

wishing to make a comment on the proposed rules were asked to sign in. Mr. Varnell stated people had signed up for public comment. Mr. Varnell stated the proposed rules had been published on January 26, 2026 on the Department's Administrative Procedures website and asked Ms. Tarr if other notice had been given. Ms. Tarr stated the notice had been sent out to all CPM's licensed in the State of Tennessee and to their association as well.

Mr. Varnell read the substance of the rule changes into the record.

Rule 1050-05-.01 Definitions is amended by adding new paragraph (2) and renumbering the remaining paragraphs accordingly.

(2) Board - The Tennessee Board of Osteopathic Examination.

Rule 1050-05-.01 Definitions. Newly renumbered paragraph (3) is amended to read as follows:

(3) Collaborative Care Plan - A written agreement, between a physician and a midwife in which both parties agree to discuss the care of the midwife's client as stated in "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on March 1, 2025. The "Practice Guidelines" may be obtained on the Council's website.

Rule 1050-05-.01 Definitions. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.02 Scope of Practice. The rule, including the rule authority, but not the rule title, is amended to read as follows:

The scope of midwifery practice shall be as set forth in Tennessee Code Annotated, Sections 63-29-102(9) and (10) and 63-29-115. As an aid to interpretation and application of that scope of practice, the Council adopts, as if fully set out herein, "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on March 1, 2025. In the event that the "Practice Guidelines" are in conflict with any portion of Tennessee Code Annotated §§ 63-29-101, et seq. (Midwifery Practice Act) the "Midwifery Practice Act" shall govern. The "Practice Guidelines" may be obtained on the Council's website.

Authority: T.C.A. §§ 63-29-107, 63-29-115, and 63-29-116.

Rule 1050-05-.03 Use of Titles. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.05 Certification Process. Subparagraphs (1)(a) and (2)(b) are amended to read as follows:

(1) (a) Any individual who desires to practice as a certified professional midwife in Tennessee shall apply for certification to the Council on forms provided by the Council, and shall submit the fees required by Rule 1050-05-.06. Applicants may apply online at the Council's website.

(2) (b) An applicant shall have current certification in CPR., The applicant shall submit a photocopy of current certification in CPR with his/her application for certification as a CPM-TN.

Rule 1050-05-.05 Certification Process is amended by adding new subparagraph (2)(c) and re-lettering the remaining subparagraphs accordingly.

(2) (c) An applicant shall have current certification demonstrating successful course completion of the Neonatal Resuscitation Program (NRP). The applicant shall submit a photocopy of current NRP certification with his/her application for certification as a CPM-TN.

Rule 1050-05-.05 Certification Process is amended by adding new subparagraph (2)(i).

(2) (i) An applicant shall submit with their application, verification of United States citizenship or evidence of lawful presence in the United States pursuant to T.C.A. § 4-58-103.

Rule 1050-05-.05 Certification Process. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.06 Fees. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107, 63-29-112, and 63-29-116.

Rule 1050-05-.07 Application Review, Approval, and Denial. The rule, including the rule authority, but not the rule title, is amended to read as follows:

(1) Review of all applications to determine whether or not the application file is complete may be delegated to the Council's administrator.

(2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by the Board's designee or the Board's consultant who have both reviewed the completed application and determined that the applicant has met all the requirements for certification, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed.

(3) If an application is incomplete when received by the Administrative Office, or the Board's consultant or the Board's designee determine additional information is required from an applicant before an initial determination can be made, the Council administrator shall notify the applicant of the information required. The applicant shall cause the requested information to be received in the Administrative Office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.

(4) If requested information is not timely received, the application file may be considered abandoned and may be closed by the administrator. If that occurs, the applicant shall be notified that the Council and Board will not consider issuance of a certificate until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Council and Board.

(5) If the Board's consultant or the Board's designee initially determine that a completed application should be denied, limited, conditioned or restricted, a temporary authorization shall not be issued. The applicant shall be informed of the initial decision and that a final determination on the application will be made by the Board at their next appropriate meeting. If the Board ratifies the initial denial, limitation, condition or restriction, the action shall become final and the following shall occur:

(a) A notification of the denial, limitation, condition or restriction shall be sent by the Administrative Office by certified mail, return receipt requested, that contains the specific reasons for denial, limitation, condition or restriction, such as incomplete information, unofficial records, examination failure, or matters judged insufficient for certification, and such notification shall contain all the specific statutory or rule authorities for the denial, limitation, condition or restriction.

