



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

Wednesday, May 6, 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. Hamre made the motion to accept the meeting. Dr. Zieren seconded the motion. The motion carried. Dr. Kilkelly also made the motion that the meeting met the requirements to have a teleconference meeting. Ms. Judd seconded the motion. The motion carried.

APPROVAL OF MINUTES

The Board reviewed the minutes from the March 20, 2019 meeting. Dr. Hamre made a motion to approve the minutes. Dr. Zieren seconded the motion. The motion carried.

RATIFICATION OF LICENSES

Dr. Garabedian made a motion to approve the list for ratification of licenses as presented. Dr. Hamre seconded the motion. The motion carried.

Presentation from Dr. Baron on the Professional Screening Questionnaire

This is an Online platform where a medical professional can log on to the system in a confidential way. The TMF-PHP's mission is to protect patients through identification, intervention, rehabilitation, and the provision of advocacy/support for physicians impaired by addictive disease, mental or emotional illness. The program seeks to help physicians by offering guidance and ensuring accountability in their recovery program which can enable a restoration to practice.

Initially focused on alcohol and drugs, the TMF has reshaped the program to assist physicians, their families, and hospitals with a wider range of problems. These include psychiatric disorders, burnout, stress or anxiety, anger and relationship issues, disruptive behavior, overprescribing, and various psychological issues that can impair a physician's ability to practice safe and effective medicine. With a success rate of over 80 percent, the TMF-PHP has developed a highly successful, professionally managed program to help save the lives and careers of struggling physicians. Today the TMF encourages physicians and other licensed health professionals it serves to call the Physician's Health Program before a problem threatens patient safety, their career, or their lives. As part of that effort, the TMF has launched the Tennessee Professional Screening Questionnaire, or TN PSQ. This online tool is a free, voluntary, and confidential way for health professionals to gauge their mental health and connect to resources, hopefully before a call to the TMF is necessary. Physicians can access the TN PSQ to take the screening through the Board's website under the Peer Assistance link.

The PHP has a full clinical staff contingent including Medical Director Michael Baron, MD, MPH, and two full-time case managers. The clinical staff is effective in responding quickly to health professionals in need across the entire state.

Referrals may be made confidentially by a supervisor, an employee assistance program, a co-worker, family member, friend, or the physician themselves. The Board of Medical Examiners (BME) or its investigative staff will also make referrals to the PHP when a rehabilitation program is deemed appropriate as a part of a disciplinary action. Dr. Hamre made a motion to accept and Garabedian seconded the motion with changes to the wording per Dr. Wieting's suggestions. Change from Board of Medical Examiners to The Board of Osteopathic Examination. The Motion carried.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Lori Leonard, Disciplinary coordinator for the State of Tennessee she gave her report for the Osteopathic Board as five (5) reprimands, four (4) on probation, one (1) suspended, and one (1) revoked/surrendered. New complaints opened is twenty-two (22) out of the 22 five (5) Malpractice/negligence, fourteen (14) unprofessional conduct, one (1) failure to appear, one (1) mental and/or physical impairment, and one (1) COVID -19. Dr. Wieting asked what would be the nature of a complaint for COVID-19 would be. Ms. Leonard stated something like non-diagnosed/missed diagnosed she was unsure. Francine Boca-Chavez explained that some of the complaints about Covid-19 would be something specific to Covid -19. They have nine (9) total complaints closed, three (3) insufficient and six (6) complaint closed. They have a total of forty (40) complaints currently opened.

REPORT FROM THE DIVISION OF HEALTH LICENSURE AND REGULATIONS

Maria McCormick presented the Fiscal mid-year 2020 report for the Osteopathic Board. She stated she would only be giving the report through the month of December 2019. Total Payroll Expenditures \$24,008.88 Salaries and Wage were \$15,246.22 and Employee benefits were \$8,762.66. Total other Expenditures \$19,903.57. Total Direct Expenditures \$43,912.45. Total Allocated Expenditures Administrative - \$30,344.49 Investigations - \$28,145.00 Legal - \$9,719.04 and Cash Office - \$380.00 for a total of \$68,588.52. Total Expenditures - \$112,500.97, Board Fee Revenue \$169,847.23, Current Year Net \$57,346.26, Expenditures paid from Reserves \$303.97, and Cumulative carryover \$1,034,885.17. Dr. Wieting had a question concerning the difference in the expenditure paid from reserve. Ms. McCormick stated it was for LARS improvements. Dr. Zieren had a question concerning the expenditures being shared. The LARS improvement is shared among several different boards. There is a discussion of a fee reduction for the Osteopathic Board. The Board will be notified if this happens.

