



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

Wednesday, August 05, 2020

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, 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, D.O.
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
Brenda Wimberly-Stewart, Board Administrator
Frances Baca-Chavez, Office of General Counsel

Angela Lawrence opened with the teleconference script and a roll call. Angela explained how the meeting would be conducted and the Board voted to accept the meeting by teleconference. Dr. Kilkelly made the motion to accept the meeting. Dr. Hamre seconded the motion. The motion carried. Ms. Judd also made the motion that the meeting met the requirements to have a teleconference meeting. Dr. Garabedian seconded the motion. The motion carried. All Board members confirmed receipt of the meeting Materials.

APPROVAL OF MINUTES

The Board reviewed the minutes from the May 6, 2020 meeting. Dr. Kilkelly made a motion to approve the minutes. Dr. Zieren seconded the motion. The motion carried.

RATIFICATION OF LICENSES

Dr. Hamre made a motion to approve the list for ratification of licenses as presented. Dr. Kilkelly seconded the motion. The motion carried. Dr. Zieren abstained from the vote since she was not able to get her ratification list to pull up on her laptop.

APPLICANT INTERVIEW

Jason Stamper's interview

Dr. Kilkelly asked Dr. Stamper to give his statements concerning the Agreed Order in Kentucky. Dr. Stamper states the complaint was filed against him because he would not date the person and it was retaliation towards him. Dr. Stamper stated he was asked to sign the agreed order six (6) weeks later or the license would be suspended. He was instructed by his boss and Council to sign the agreed order so he could keep working. The only restriction that was he could not supervise physician assistance and they did not have any in the office. Dr. Stamper stated he was laid off in April. Dr. Stamper also stated he was sent to Kansas for a four day evaluation with psychiatrics, psychologist, and polygraph testing. The final review determined that he was fit to practice medicine; he had no signs of predatory behavior or risks. He also passed the polygraph test. Dr. Kilkelly asked if he had been practicing since he came back from Kansas. Dr. Stamper stated he had practiced. He was also asked if he had practiced since April. Dr. Stamper stated he had not practice since April due to the layoff. Dr. Kilkelly brought to the Boards attention and his concern on page 20 and 22 of the report. Dr. Hamre asked if Dr. Baron had a chance to review the file. Dr. Baron had not, however he would be willing to do so if the Board saw fit. Dr. Garabedian asked if Kentucky terminated the Agreed Order and if the license was reinstated? Dr. Stamper stated that yes the license was reinstated without restrictions. Francine Baca-Chavez asked what his intent to practice in Tennessee was. Dr. Stamper stated that his mother lives in Nashville and he wanted to be close to her and do outpatients practice. Ms. Baca-Chavez states we just wanted to take everything into consideration for the safety of all Tennesseans. Dr. Stamper interjects saying he actually had a Tennessee license but it expired. Ms. Baca-Chavez also states listening to the Board members questions and concerns offered the Board the options they had which included the following: to table the applicant until he can speak with Dr. Baron, letting the Board know of the rule they have in place concerning reinstatements as 1050-02-.072(E). Another option would be to place conditions on his license, where the administrative staff would draft a letter and send to Dr. Stamper with the conditions that the Board deemed necessary. Dr. Stamper stated he did not want any restrictions on his license and stated if Tennessee could not reinstate his license without restrictions he did not want a Tennessee license. He stated "you do you and I'll do me". Dr. Hamre made a motion to have Dr. Stamper interview with Dr. Baron, and come back before the Board for further discussion prior to getting his license reinstated tabling the applicant until the next Board meeting in November 2020. The motion was seconded by Ms. Judd. The motion carried.

PRESENTATION FROM DR. BESS

Dr. Bess thanked Dr. Garabedian for his support and the role he plays in the CSMB Committee. Dr. Bess explained how the Gateway program would work. He encouraged everyone to go in and update their email address so they would get updates on the progress. Dr. Garabedian made a comment that he approves the system and that he uses it almost every day stating that it was very helpful.