(b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial, limitation, condition or restriction and the procedure necessary to accomplish that action.

1. An applicant has a right to a contested case hearing only if the certification denial, limitation, condition or restriction is based on subjective or discretionary criteria.

2. An applicant may be granted a contested case hearing if the certification denial, limitation, condition or restriction is based on an objective, clearly defined criteria only if after review and attempted resolution by the Board's Administrative Staff, the application can not be approved and the reasons for continued denial, limitation, condition or restriction present genuine issues of fact and/or law which are appropriate for appeal. Requests for a hearing must be made in writing to the Administrative Office within thirty (30) days of the receipt of the notice of denial, limitation, condition or restriction from the Board.

(6) If the Board finds it has erred in the issuance of a certification, it will give written notice by certified mail of its intent to revoke or cancel the certificate. The notice will allow the applicant the opportunity to meet the requirements for certification within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke or cancel the certification, the applicant shall have the right to proceed according to paragraph (5) of this rule.

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.09 Certification Renewal is amended by adding new paragraph (2), including its subparagraphs, and renumbering the remaining paragraphs accordingly.

(2) Methods of Renewal

(a) Internet Renewals – Individuals may apply for renewal and pay the necessary fees online. The application to renew can be accessed at the Council's website.

(b) Paper Renewals – For individuals who have not opted in to receive email notification, a renewal application form will be mailed to each individual licensed or registered by the Council to the last address provided to the Council. Failure to receive such notification does not relieve the licensee or registrant from the responsibility of meeting all requirements for renewal.

Rule 1050-05-.09 Certification Renewal. Newly renumbered paragraph (3) and only subparagraph (3)(d) are amended to read as follows:

(3) To be eligible for renewal a certificate holder must submit to the Division of Health Related Boards on or before the certificate holder's expiration date the following:

(d) Attestation of maintaining current CPR certification including infant or neonatal resuscitation, as provided in Rule 1050-05-.05.

Rule 1050-05-.09 Certification Renewal is amended by deleting paragraph (7), including its subparagraphs, in its entirety

Rule 1050-05-.09 Certification Renewal. Paragraph (8) is amended to read as follows:

(8) Renewal issuance decisions pursuant to this rule may be made administratively subject to review by the Board, any Board member, or the Board's Designee.

Rule 1050-05-.09 Certification Renewal. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.11 Inactive Status and Reactivation. The rule, including the rule title and the rule authority, is amended to read as follows:

1050-05-.11 Retirement Status and Reinstatement.

(1) Certificate holders who wish to retain their certification but not actively practice as a professional midwife may avoid compliance with the certification renewal process by doing the following:

(a) Obtain from, complete and submit to the Council's Administrative Office an affidavit of retirement form.

(b) Submit any documentation which may be required by the form to the Council's Administrative Office.

(c) Upon successful application for retired status with completion and receipt of all proper documentation to the Board's satisfaction, the Board shall register the Certificate as retired. Any person who has a retired certificate may not practice as a CPM-TN.

(2) Reinstatement - Any certificate holder whose certification has been placed in retired status may reenter active practice by doing the following:

(a) Submit a written request for a Reinstatement Application to the Council's Administrative Office; and

(b) Complete and submit the Council's Reinstatement Application along with payment of the certification renewal fee as provided in Rule 1050-05-.06 to the Council's Administrative Office. If reactivation was requested prior to the expiration of one (1) year from the date of acquiring retired status, the Council may require payment of the reinstatement fee and past due renewal fees as provided in Rule 1050-05-.06; and

(c) Submit any documentation which may be required by the form to the Council's Administrative Office; and

(d) If requested, after review by the Council and/or Board or its duly authorized representative, appear before either the Council and/or Board for an interview regarding continued competence in the event of inactivation of certification in excess of two (2) years or the receipt of derogatory information or communication during the reinstatement process and/or be prepared to meet or accept other conditions or restrictions as the Council and/or Board may deem necessary to protect the public.

(e) If certification inactivation was in excess of five (5) years, the certificate holder may be required to successfully complete requirements the Council and/or Board feels necessary to establish current levels of competency.

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.12 Responsibilities of Certified Professional Midwife. Paragraphs (7) and (8) are amended to read as follows:

(7) For screening purposes only, the CPM-TN may order routine antepartum and postpartum laboratory analysis to be performed by a licensed laboratory. Abnormal ultrasound findings as specified in the "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on March 1, 2025 require a consultation with a physician. The "Practice Guidelines" may be obtained on the Council's website. Written verification of such consultation, including the physician's recommendation, shall be placed in each client's chart.

