



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

**Wednesday, March 3, 2021**

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**MINUTES**

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The regular meeting of the Tennessee Board of Osteopathic Examination (hereinafter, “the Board”) was called to order at 9:06 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Michael Wieting.

Members Present: Michael Wieting, D.O., President  
Jan Zieren, D.O., Vice President  
Shant Garabedian, D.O., Secretary  
Jeffrey Hamre, D.O.  
Shannon Kilkelly, D.O.  
Ms. Penny Judd, Consumer Member

Members Not Present: None

Staff Present: Rene Saunders, MD, Medical Consultant  
Francine Baca-Chavez, Office of General Counsel  
Angela Lawrence, Director  
Candyce Wilson, Administrative Director  
Stacy Tarr, Administrative Director

Ms. Angela Lawrence opened with the teleconference script and a roll call. Ms. Lawrence explained how the meeting would be conducted and the Board voted to accept the meeting by teleconference. Dr. Shant Garabedian motioned to accept the electronic meeting. Dr. Jan Zieren seconded the motion and it passed by roll call vote. Ms. Penny Judd motioned that the meeting met the requirements to have a teleconference meeting. Dr. Zieren seconded the motion and it passed by roll call vote. All Board members confirmed receipt of the meeting materials.

**Introduction of New HRB Director, Mr. George Darden** - Mr. Darden introduced himself to the Board and provided a brief professional background.

**Initial Order**

**Marie Gottfried v. State of Tennessee Board of Osteopathic Examination**

**Poplar Room via WebEx**

**Administrative Law Judge: Mary Collier**

**Counsel for State: Kyonzte Hughes-Toombs, Deputy General Counsel**

**Counsel for Respondent: Cindy Morgan, Esq.**

Administrative Law Judge Steve Darnell previously heard this matter and presented an initial order for the Midwifery Council to review. He ruled in favor of the State which finds that Ms. Gottfried was practicing as a Midwife without licensure in the State of Tennessee. On December 15, 2020, the Midwifery Council drafted and approved an initial proposed final order in this matter. The Board of Osteopathic Examination is now to consider this proposed final order. The Board may accept the order, modify the order, or reject the order and propose its own order. Both parties presented their overview of the matter and their position on the case. It is the position of the State that the Respondent practiced without a license. It is the position of the Respondent’s counsel that Respondent did not offer her services and never received monetary payment but only received monies for the supplies. The Board had a chance to review the materials provided and ask questions to both counsels based on those materials. Both parties provided their closing statements.

Dr. Garabedian read aloud the proposed final motion to include the findings of fact, conclusions of law, order, and the policy statement. Dr. Garabedian motioned to accept that final order as written. Dr. Shannon Kilkelly seconded the motion. The motion passed by roll call vote.

**APPROVAL OF MINUTES**

The Board reviewed the minutes from the November 13, 2020 meeting. Dr. Zieren motioned to approve the minutes. Dr. Jeffrey Hamre seconded the motion and it passed by roll call vote.

**RATIFICATION OF LICENSES**

Dr. Hamre motioned to ratify the list of new licensees. Dr. Zieren seconded the motion and it passed by roll call vote.

**CONDUCT NEW BUSINESS**

**Discuss, consider, and take action if needed regarding application changes** – Ms. Stacy Tarr informed the Board members that the online application issue where applicants are not listing their alternate name is something that cannot be changed. It has been brought to our technical teams’ attention and we have been told it cannot be fixed.

Page 1 of 15, item 8 under the instructions, where it instructs applicants to submit letters of recommendation there is a typo where it addresses the Board twice. This will be corrected.

Page 2 of 6 of the application pages, the examination section. Often applicants will select both exams even when it is only one exam they completed. It was decided that the exams will be listed as one line instead of two, “COMLEX/National Boards (NBOME)”.

Dr. Garabedian suggested the Board consider if there should be any changes to the competency questions.

Dr. Michael Baron, Medical Director of TMF, discussed how the Federation of State Medical Boards (hereinafter FSMB) provided recommendations on how to reduce stigma about mental and physical health. The Board of Medical Examiners (hereinafter BME) have already revised their questions to be more in line with the current FSMB recommendations. Dr. Wieting requested the changes made by BME be provided to them for review and they will discuss these possible revisions at their next meeting.