POLICY STATEMENT ON HIGH RISK PRESCRIBER

Jennifer Putnam presented the High Risk Provider Policy as it pertains to Tenn. Code Ann. 68-1-128 requiring the Tennessee Department of Health to identify high risk prescribers. If a prescriber is identified as a high risk prescriber, the Tennessee Board of Osteopathic Examination shall notify the prescriber and if applicable, the prescriber's collaborating physician of the prescribers identification as a high risk prescriber and require the prescriber to participate in a continuing education course that is designed to inform providers about the risks, complications and consequences of opioid addiction. In order to meet this requirement, it is the Board's position that the prescriber must complete a CE course of no less than 20 hours and address the risks, complications, and consequences of opioids addiction. Dr. Wieting asked if there were any questions: Dr. Garabedian asked if this was for everyone and how did they identify the prescribers? Was there a formula used? The CSMD filters gather the information and that is how they identify the prescribers. Dr. Zieren asked if this is for the out of order prescribers and if the specialty is considered? Ms. Putnam responded by saying the prescriber can send in documentation to justify the amounts prescribed. At that time they will see if there is a need to take the course. Dr. Zieren made the motion to approve the policy. Dr. Garabedian seconded the motion. The motion passed.

INQUIRY FROM VIRGINIA BOARD

Angela Lawrence presented a correspondence from the Executive Director of Virginia Medical Board asking the Boards interest in joining a reciprocity agreement between states. Ms. Lawrence stated that she would bring the idea to the Board, and informed them the Board had joined the Compact so there may not be a need to have this partnership between the two states. Dr. Wieting and Dr. Hamre both agreed with Ms. Lawrence. Dr. Hamre made the motion to decline the Virginia Medical Boards proposal and Dr. Kilkelly seconded the motion. The motion passed.

Presentation by Mr. Greg Thomas, PA-C Emeritus, MPH

Mr. Thomas provided an overview of the foundation and purpose of the NCCPA and discussed the growth of the Physician Assistant (PA) profession. No Board action was taken.

Quiztime Presentation by Dr. Kim Garvey

Last year's Quiztime results report they had about 3,300 participants and issued over 13,000 CE credits. Dr. Kim Garvey outlined the mobile learning and space learning process provider by Quiztime. She

requested the Board permit Quiztime to send licensees information about enrollment. After some discussion, Ms. Judd made a motion to send the email blast to licensees. Dr. Garabedian seconded the motion. The motion passed.

DR. WIETING COMLEX-USA

Dr. Wieting the issue that will arise next year concerning the COMLEX level 2 PE, which it has been suspended due to Covid-19. Information was sent to all state Boards making them aware that the medical school graduates of 2021 would be affected. Due to the requirements to take the test has been suspended and the lack of testing opportunity availability in the state of Tennessee, The information sent suggested the licensing Boards give more flexibility to the applicants based on the situation being know fault of their own.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Ms. Lori Leonard, Disciplinary Coordinator for the State of Tennessee gave her report for the Osteopathic Board as three (3) reprimands, five (5) on probation, one (1) suspended, and one (1) revoked/surrendered. New complaints opened is thirty-five (35) out of the 35 (1) one Substance abuse, six (6) Malpractice/negligence, twenty-three (23) unprofessional conduct, two (2) failure to supervise, one (1) mental and/or physical impairment, and two (2) related to COVID -19. They have seventeen (17) total complaints closed, (5) insufficient and eleven (11) complaint closed with no action, and one (1) closed with a letter of concern. They have a total of forty-five (45) complaints currently opened.

REPORT FROM THE DIVISION OF HEALTH LICENSURE AND REGULATIONS

Ms. Maria McCormick did not have a report to present to the Board and informed them one would be available at the next. One of the Board members asked about the fee decrease and the effects thus far. She stated she did not the date the fee decrease took place at that time. Ms. Baca-Chavez stated the date of the rulemaking hearing was November 6, 2019. Ms. McCormick stated that the Board may experience a decrease in the totals due to the Covid-19 pandemic but there were currently no concerns that this Board would finish the year in the black.

REPORT FROM THE ADMINISTRATIVE OFFICE

New Applications Received:

- Osteopathic Physician 83
- Locum Tenens 0
- Telemedicine 0
- Special Training 2

• Compact	32
New DOX Applications Received	0
Total New Licenses Issued	
• Osteopathic Physician	97
• Telemedicine	0
• Special Training	2
• DOX	0
• Compact	19
Total Number of Reinstatement	10
Total Number of Renewals:	
Osteopathic Physician	178
Online	158 – 88%

Total number of active licensees as of July 31, 2021 is 2,031.