(8) The CPM-TN shall develop an emergency plan that shall be signed by the client and placed in the client chart at the initial visit. The CPM-TN shall consult with the physician previously referenced in paragraph (5) of this rule as specified in the "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on March 1, 2025. T The "Practice Guidelines" may be obtained on the Council's website. The emergency plan shall also include referral and transfer plans for the client in the event of an emergency. A copy of the emergency plan shall be sent to the physician with whom the CPM-TN has a collaborative plan in place.

Rule 1050-05-.12 Responsibilities of Certified Professional Midwife. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.13 Professional Ethics. The rule, including the rule authority, but not the rule title, is amended to read as follows:

All certificate holders shall comply with the “Ethical Responsibility” section of the “Practice Guidelines” issued by the Tennessee Midwives Association on January 22, 2001 and amended on March 1, 2025, except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Council and/or Board. If this section conflicts with state law or rules, the state law or rules govern the matter. Violation of this section or state law or rules may subject a certificate holder to disciplinary action. The “Practice Guidelines” may be obtained on the Council’s website.

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.15 Disciplinary Grounds, Actions, and Civil Penalties. Subparagraphs (1)(a) and (1)(e) are amended to read as follows:

(1) (a) Letter of Warning and/or Letter of Concern - This is a written action issued by the Council’s consultant for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action. However, if the Council takes this action at a contested case hearing through the issuance of a final order, it shall be considered an adverse act by the Council and reportable to the National Practitioner Databank and/or similar agency.

(e) Revocation for Cause -This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the certificate previously issued. No new application for certification from a person whose certificate was revoked for cause shall be considered prior to the expiration of at least six (6) months from the effective date of the revocation order.

Rule 1050-05-.15 Disciplinary Grounds, Actions, and Civil Penalties. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.16 Replacement Certificates. The rule, including the rule authority, but not the rule title, is amended to read as follows:

A certificate holder whose "artistically designed" certificate has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Administrative Office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the fee required pursuant to Rule 1050-05-.06. This process can be completed online at the Council’s website.

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.17 Change of Name and/or Address. The rule, including the rule authority, but not the rule title, is amended to read as follows:

(1) Change of Name - Any certificate holder shall notify the Administrative Office in writing within thirty (30) days of a name change and must provide both the old and new names. A name change notification must also include a copy of the official document involved and reference the individual's profession, council/board, social security number, and certificate numbers. This process can be completed online at the Council’s website.

(2) Change of Address - Each person holding a certificate who has had a change of address shall file in writing with the Administrative Office his/her current address providing both the old and new addresses. Such requests must be received in the Administrative Office no later than thirty (30) days after such change is effective and must reference the individual's name, profession, social security number, and certificate number. This process can be completed online at the Council's website.

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

Rule 1050-05-.19 Council Officers, Consultants, Records, Declaratory Orders, and Screening Panels. The rule authority is amended to read as follows:

Authority: T.C.A. §§ 63-29-107 and 63-29-116.

The Board was provided a copy of the full rules containing these changes. Mr. Varnell asked the Board for any questions. Regarding the section on discipline, Dr. Rickman referenced the wording "The Council and the Board" and asked what the procedure would be if the Council and Board did not agree on the disciplinary action. Mr. Varnell stated for the disciplinary action to take affect, both bodies would need to ratify the order, if the Council did not ratify, it would not come before the Board. Dr. Garabedian referenced sections of the rules requiring CPR certification including Neonatal Resuscitation (NRP). He asked for clarity if both were required or just the NRP. Mr. Varnell stated both basic life support and NRP are required for obtaining and maintaining licensure. Dr. Garabedian stated it may be clearer to replace CPR with Basic Life Support (BLS). After discussion the Board decided BLS was specific to the American Heart Association and The Red Cross and to avoid restricting applicants from other CPR certification types, they would leave the rule as amended. Both Certifications are needed with BLS being for the mother and NPR being for the infant.