**Discuss, consider, and take action if needed regarding Tennessee Medical Foundation (TMF)**

**Contract** – Dr. Baron provided a letter to the Board, which is in their meeting materials, that outlines the TMF’s request for an increase in their grant from this Board. The letter provides comparisons to the cost of service for TMF to assist Osteopathic Physicians compared to Medical Doctors. Based on these numbers, the letter provides a suggested increase in the funding provided to TMF. The current grant ends in June 2024. It is requested that the current contract be revised effective July 1, 2021. The new rate would be around \$20 per licensee. BME is providing about \$22 per licensee. TMF does not charge money for their services when the services are Board mandated. However, the licensee would pay for their own drug urine screens. Physicians that join TMF voluntarily do pay monthly for their services.

Dr. Hamre motioned to accept the increase in the grant to TMF. Dr. Garabedian seconded the motion and it passed by roll call vote.

Dr. Hamre requested clarification on how /if TMF could assist Certified Professional Midwifery applicants if there are applicable circumstances that TMF would review. Dr. Baron stated he would be able to assist in these matters. The consultant reviewer would request the applicant to reach out to TMF for Dr. Baron to provide the consultant with a letter based on TMFs evaluation.

**Discuss, consider, and take action if needed regarding approval of Board Members/Staff**

**Attendance at the Annual 2021 FSMB Meeting** – Dr. Wieting will already be attending the meeting but not through Board funds. Dr. Zieren would like to attend this meeting. Dr. Hamre nominated for Dr. Zieren to be the voting delegate for the Board at the annual FSMB meeting. Ms Judd seconded the motion and it passed by roll call vote. Dr. Zieren motioned for Ms. Judd, herself, Ms. Lawrence, and Ms. Baca-Chavez to be registered for the FSMB meeting through Board funds. Dr. Hamre seconded the motion and it passed by roll call vote.

**Discuss, consider, and take action if needed regarding Continuing Education Waiver for John T.**

**Gay, DO** – Ms. Baca-Chavez reviewed the existing Board rule outlining how a licensee may request a continuing education waiver. She reports, based on their rule it does not appear that the requester meets the criteria for this waiver. Furthermore, she indicates at this time we are not even aware if this licensee will be randomly selected for an audit, but the Board may discuss the matter should that circumstance arise. Dr. Zieren recognizes this licensee does not fit the rule for a waiver request but she is in favor of their not being any punitive measures held against the licensee, especially considering he has since made up the required hours despite not completing the hours in the required time frame of the rule. It is the consensus of the Board that grace should be given to this licensee. Ms. Judd motioned that Dr. John T. Gay, DO (license #3398), based on the communication provided, be granted a waiver to his CME requirements due in 2021. Dr. Zieren seconded the motion and it passed by roll call vote.

**Discuss Board Member Per Diem Reimbursement for 2020** – Ms. Tarr reported she was recently informed that the Board members were not paid for their 2020 meeting attendance. The Board members will receive the forms to be signed by e-mail and Ms. Tarr will submit those for processing.

## **REPORT FROM THE OFFICE OF INVESTIGATIONS**

Ms. Lori Leonard, Disciplinary Coordinator for the State of Tennessee, provided her report to the Osteopathic Board regarding their licensed practitioners. She is currently monitoring two (2) practitioners for a reprimand, five (5) who are on probation, one (1) who is suspended, and one (1) who is revoked/surrendered.

There were seventy-six (76) complaints opened in 2020. Out of the seventy-six (76) new complaints, one (1) for falsification of records, one (1) was for substance abuse, three (3) for action in another state, sixteen (16) for malpractice/negligence, forty-three (43) for unprofessional conduct, two (2) for failure to supervise, one (1) for mental and/or physical impairment, one (1) for prescribing to friends and/or family, one (1) for continuing education violation, four (4) for outside the scope of practice and three (3) for relation with Covid-19.

They closed forty-eight (48) complaints in 2020. Nine (9) closed for insufficient evidence to formally discipline, three (3) sent for formal discipline, thirty-one (31) complaints closed with no action, two (2) closed with a letter of concern and three (3) closed with a warning letter. The office has a total of sixty-six (66) currently opened complaints as of the end of 2020.

So far in 2021, they have received eleven (11) new complaints. Of the eleven (11) complaints, two (2) were for action in another state, two (2) were for malpractice/negligence, three (3) for unprofessional conduct, one (1) for medical record requests, one (1) for prescribing to friends and/or family, one (1) for outside the scope of practice, one (1) for relation with Covid-19. They closed seventeen (17) complaints. Five (5) closed for insufficient evidence to formally discipline, two (2) sent for formal discipline, eight (8) closed with no action, two (2) closed with a letter of concern. There are currently forty-nine (49) complaints open being investigated and/or reviewed.

