



TENNESSEE BOARD OF OSTEOPATHIC EXAMINATIONS
Regular Board Meeting

August 13, 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 August 13, 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.
R. Fletcher Lance, Consumer Member

Staff Present: Devin Wells, Advisory Attorney
Andrea Huddleston, Deputy General Counsel
LaTonya Shelton, Administrator
Stacy Tarr, Unit Manager
Maegan Carr Martin, Executive Director Osteopathic Examinations
Rosemarie Otto, Director of Health Related Boards

The Board convened at 9:00 a.m. with Dr. Polk, Chair and Secretary, presiding and determining a quorum was present to conduct the meeting.

Maegan Carr Martin, JD, introduced herself to the Board as the new Executive Director. Ms. Martin fills the vacancy created by the promotion of long-standing Executive Director, Rosemarie Otto, to Director of Health Related Boards.

The Board welcomed its newest member, Shant Garabedian, DO, who was appointed to fill the vacancy created by Dr. Jack Pettigrew's retirement from the Board.

Minutes

Dr. Weiting made a motion to approve the minutes from the May 7, 2014 meeting of the Board and Dr. Hamre seconded the motion. The motion carried.

Applicant Interview(s):

Donald Gibertini, DO - Dr. Gibertini appeared before the Board to address his two (2) malpractice cases and also to discuss the gaps in his work history. After interviewing Dr. Gibertini, Dr. Hamre made a motion to grant Dr. Gibertini an unrestricted license. Dr. Wieting 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 eight (8) osteopathic physicians and two (2) open cases against midwives. Mr. Wells reported that the mammography and continuing education rule amendments which were combined in a single rulemaking hearing held on 11/6/2013, are still pending in the Attorney General's Office. The following rules became effective on July 16, 2014:

Rule 1050-02-.12 Continuing Education Requirements is amended by deleting subparagraph (1)(a) and substituting instead the following language, so that as amended, the new subparagraph (1)(a) shall read:

- (a) During the two (2) calendar years that precede licensure renewal, all licensees must complete forty (4) hours of courses approved by the Board in Category I-A, II-A and/or I-B continuing medical education as defined by the American Osteopathic Association.

Rule 1050-02-.13 Specifically Regulated Areas and Aspects of Medical Practice is amended by adding new paragraph (12) which shall read as follows:

- (12) Practice of Interventional Pain Management as Defined and Restricted Pursuant to T.C.A. § 63-9-121.
 - (a) For purposes of T.C.A. § 63-9-121(a)(2), a recent graduate who is not yet eligible to sit for board-certification by one of the boards listed in § 63-9-121(a)(1) may engage in interventional pain management provided the recent graduate is in a practice relationship with a supervising physician who does meet the qualifications of § 63-9-121(a)(1), as long as such practice relationship meets the following standards:
 1. The recent graduate must be an employee, associate or partner of the supervising physician;
 2. During the first six months, the supervising physician must directly supervise the non-eligible, recent graduate in the performance of at least twenty-four (24) interventional pain management procedures; and
 3. The supervising physician shall make a personal review of no less than 10% of the recent graduate's procedures notes/charts on a quarterly basis and shall so certify by signature on the chart.
 - (b) The exemption provided under T.C.A. § 63-9-121(a)(2) and this rule for a recent graduate not yet eligible for board certification expires five years from the date of completion of the recent graduate's post-graduate medical training, at which time the non-eligible recent graduate must cease and desist such practice if board-

certification pursuant to T.C.A. § 63-9-121(a)(1) has not been achieved and such practice may not be re-instituted until such board-certification is achieved.

- (c) For purposes of T.C.A. § 63-9-121(a)(3), a physician who is board-certified in a different AOA, ABMS or ABPS/AAPS specialty than those listed in (a)(1) may practice interventional pain management upon successful completion of an ACGME pain fellowship or becoming board-certified through the American Board of Interventional Pain Physicians.

Jennifer Putman presented the following consent order to the Board:

Consent Order(s):

Gary J. Voytik, DO - Dr. Voytik was not present. He was not represented by counsel. Ms. Jennifer Putnam appeared on behalf of the State of Tennessee Department of Health. Dr. Shepherd made a motion to accept the consent order as written and Dr. Garabedian seconded the motion. The motion carried.

Office of Investigations

Denise Moran informed the Board that there are five (5) open complaints against osteopathic physicians in the Office of Investigations and two (2) are ready for review. There are currently no complaints pending relative to osteopathic x-ray licensees. Ms. Moran informed the Board that pain management clinics will be audited every three (3) years and there are three hundred (300) active clinics in the state of Tennessee. Ms. Moran also stated that pain management clinics will be audited one hundred percent this calendar year. Ms. Moran introduced the Office of Investigations' new disciplinary coordinators: Ms. Nichelle Dorroh and Ms. Rachel Talley.