Mr. Varnell began calling for public comment. First to comment was Jenny Fardink, President of the Tennessee Midwives Association (TMA). Mr. Fardink wanted to address the CPR/NPR situation. Both are required for their national certification from the North American Registry of Midwives (NARM), so midwives applying for license would already have those and she agreed both should be required. She further explained the course they took for the national certification was geared towards medical providers, which is more involved than the basic course available to the public. Ms. Fardink thanked the Board for the opportunities they provided to take part in the process. Ms. Fardink completed her comments by telling the Board the TMA was available if they had any questions or needed further information. Three of the people signed up for comment withdrew their desire to make comment. Ms. Donna Lafferty, Vice-Chair of the Midwifery Council was present for public comment and thanked the Board for the opportunities they provided and spoke of the impact it was having in helping rural communities. Ms. Lafferty also brought the discussion back to CPR certification by informing the Board that the CPR certification required by NARM had to be from either the American Red Cross, American Heart Association or American Safety and Health Institute. The NRP certification is from the American Academy of Pediatrics. Ms. Tarr suggested the Board could amend the rules to state the applicant shall have CPM certification approved by NARM. The Council agreed and Mr. Varnell made those changes to the rule packet.

Dr. Zieren made a motion to approve the redline as drafted including the changes made in the meeting. Ms Judd seconded. Ms. Tarr took a roll call vote. All members present voted aye.

APPROVAL OF MINUTES

Dr. Rickman motioned to approve the minutes from the October 31, 2025 Contested Case Hearing minutes as well as the minutes from the November 5, 2025 Regular Meeting. Dr. Garabedian seconded and the motion passed.

OFFICE OF INVESTIGATIONS REPORT

Ms. Barbara Smith was present from the Office of Investigations to give the report.

Ms. Smith reported for FY 2025, there were one hundred forty eight (148) new complaints opened and one hundred forty nine (149) were closed for the following reasons: forty four (44) closed for insufficient evidence, thirteen (13) referred to the Office of General Counsel, eighty one (81) closed with no action, three (3) closed with a letter of concern, and eight (8) closed with a letter of warning.

There were no new complaints opened for Osteopathic X-Ray operators, DO Office based surgery, or DO special training.

With there being no questions, Ms. Smith concluded her report.

REPORT FROM THE FINANCIAL OFFICE

Mr. Matt McSpadden was present from the Financial Office to provide the Board's FY 2026 mid-year report. Total Board Expenditures were \$230,234, Fee revenue was \$241,275, the change in reserve balance position was \$11,041. The new reserve balance was \$1,301,325. Mr. McSpadden further broke down expenditures and revenue by type. Mr. McSpadden explained the Board had finished the previous two years in the red and was projected to finish this year in the red as well. He further explained this was an intentional spend down to reduce the reserve balance in line with Department policy on the Board not having a reserve balance in excess of the average of three years operating expenditures. Dr. Rickman, asked when the Board would need to look at a fee reduction to reduce the balance. Mr. McSpadden explained with the previous two years finishing in the red and some expected technological improvement costs the Board did not need to look at fee reductions at this time and the balance would continue to be reduced through normal operation. Mr. McSpadden concluded his report.

REPORT FROM THE ADMINISTRATIVE OFFICE

Ms. Brandi Allocco was present to give the Administrative Office report.

The activities that have transpired in the administrative office between November, 2025 and February 28, 2026 concerning Osteopathic Physicians are as follows:

New Applications Received:

- Osteopathic Physician: 103
- Locum Tenens: 0
- Telemedicine: 0
- Special Training: 1

New DOX Applications Received: 0

Total New Licenses Issued

- Osteopathic Physician: 60
- Telemedicine: 0
- Locum Tenens: 0

- Special Training: 1

- DOX: 0

- Compact: 94

Total Number of Reinstatement: 8

Total Number of Renewals: 383

Online 348 – 91%

Total number of active licensees as of February 28, 2026:

Osteopathic Physicians 3,819

Osteopathic Physicians with a Tennessee mailing address 1,933

Special Training 15

Telemedicine 24

Osteopathic X-Ray Operators 4

Professional Midwives 112

REPORT FROM THE OFFICE OF GENERAL COUNSEL

Michael Varnell was present to give the report.

Mr. Varnell began his report by reviewing the Board Conflict of Interest Policy.

He updated the Board on their rule projects. The retrospective rule changes for both the Osteopathic Rules, Office Based Surgery and Osteopathic X-Ray Operator Rules under PC 328 were currently going through the Department's internal review process.

Litigation- Mr. Varnell informed the Board there was a contested case scheduled for later in this meeting for Dr. James Martell Fish, License # 1861.