Total number of active licensees as of July 31, 2020 with a Tennessee mailing address is 1,200.

Total number of Special Training licenses as of July 31, 2020 is 13.

Total number of Telemedicine licensees as of July 31, 2020 is 26.

Total number of Active DO X-Ray Operators as of July 31, 2020 is 13.

Total number of Active Professional Midwives as of July 31, 2020 is 67.

REPORT FROM THE OFFICE OF GENERAL COUNCIL

There are twenty-six (26) cases open against seven (7) Osteopathic Physicians. Regarding these cases, twenty-three (23) involve allegations of over-prescribing and are being handled by other attorneys on the over-prescribing team. There are two (2) open cases against midwives. There are no appeals at this time.

LEGISLATIVE REPORT Presented by Patrick Powell

[Public Chapter 573](#)

This act amends the Tennessee Together statutes. It expands the definition of “alternative treatments” by adding “no opioid medicinal drugs or drug products, occupational therapy, and interventional procedures or treatments.” This is primarily relevant to the treatments that must be disclosed and explained by a healthcare practitioner to a patient or the patient's legal representative as a prerequisite to obtaining informed consent to treatment with an opioid.

This act took effect on March 19, 2020.

Public Chapter 574

This act allows federally qualified health centers (FQHCs) and rural health clinics to employ physicians as long as the employment includes some documentation (a contract, job description, etc.) that contains language making it clear that the physician is not restricted from exercising independent medical judgment in diagnosing and treating patients.

This act took effect on March 19, 2020.

Public Chapter 594

This act was the Department of Health's Licensure Accountability Act. The bill allows all health related boards to take action against a licensee that has been disciplined by another state for any acts or omissions that would constitute grounds for discipline in Tennessee. The law also expands available emergency actions, allowing actions beyond simply a summary suspension. Finally, the act establishes that the notification of law changes to health practitioners can be satisfied by the online posting of law changes by the respective boards. Notice must be maintained online for at least 2 years following the change.

This act took effect March 20, 2020.

Public Chapter 645

This act establishes the Rare Disease Advisory Council under the Bureau of TennCare. The council is comprised of eleven members (nine appointed by the Governor, one by Lt. Governor, one by Speaker of the House). Two physicians with experience treating rare disease and one RN or APRN with experience treating rare disease are among those members to be appointed by the Governor. The council exists to advise TennCare's pharmacy advisory committee and drug utilization review committee in regard to rare and orphan diseases.

For the purpose of appointing members to the advisory council, this act took effect April 1, 2020. For all other purposes, this act took effect July 1, 2020.

Public Chapter 684

This chapter modifies the time period for which a hospital and certain other facilities (community health clinic, birthing center, out-patient "walk-in" clinic, emergency medical services facility) shall receive possession of any newborn infant from the mother wishing to give up the child. Previously the time period was 72 hours. The new time window is 2 weeks.

This act took effect June 15, 2020.

Public Chapter 738

This act prohibits a governmental entity from authorizing destruction of public records if the governmental entity knows the records are subject to a pending must contact the public record request coordinator to ensure the records are not subject to any pending public record requests. Records may still be disposed of in accordance with an established records retention schedule/policy as part of an ordinary course of business as long as the records custodian is without knowledge the records are subject to a pending request.

This act took effect on June 22, 2020.

Public Chapter 761

This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a community mental health center (CMHC) or a federally qualified health center (FQHC). To be eligible under this law, the practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or physician assistant. They also must have a DATA waiver issued by SAMHSA/DEA. There can be no limitations or conditions imposed on the provider's license within the previous three (3) years. Prescriptions by the practitioner must not exceed a sixteen (16) milligram daily equivalent. The practitioner also must not prescribe mono product or buprenorphine without naloxone. The provider may only prescribe buprenorphine products to patients treated through the organization that employs the provider. Prescriptions can only be dispensed by a licensed pharmacy to ensure entry into the CSMD. The provider has a cap of fifty (50) patients at any given time. The law also requires the provider to initiate and lead a discussion regarding patient readiness to taper off medications in their treatment at any time upon the patient's request, but no later than one (1) year after initiating treatment, and then every six (6) months thereafter.