Review and Ratification of Licenses

Dr. Hamre made a motion to ratify all new osteopathic physicians and osteopathic x-ray licensees. Dr. Wieting seconded the motion. The motion carried. Please see attached list.

Manager's Report

Ms. Stacy Tarr provided the following statistical information: Between May 1, 2014 and July 31, 2014 there were fifty-one (51) new osteopathic physician applications received, 45 new licenses issued and 1 reinstatement. Of the 120 renewals processed during that time, 84 were completed online, bringing the online renewal to 70% for the Board. The total number of active osteopathic licensees at the end of July 31, 2014 was 1,143. There were 43 active midwives and 5 osteopathic x-ray operators as of this date.

Continuing Education Audit

Ms. Tarr reported on the activities in the CE Compliance Unit between the months of January through December 2013. Ms. Tarr informed the Board that twenty-four (24) licensees were audited and twenty-one (21) were in compliance: an eighty-eight percent (88%) compliance rate. Ms. Tarr also informed the Board that the osteopathic x-ray operators (DOX) have an eighty-six percent (86%) compliance rate.

Pain Management Guidelines and Report from Medical Director of Special Projects

Dr. Mutter presented the final version of the “Tennessee Clinical Practice Guidelines for Management of Chronic Pain” (hereinafter, the Chronic Pain Guidelines) for the Board’s consideration. Dr. Wieting made a motion to accept the Guidelines contingent upon the revision of the document to refer to the American Osteopathic Association (AOA) in the “pain medicine specialist” section, and the sections addressing the “tiers” for the treatment of pain management. Dr. Shepherd seconded the motion. The motion passed unanimously.

The purpose of the Guidelines is to define appropriate treatment of chronic pain, a common and often serious condition. The Guidelines are intended to support clinicians in their treatment of patients with chronic pain with particular reference to the prescribing of opioid medications and the avoidance of addiction and adverse outcomes. The method used to formulate the Guidelines included a review of national expert panel recommendations and state practice guidelines, multiple listening sessions with clinicians in Tennessee, oversight of a multidisciplinary steering committee and recommendations of an advisory committee with strong representation by clinicians with specialty training in pain medicine.

Dr. Mutter reported that the top 50 prescribers as of July 31, 2014 included eight (8) medical doctors, one (1) osteopathic doctor, thirty-five (35) advanced practice nurses and six (6) physician assistants. These providers were notified of their status as a top prescriber by special or standard letter. The prescriber and supervising physician must respond with an explanation justifying the amounts of control substance prescribe within fifteen (15) business days. Dr. Mutter informed the Board that the top 50 morphine milligram equivalent dispensed and reported to the controlled substance monitoring database between the years of 2013-2014 has decreased by 12 percent (12%). Dr. Mutter also stated that prescribers with a DEA registration who wrote prescriptions increased by 797.

Health Planning

Mr. Jeff Ockerman, JD, Director of Health Planning for the State of Tennessee gave reports on the State Health Plan and the HSDA Certificate of Need Requests.

Other Board Business and Discussions

The Board members discussed and voted to sponsor the Board attorney, Devin Wells, to attend the Federation of State Medical Board’s (FSMB) Board Attorney Workshop in Savannah, Georgia in October 2014.

Ms. Martin and Mr. Wells were directed to research information regarding board members being compensated for reviewing files. Their findings will be presented at the November Board meeting. The Board also announced its continued interest in raising the per diem rate from fifty (\$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 recommended that the Board consult its association, the Tennessee Osteopathic Medical Association (TOMA), to gauge its interest in assisting with the task of raising the per diem.

The Board acknowledged the service of former members, Jack Pettigrew, DO, and Jill Robinson, DO, and directed Ms. Martin to draft a proclamation or resolution to acknowledge these Board members’ efforts and service. The Board plans to adopt the statement at the next scheduled Board meeting. In addition to this statement, the Board would like to submit a “thank you” letter to Drs. Pettigrew and Robinson.

Ms. Martin inquired as to whether, in light of the Board's adoption of the Department's Chronic Pain Guidelines, the Board would like to announce that policy development in the *Journal of Medical Regulation*, which regularly includes such information and announcements. The Board stated that it would like for a statement to be prepared and submitted.

Dr. Polk provided an overview of the FSMB's activities related to the interstate compact and its telemedicine policies for the information of the Board.

The meeting adjourned at 11:43 a.m.

These minutes were ratified by the Board of Osteopathic Examination on November 5, 2014