Discipline:

The total number of Osteopathic Physicians being monitored for discipline is 12.

The total number on reprimand is 1.

The total number on probation is 8.

The total number on suspension is 1.

The total number that has had their license revoked or surrendered is 2.

The total number of Osteopathic X-Ray Technicians being monitored is 0.

ORDER OF COMPLIANCE

Mr. Varnell asked Dr. Wieting if the Board would hear an Order of Compliance petition from Dr. Albert Lee out of order as he was present in the audience. Dr. Wieting accepted the request. Dr. Lee was present

with his legal counsel, Mr. Alan Bean. Dr. Lee had completed all requirements of a 2023 consent order and asked the Board to remove the probation on his license. Dr. Zieren motioned to approve the order of compliance. Dr. Garabedian seconded and the motion passed.

CONSENT ORDER

Ms. Patrea Morgan, Office of General Counsel, presented a consent order for Dr. Joseph Palumbo, DO # 3781. Dr. Palumbo's license expired July 31, 2025. In November 2023 he entered into a consent order with the Virginia Board of Medicine. Dr. Palumbo did not admit or deny the allegation of that order. In February 2024 the Nevada State Board of Pharmacy placed his certificate of registration on probation. The terms of the consent order would reprimand Dr. Palumbo's license, and he would pay case-related costs not to exceed \$2000. The order will be reported to the National Practitioners Database. Dr. Rickman made a motion to ratify the order. Dr. Garabedian seconded and the motion passed.

RATIFICATION OF NEW LICENSES

Ms. Judd made a motion to approve the list of new licensees. Dr. Garabedian seconded and the motion passed.

UPDATE ON PHILLIP JUSTICE SUMMARY ACTION

Gerard Dolan from the Office of General Council updated the Board on the recent Summary Action taken against Dr. Phillip Justice. Dr. Justice was subject of an ongoing contested case hearing and requested a continuance of the case citing illness affecting his vision and memory. The Office of General Counsel learned that Dr. Justice was still practicing and prescribing during this time and filed for a summary suspension for practicing while impaired. In October 2025, the Board held a Summary Suspension Hearing in which Dr. Justice's license was placed on Probation pending a fitness for duty evaluation. Dr. Justice appealed the order to Chancery Court and was granted a stay on the order. Mr. Dolan informed the Board that while the Office of General Counsel's conclusion is that while the self-report of impairment was sufficient to warrant concern for public safety at the time, there is insufficient evidence that the impairment still exists and the Dr. Justice and his attorney, Mr. Andrew Farmer exaggerated the effects of his illness in order to obtain the continuance and postpone possibly discipline on his license. Mr. Dolan presented the Board with an order lifting the probation retroactive to the original issue date. This would not affect the ongoing contested case. Dr. Rickman motioned to approve the order lifting the summary action. Dr. Garabedian seconded and the motion passed.

UPDATE ON TRAUMA INFORMED REGULATION CONFERENCE

Dr. Wieting and Mr. Varnell had recently attended a Trauma Informed Regulation Conference. The conference was organized by the Federation of State Medical Boards for Members of regulatory Boards and their legal staff. Dr. Wieting explained the purpose of the conference was to discuss regulatory issues relating to licensees and sexual boundary violations and other traumatic events. Training was given on how the brain reacts to trauma and how best to interview licensees or victims who had experienced trauma. Dr. Wieting suggested providing materials from the conference to the other Board Members for them to review.

PUBLIC COMMENTS – No public comments

CONTESTED CASE HEARING

James Martell Fish, DO v. State of Tennessee Board of Osteopathic Examination

Poplar Room

Administrative Law Judge: Michael Begley

Board Members: Michael Wieting, DO; Penny Judd; Shant Garabedian, DO; Jan Zieren, DO; Otis Rickman, DO

Counsel for State: Regan Cothron, Senior Associate General Counsel, Michael Varnell, Advisory Counsel

Counsel for Respondent: Anthony Bills

The Respondent, James Martell Fish, DO, appeared before a quorum of the Board along with his legal representative, Mr. Anthony Bills. The Board, chaired by Dr. Wieting, heard from both parties. After discussion of the submitted proof, Dr. Bernui made a motion to approve a final order with all findings of fact and conclusions of law. The findings of fact included in the order did not constitute a violation, and no disciplinary action was taken. Dr. Zieren seconded and the motion passed.

Meeting adjourned at 2:40 pm.