## **REPORT FROM THE DIVISION OF HEALTH LICENSURE AND REGULATIONS**

Mr. Matt McSpadden presented the Board with their current financial report. The Board was provided with their actual revenue and expenditures for fiscal year ending June 30, 2021. This report included the FY2021 actual numbers for the first half of the fiscal year and the projected FY2021 numbers. The Board is projected to end in the black for FY2021. He reviewed the policy in place pertaining to the Boards cumulative carryover. It is the recommendation of the fiscal office for the Board to consider licensee fee reductions to assist in lowering the cumulative carry over. Mr. McSpadden provided the Board with three scenarios outlining how their revenue would decrease based on adding the TMF contract increase and reducing their renewal and/or application fee. The Board was informed that they must operate in the red to reduce their cumulative carryover.

Dr. Zieren asked if it has been considered that last year travel expenditures drastically changed and if we return to having to cover those fees has that been accounted for. Mr. McSpadden provided the estimated numbers for those costs.

Ms. Judd inquired if the Board needs to be concerned about any potential investigative costs. Ms. Baca-Chavez reported there are currently about twenty-four (24) cases that involve allegations of over-prescribing and these cases do tend to be costly.

Ms. Baca-Chavez recommended the Board make the decision for fee reductions today, if possible, because there is already a revision to the rules in process and this could be added to the current packet.

With assistance from Ms. Alicia Grice and Mr. McSpadden, with the fiscal office, the Board conducted a thorough review of their options between being least aggressive to most aggressive in fee changes. The Board and staff discussed the possibility of removing the \$10 certificate of fitness (licensure verification fee). This Board is the only Board who issues that fee. Dr. Zieren motioned to reduce the renewal fee from \$300 to \$200, application fees from \$400 to \$300, and to completely remove the \$10 certificate of fitness fee. Dr. Hamre seconded this motion and it passed by roll call vote.

**REPORT FROM THE ADMINISTRATIVE OFFICE**

Ms. Stacy Tarr provided the following report to the Board:

New Applications Received:

- Osteopathic Physician 116
- Locum Tenens 0
- Telemedicine 1
- Special Training 0
- Compact 26

New DOX Applications Received 0

Total New Licenses Issued

- Osteopathic Physician 61
- Telemedicine 2
- Special Training 0
- DOX 0
- Compact 21

Total Number of Reinstatement 4

Osteopathic Physician 272  
 Online 229 – 94%

Total number of active licensees as of February 28, 2021 is 2,106.  
 Total number of active licensees as of February 28, 2021 with a Tennessee mailing address is 1,299.  
 Total number of Special Training licenses as of February 28, 2021 is 7.  
 Total number of Telemedicine licensees as of February 28, 2021 is 26.  
 Total number of Active DO X-Ray Operators as of February 28, 2021 is 12.

Total number of Active Professional Midwives as of February 28, 2021 is 66.

**REPORT FROM THE OFFICE OF GENERAL COUNSEL**

Ms. Baca-Chavez provided the following report to the Board. Currently, there are thirty (30) cases open against eleven (11) Osteopathic Physicians. Regarding these cases, twenty-four (24) 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 currently.

The current rule revisions are in the post rulemaking process. Ms. Baca-Chavez informed the Board that there would need to be one (1) revision the Board consider due to the length of time it has taken for these rules to go through the rulemaking process. The current rule revisions change the period in which a licensee completes their continuing medical education. The Board added a clause that allows licensees audited within a certain period to be made compliant with the continuing medical education if they completed their hours based on the old rule and the new rule. This clause was added because some licensees would have already begun working on their hours at the time the rule changed. The Board reviewed the proposed change. Dr. Zieren motioned to amend the rules to say “Until December 31, 2024 in response to an audit, the Board will accept continuing medical education credits obtained on a calendar year or those obtained on a renewal cycle. All licensees whose license expires on or after January 1, 2025 will be required to submit proof of continuing medical education credits for the past licensure renewal cycle rather than the calendar year cycle. Dr. Hamre seconded the motion and it passed by roll call vote.

**Public comments** - No public comments.

The Board meets next on May 5, 2021.

**The meeting adjourned at 12:26pm CT.**