



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

March 6, 2019

MINUTES

A regular meeting of the Tennessee Board of Osteopathic Examination was held in the Poplar Conference Room, at 665 Mainstream Drive, Nashville, TN 37243 on March 6, 2019.

Members Present: Jeffrey L. Hamre, DO
 J. Michael Wieting, DO
 Jan Day Zieren, DO
 Shant H. Garabedian, DO
 Penny Grace Judd, Consumer Member
 Shannon Kilkelly, DO

Staff Present: Angela Lawrence, Executive Director
 Candyce Waszmer, Administrative Director
 Stacy Tarr, Administrative Director
 Dr. Rene Saunders, Medical Consultant
 Francine Baca-Chavez, JD, Deputy General Counsel

The necessary number of Board members joined the meeting and a quorum was established. Board of Osteopathic Examination (hereinafter “the Board”) President, J. Michael Wieting, DO, called the meeting to order at 9:00 a.m.

Election of Officers

Dr. Jan Zieren made a motion to nominate Dr. J. Michael Wieting for President. Dr. Jeffrey Hamre seconded. The motion passed.

Ms. Penny Judd made a motion to nominate Dr. Zieren as Vice President. Dr. Hamre seconded. The motion passed.

Ms. Judd nominated Dr. Shant Garabedian as Secretary Treasurer. Dr. Hamre seconded. The motion passed.

Minutes

The Board reviewed the previously distributed minutes. Dr. Shannon Kilkelly made a motion to approve the November 2018 meeting minutes. Dr. Garabedian seconded. The motion passed.

Applicant Interviews

Thomas Groblewski, DO -Dr. Thomas Groblewski, DO appeared without legal representation. Dr. Groblewski was invited to appear to discuss multiple litigation cases. Dr. Groblewski reported he resides in Massachusetts and is the statewide chief medical officer for the company Centurion, since 2013, which is the contracted vendor to the Department of Corrections in New Hampshire. He reported he has worked in the correctional health care field since 2005 and provided some direct care, but has primarily served in an administrative capacity. Dr. Groblewski stated that when patients have concerns regarding the delivery of healthcare he is often named as a recipient of the claim. Dr. Groblewski stated he has not been found responsible in regards to medical malpractice or direct deliberate indifference to a patients need and that in some cases he was named as a care provider, but a majority he was named as the as the final authority for the clinical practice guidelines and processes. Dr. Groblewski reported a majority of the cases have been resolved with no finding and that his National Practitioner Data Bank (hereinafter "NPDB") report is clean. Dr. Groblewski offered there were two (2) cases open, and he is not the primary defendant in either. Dr. Groblewski explained in one he was on call the night the claimant was seen in the Emergency Department and was not on site and Dr. Groblewski left orders of a follow up plan for the claimant that did not happen. In the other open incident Dr. Groblewski reported his direct role was as the Chief Medical Officer in which Dr. Groblewski pointed the primary care provider to the steps/process in place. The claimant felt this delayed her from receiving the needed medication in time. Dr. Groblewski reported there were no malpractice claims or letters to the Board prior to 2005 and that all incidents have been since beginning his work in correctional facilities. Dr. Groblewski offered he does not have a specific plan for work in Tennessee, but that Centurion is a vendor for correctional facilities in the state which is why he is seeking licensure. Dr. Zieren made a motion to grant Dr. Groblewski a license. Dr. Kilkelly seconded. The motion passed.

Ratification of New Licensees

Dr. Garabedian made a motion to ratify all initially approved Osteopathic Physician applications. Dr. Hamre seconded. The motion passed.

Dr. Hamre made a motion to ratify all initially approved Certified Professional Midwife applications. Dr. Zieren seconded. The motion passed.

Reports

Ms. Lori Leonard presented for the Office of Investigations

Currently Monitored Practitioners:

- Five (5) under probation
- Three (3) under suspension
- Two (2) revocations or voluntary surrenders
- Three (3) Board Orders

Investigation Report:

- For 2018 seventy-one (71) new complaints
 - One (1) for false billing
 - Eighteen (18) actions in another state
 - Two (2) criminal charges
 - Twenty-three (23) malpractice or negligence
 - Eighteen (18) unprofessional conduct

- Six (6) overprescribing
- One (1) failure to supervise
- Two (2) prescribing to friends or family
- For 2018 sixty-eight (68) Closed Complaints
 - One (1) closed insufficient evidence to discipline
 - Eight (8) closed and sent to OGC for discipline
 - Forty-seven (47) with no action
 - Two (2) with letters of concern
 - Ten (10) with letters of warning
- At the end of 2018 there were thirty-nine (39) complaints being reviewed
- For 2019 thirteen (13) New Complaints
 - One (1) action in another state
 - Three (3) malpractice or negligence
 - Eight (8) unprofessional conduct
 - One (1) prescribing to friends or family
- For 2019 Ten (10) Closed Complaints
 - One (1) closed insufficient evidence to discipline
 - Two (2) closed and sent to OGC for discipline
 - Four (4) no action
 - Three (3) with letter of warning
- Currently there are twenty-nine (29) complaints being reviewed

Ms. Noranda French with Health Licensure and Regulation presented the mid-year financial report

- Mid-Year Actuals
 - Salaries and Wages 19,740
 - Employee Benefits 8,424
 - Travel 2,413
 - Communication 800
 - Professional Services and Dues 4,848
 - Grants and Subsidies 7,689
 - State Professional Services 1,237
 - Revenue 151,993
- 2019 End of Year Projections
 - Salaries and Wages 54,000
 - Employee Benefits 23,000
 - Travel 6,200
 - Communication 2,000
 - Professional Services and Dues 6,800
 - Grants and Subsidies 25,000
 - State Professional Services 2,700
- 2019 Expenditure Projections
 - Administrative just over 34,000
 - Investigation just under 47,00
 - Legal just over 19,00
 - Cash Office just over 1,100

- Total Expenditures 220,986
- Revenue 303,986
- Projected Net of 83,000

Ms. Baca-Chavez presented for the Office of General Counsel:

Ms. Baca-Chavez reported there are currently twenty-six (26) open cases against seven (7) Osteopathic Physicians, twenty-two (22) involve over prescribing and five (5) open cases against four (4) Certified Professional Midwives.