REPORT FROM THE ADMINISTRATIVE OFFICE

New Applications Received:

• Osteopathic Physician	110
• Locum Tenens	0
• Telemedicine	0
• Special Training	2
• Compact	27

New DOX Applications Received 0

Total New Licenses Issued

• Osteopathic Physician	93
• Telemedicine	0
• Special Training	2

• DOX	0
• Compact	27
Total Number of Reinstatement	6
Total Number of Renewals:	
Osteopathic Physician	357
Online	279 – 78%

Dr. Wieting asked if the bottom number for the renewals was the number of renewals online. Administrative staff confirmed that it was. Dr. Garabedian asked if there was a penalty for not renewing online. There is not a penalty for not renewing online.

Total number of active licensees as of April 30, 2020 is 1,920.

Total number of active licensees as of April 30, 2020 with a Tennessee mailing address is 1,200.

Total number of Special Training licenses as of April 30, 2020 is 11.

Total number of Telemedicine licensees as of April 30, 2020 is 26.

Total number of Active DO X-Ray Operators as of April 30, 2020 is 13.

Total number of Active Professional Midwives as of April 30, 2020 is 66.

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 three (3) open cases against three (3) midwives. There are no appeals at this time.

Agreed Orders

Lindsay Carr-Rucker

Kyonzte Hughes–Toombs, Deputy General Counsel, presented the Order to the board.

Lindsey Carr –Rucker was practicing without licensed in the State of Tennessee. After her termination, she continued to provide midwifery services, for compensation, to clients and provide those clients with paperwork obtained by Tender Beginnings Birth services. The paperwork included the name and Logo of said company. This led the clients to believe she was still employed with said company. Respondent shall

pay three type A civil penalties of a thousand (\$1,000.00) each for a total three thousand dollars (\$3000.00) and pay all cost, allowable by law.

Dr. Zieren asked if there is anything we can do to that would prevent this from happening again? Ms. Hughes-Toombs explained there are certain qualifications to become a midwife. Ms. Carr-Rucker was not charged with anything that would prevent her from being licensed. Dr. Hamre asked if this is more of a civil order and not criminal? Ms. Hughes-Toombs stated the company had the opportunity to press charges but was not certain if that occurred nor the outcome of the companies actions. No injuries were known to the clients; however there were clients that were upset after learning of the situation.

Dr. Hamre made the motion to approve the Agreed Order. Dr. Kilkelly seconded the motion. The motion carried.

Agreed Citation(s)

Dr. Kelly Chumbley, DO

Dr. Chumbley failed to properly maintain sufficient continuing education credits in violation of code 63-9-101 and 63-9-1104(a). Dr. Chumbley sent in a waiver for the delinquent hours. He didn't submit the hours in the allowed timeframe. Ms. Judd asked if he completed the require hours in the correct timeframe? Dr. Garabedian discussed how the CME are requested and will need to be looked into. He also asked if this is considered discipline on his license. Ms. Baca-Chavez stated that it will show on the website as discipline; however it will not be reported to the National Practitioner Data Bank (NPDB). Ms. Judd asked for an example of a hardship concerning a CE waiver request? Examples were provided. Respondent shall pay three type A civil penalty for a total of twenty dollars (\$20.00) and provide proof of the Continuing education hours.

Dr. Kilkelly made the motion to accept the Agreed Order and reject the appeal. Dr. Hamre seconded the motion. The motion carried.

Dr. Nabil Malek, DO

Dr. Malek failed to properly maintain sufficient continuing education credits in violation of code 63-9-101 and 63-9-1104(a). Dr. Malek admits that this violation occurred and does not wish for this matter to be further prosecuted by the state of Tennessee. The respondent acknowledges and understands that by signing this Agreed Citation and paying a civil penalty of eighty (\$80.00) dollars for two hours of prescribing at forty (\$40.00) dollars each. Dr. Hamre made the motion to approve the Agreed Citation. Dr. Zieren seconded the motion. The motion carried.

Dr. Wieting thanked everyone for all they do to make this meeting happen. He also wanted to thank Angela for writing the letters to the FSMB. Ms. Judd stated that she and Ms. Lawrence would be in a meeting with the compact. Dr. Wieting stated he would like to her about the Compact meeting on the 12th of May 2020.

Meeting Adjourned