The facility must employ one or more physicians and have adopted clinical protocols for medication assisted treatment. The midlevel's collaborating physician (who also must hold an active DATA waiver and is treating patients with buprenorphine at the same facility), and employ providers that accept TennCare and are accepting new TennCare patients. The OBOT must verify identification of patients. The collaborating physician must review 100% of the charts of patients being prescribed a buprenorphine product and can only collaborate/supervise four (4) nurse practitioners or physician assistants.

This act took effect July 1, 2020.

Public Chapter 764

This act addresses multiple provisions related to abortion in the state of Tennessee. First, it deletes the requirement that the Department of Children's Services provide court advocates and other information about judicial procedures to minors who are considering abortion.

Second, it establishes an ultrasound requirement. Prior to a woman giving informed consent for an abortion, an ultrasound must be performed. The physician must determine the gestational age and provide it to the woman. There must be a determination of whether a fetal heartbeat exists, and if audible, make it audible to the woman. The physician must show ultrasound images to the woman and explain what they depict. The gestational age and presence or absence of heartbeat must be recorded in the woman's medical record. The physician must also obtain certification from the woman that she was provided the information required by this statute. The ultrasound requirements of this statute may be delegated by a physician to an ultrasound technician with appropriate certifications/registrations under the statute.

The act also establishes a prohibition on abortions at certain gestational milestones. Abortions are prohibited after detection of a fetal heartbeat, at 6 weeks gestational age or older, as well as 8, 10, 12, 15, 18, 20, 21, 22, 23, and 24 weeks gestational age or older. There is a medical emergency exception if certain criteria are met. Abortions are prohibited based on race, sex, or diagnosis of Down syndrome.

It is a class C felony for a physician to perform an abortion in violation of this statute. It is a class E felony for an ultrasound technician to not fulfill delegated duties related to the ultrasound provisions, if that non-performance results in an abortion. A physician charged with violation of this statute must report the charge within seven (7) days to the Board of Medical Examiners.

The final portion of this act requires that certain information be provided regarding reversing chemical abortions. Specifically it requires the conspicuous posting of a sign in offices or facilities providing more than fifty (50) abortions per year which states:

“Recent developing research has indicated that mifepristone alone is not always effective in ending a pregnancy. It may be possible to avoid, cease, or even reverse the intended effects of a chemical abortion utilizing mifepristone if the second pill has not been taken. Please consult with a healthcare professional immediately.”

Failure to post the signage when/where necessary requires the department of health to assess a \$10,000 civil monetary penalty. Each day an abortion is performed without the required signage is a separate violation. The same language on the signage is required to be given to woman in medical discharge instructions after the first drug is given in a chemical abortion.

The majority of this act took effect July 13, 2020. The provisions relating to chemical abortion reversal take effect October 1, 2020.

Public Chapter 771

This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a non-residential office-based opiate treatment facility (OBOT) licensed by the Department of Mental Health and Substance Abuse Services (MHSAS). To be eligible under this law, the

practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or physician assistant. They also must have a DATA waiver issued by SAMHSA/DEA. Prescriptions by midlevel providers under this statute are capped at a sixteen (16) milligram daily dose, and must not be for a mono-product or buprenorphine without naloxone, except when utilizing injectable or implantable buprenorphine products. Midlevel providers under this statute are capped at 100 patients.

The OBOT in these situations must employ the midlevel's collaborating physician (who also must hold an active DATA waiver and be treating patients with buprenorphine at the same OBOT) and the OBOT must not have the authority to dispense buprenorphine products. The collaborating/supervising physician under this statute cannot supervise more than two (2) midlevel practitioners.

The OBOT also must employ providers that are credentialed and contracted to accept TennCare patients and bill TennCare for services for treatment of opioid use disorder with buprenorphine. Finally the OBOT must be accepting new TennCare patients.

This act takes effect August 1, 2020.

Public comments

No public comments.

Dr. Garabedian asked if the next meeting was scheduled for the 11th or the 13th. Ms. Stacy Tarr stated the meeting will be Friday, November 13th.

Ms. Judd asked if we could meet the second week of August instead of the first week. Ms. Tarr stated she would look into that for the next August meeting.

Meeting Adjourned