Consent Order

Susy L. Vergot, DO – Dr. Vergot was not present. There were no reported conflicts of interest in hearing and deciding on Consent Order. Ms. Baca –Chavez reported the stipulation of facts are Respondent was employed at Choice MD which is a walk in family practice clinic in Cleveland, Tennessee. Respondent asserts staff would interview patients via telephone or office visit using a one page intake form and give to respondent to review and signature. Respondent would sign the form for compounded prescription creams which would then be sent to ship to the patient. Respondent asserts she discovered after being informed by the US Attorney Office that she had authorized prescriptions for patients who were not legitimate patients but were being recruited by a network of marketers that were being run by the owners of the clinic. Following the discovery respondent ceased prescribing this compounded creams. In April of last year Respondent was charged with one (1) count of conspiracy to commit health care fraud in the Southern District of California to which Respondent has pled guilty. Respondent has agreed to be placed on probation for at least five (5) years and to not supervise or serve as a substitute supervising physician, maintain good and lawful conduct and within six (6) months of the effective date. Respondent agrees to successfully complete the Pro Program and agrees to sign all releases necessary for this program to communicate with this Board. Respondent agrees to be monitored within thirty (30) of the entry of this order and will continue for at least one (1) year; and until a minimum of four (4) quarterly reports have been received by the practice monitor. There were concerns about the monitoring agreement and the language of monitoring "patients seen" since the Respondent was writing prescriptions to patients not seen. It was discussed if "patients seen" needed to be defined now, or to move forward with a decision on the Consent Order and discuss operational definitions with the practice monitor. It was decided to move forward with the Consent Order as presented. Dr. Wieting made a motion to approve the consent order. Dr. Hamre seconded. The motion passed.

Agreed Citation

Marie Beasley, DO- Dr. Beasley was not present. Dr. Beasley was issued an Agreed Citation due to noncompliance of continuing education lacking thirty-eight (38) hours. Dr. Beasley has agreed to the terms of the Agreed Citation. Dr. Zeiren made a motion to approve the Agreed Citation as presented. Dr. Hamre seconded. The motion passed.

Managers' Report

Ms. Stacy Tarr presented the Board with the business that transpired in the Administrative Office between November 1, 2019 and February 28, 2019:

New applications received:
Osteopathic Physician – 92
X-Ray Operators – 2

Total New Licenses Issued:
Osteopathic Physician – 45
Telemedicine – 1
X-Ray Operator – 2

Total number of active licensees is 1677.
Total number of active licensees with a Tennessee mailing address is 1086
Total number of Telemedicine licensees is 28.
Total number of Active DO X-Ray Operators is 15.
Total number of Active Professional Midwives is 49.

Legislative Update

Legislature is in session so no update was provided. Ms. Baca-Chavez handed out a list of Bills relevant to the Profession for review and offer a position on behalf of the Board, if they so choose. Dr. Wieting brought House Bill 0810 to the Boards attention and commented that similar pieces of legislation are enacted or being proposed in several states which would allow graduates of medical school to go into practice with no post graduate training under the supervision of a physician in an attempt to meet the shortage of providers. Dr. Wieting asked if a Board member would like to offer an opinion for the Board to consider. Dr. Kilkelly stated he felt graduate medical education was cornerstone to the safe practice of medicine as it takes practice, time and mentoring to hone your skill, clinical acumen and diagnostic abilities in order to provide the citizens of the state of Tennessee with the level of health care that they deserve. Dr. Kilkelly made a motion to release a statement that the Board does not feel it is in the best interest of the health and welfare of the citizens of the state of Tennessee to support either House Bill 0810 or House Bill 1377. Dr. Wieting asked if we could change the motion to view each bill separately. Dr. Kilkelly agreed. Dr. Hamre seconded. The motion passed.

Dr. Kilkelly made a motion to release a statement that the Board does not feel it is in the best interest of the health and welfare of the citizens of the state of Tennessee to support House Bill 1377. Dr. Hamre seconded. The motion passed.

It was asked what the implication is for Osteopathic Examiners regarding Bill 0491 and it was stated that would pertain to BME. Ms. Baca-Chavez stated a sunset hearing was held regarding senate bill 0106 the Osteopathic Board Sunset date was extended from 2019 to 2025.

It was asked for expansion on House Bill 0793. Ms. Baca-Chavez reported this bill would prohibit disciplining a licensee who recommends or markets products derived of industrial hemp as defined in Title 43. Dr. Garabedian made a motion that the Board express opposition to the provision of House Bill 0793 and hold health care providers liable for falsely promoting items that are of no benefit to a patient. Dr. Kilkelly seconded. Ms. Judd abstained. The motion passed.

Senate Bill 1200 was brought into discussion which would raise the legal age for tobacco and vaping products from eighteen (18) to twenty-one (21) years of age. Dr. Hamre made a motion that the Board support Senate Bill 1200. Dr. Kilkelly seconded. The motion passed.

Adjournment