(2)(ii) would no longer apply
3. Revise rule to specify that renovations and/or modernizations to the facility/suite which fall within the scope of the office based surgery rule will be subject to the applicable standards in effect at the time of the renovation. Licensee operators of these facilities/suites must submit building plans to health care facilities for approval [specify when].
 - a) NOTE: The grandfather provision at 1050-02-.21(7)(d)(2)(ii) would no longer apply
 - b) Defer to health care facilities to determine whether the renovation/modernization falls within the “scope of the rule.”
 - i. Modernization (from NFPA): The reconfiguration of any space; the addition or elimination of any door or window; the addition or elimination of load-bearing elements; the reconfiguration or extension of any system; or the installation of any equipment.
 - ii. Renovation (from NFPA): The replacement in kind, strengthening, or upgrading of building elements, materials, equipment, or fixtures that does not result in a reconfiguration of the building or spaces within.
4. Clarify what is meant by “department”/add definition if necessary
 - a) May not be necessary to clarify because rule 1050-02-.21(3)(a) provides that “the Department approves an Office Based Surgery Suite’s plan to correct deficiencies...” HCF is currently performing this function, consider eliminating the reference to the “Department” in lieu of “health care facilities.”

Other Board Business and Discussions

Ms. Martin discussed with the Board their existing telemedicine rules and regulations. Ms. Martin informed the Board that the Board of Medical Examiners would have an all day meeting pertaining to Telemedicine which will be held November 17, 2014 and suggested that the Board may want to begin considering whether and how it may want to

Ms. Martin and Mr. Wells were directed to research information regarding board members being compensated for reviewing files at the August 13, 2014 meetings. Mr. Wells informed the Board members that he had researched the issue and did not believe that payment, other than per diem, was

authorized for board business. Mr. Wells also informed the board members that they could seek to amend the per diem amount, but the statute is very specific regarding what type of Board work that is performed in which a member can receive reimbursement. After a lengthy discussion pertaining to Board members receiving compensation for reviewing licensure files, the Board requested that Mr. Wells and Ms. Martin research this matter further and report to the Board at the next scheduled meeting.

Ms. Martin reiterated the topic from the August 13, 2014 meeting regarding the Boards continued interest in raising the per diem rate from fifty dollars (\$50) to one hundred dollars (\$100) consistent with comparable professions within the Department of Health. Ms. Martin explained that the per diem rate is specified in statute and the increase would require a statutory change. Ms. Martin informed the Board that she has been contacted with questions about the per diem rate and how the rate might be amended. She advised the Board that the bill will need a sponsor from both chambers of the Tennessee General Assembly. The Board was also informed that the Department of Health does not generally support or oppose any particular legislation. The Department will take a neutral stand.

Ms. Martin stated that the Board's adoption of the Department's Chronic Pain Guidelines will be announced in the *Journal of Medical Regulation* next publishing.

Ms. Martin introduced Dr. Renee Saunders the new Medical Board Consultant. Dr. Saunders will replace Dr. Larry Arnold who recently retired after more than a decade of service.

The Board members discussed and voted to sponsor Dr. Wieting's attendance at the Federation of State Medical Boards (FSMB) Annual Meeting. The Board also discussed sponsoring Dr. Garabedian to attend the FSMB meeting.

The meeting adjourned at 11:21 a.m.

These minutes were ratified by the Board of Osteopathic Examination on March 5, 2015.