



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

November 4, 2015

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 November 4, 2015.

Members Present: Jan Day Zieren, DO
 Donald H. Polk, DO
 J. Michael Wieting, DO
 Shant H. Garabedian, DO
 Penny Grace Judd, Consumer Member

Members Absent: Jeffrey L. Hamre, DO

Staff Present: Candyce Waszmer, Administrator
 Stacy Tarr, Administrative Director
 Rene Saunders, BME Medical Director
 Francine Baca-Chavez, Deputy General Counsel

The necessary number of Board members joined the meeting and a quorum was established. Board of Osteopathic Examination Chair, Donald Polk, DO, called the meeting to order at 9:03 a.m.

Welcome New Member:

Penny Grace Judd was introduced and welcomed as a new member to the Board representing consumers.

Minutes

Dr. Michael Wieting made a motion to approve the minutes from the August 12, 2015 meeting of the Board and Dr. Jan Zieren seconded the motion. The motion carried unanimously.

Applicant Interview(s):

Dr. Kody Kent King, DO – Dr. King is a general orthopedic surgeon that has been named a party in one pending malpractice claim. Also, Dr. King’s post graduate training verification from Saint Anthony Hospital between November 2010 and June 2015 indicates adverse charges or actions were taken during the residency. A subsequent letter from the Program Director, Dr. Derek West, indicates that on May 29, 2012 Dr. King was placed on probation due to deficiencies in professionalism, interpersonal communication and patient care. After successful completion, Dr. King’s probation was lifted on December 4, 2012. The Board interviewed Dr. King in regards to his residency probation professional behavior, patient care, and interpersonal difficulties present during his residency, as well as him being named in a pending malpractice claim. Dr. King accepts responsibility and expresses lessons learned for his actions but attributes the key concerns addressed in his probation report as miscommunication and a poor reflection of accurate accounts for many of the scenarios described. In reference to one incident that occurred during his residency, Dr. King acknowledged that following his realization of the miscommunication he promptly responded to the request of patient care being needed from him. Dr. King expressed an understanding that there are protocols he must follow in responding in a quick manner to an Emergency Room physician’s request. Dr. Shant Garabedian made a motion to approve Dr. King for an unrestricted license and Dr. Wieting seconded the motion. The motion carried unanimously.

Dr. Patrick Cabrera, DO – Dr. Cabrera is a board certified radiologist and has been named a party in three malpractice claims. The first two were dismissed without settlements. The third claim alleges wrongful death and is pending. Dr. Cabrera provided an overview of all three malpractice claims to which he has been named a party in. Dr. Cabrera confirmed that the last claim is still pending and that he is not privy to the patient’s file or other information regarding the claim. Dr. Cabrera indicated he has been practicing radiology since 1997, after the end of his training, and these are the only cases for which he has been named a party in during his professional history. Dr. Zieren made a motion to grant Dr. Cabrera an unrestricted license and Dr. Garabedian seconded the motion. The motion carried unanimously.

Dr. Christopher Hodge, DO – Dr. Hodge was initially scheduled to interview at the November 2014 meeting, but rescheduled to the March meeting and then to May 2015. The Board tabled Dr. Hodge’s application at the May 2015 meeting pending further information on the resolution of his summarily suspended Ohio medical license. Dr. Hodge previously stated he self-reported to the Ohio Medical Board in January of 2014, to make the Ohio Board aware of two relationships he had formed with patients during his residency in 2010 and early 2011. Also, Dr. Hodge has previously reported that he resigned prior to the conclusion of an investigation during his residency into whether he violated his employer’s policies and standards. As of June 10, 2015 Dr. Hodge’s OH license was permanently revoked following his request to surrender his license in lieu of further formal disciplinary proceedings.

Dr. Hodge reported that he chose to surrender his OH license to avoid a public hearing, potentially involving press, and having lived in TN for quite some time now. Ms. Baca-Chavez questioned Dr. Hodge if by choosing to surrender his OH license he was not disputing the charges against him. Dr. Hodge responded by stating he self-reported the charges against him and therefore was not disputing those charges. Dr. Garabedian noted that his Key Stone Center evaluation recommended he attend long-term weekly therapy. Dr. Hodge reported he has been attending 12-step meetings, thus far 127 meetings since leaving Key Stone, and attends bi-weekly out-patient therapy and communicates with this therapist by phone on the off week. Dr. Polk asked Dr. Hodge to speak to an evaluation from Key Stone in April 2015 which indicates his prognosis is cautious at this time. Dr. Hodge reported he attended Key Stone after being discharged from a previous facility due to being unable to receive

treatment because he lacked a dual diagnosis with chemical dependency. He contributes the poor evaluation due to 1) his poor attitude upon arriving at Key Stone after having to spend more money for the treatment because of the transfer, and 2) he further disclosed significant information during this treatment that he had not reported early on. Dr. Hodge reported the counseling he is currently receiving is on a voluntary basis, as he is not being mandated by any entity to participate in treatment at this time. Dr. Wieting referenced the Key Stone evaluation and how it indicates that, in addition to long-term weekly individual therapy, Dr. Hodge will be suitable to practice medicine which includes seeing patients upon active compliance and provisional completion of the Key Stone program. Dr. Hodge reports he has completed this Key Stone program and has a letter at home indicating this completion. Dr. Polk expressed concerns about the protection of Tennessean's by granting licensure when he has a revocation of licensure in another state. Dr. Zieren expressed concerns in regards to the April 2015 Key Stone evaluation indicating Dr. Hodge was deceptive in all areas of a polygraph test given and that the recommendation indicates he should receive a polygraph test every 6 months to monitor his workplace boundaries and behavior.

The Board discussed options regarding contingent licensure, conditional licensure, and monitoring programs available. Dr. Gray with the Tennessee Medical Foundation (TMF hereafter) reported that TMF relies heavily on the Behavioral Medical Institute (BMI hereafter) in Atlanta, Georgia and before TMF could support Dr. Hodge's application they would need an assessment completed by BMI to indicate that Dr. Hodge is safe to practice medicine and to suggest an appropriate monitoring plan that could be passed on to the Board.

Ms. Judd questioned, if licensure is granted to Dr. Hodge, how the consumers of Tennessee will be aware of Dr. Hodge's history. Ms. Baca-Chavez advised that granting a conditional license will be reportable to the practitioner databank and the practitioner profile that is available on the Department of Health's website where the Board's order would be visible and the order will list the stipulations. Dr. Saunders noted that reporting an order to the practitioner databank could potentially limit Dr. Hodge's type of practice in Tennessee based on insurance requirements. Dr. Garabedian noted that Ohio's actions are reportable and that those should already be indicated on the practitioner databank. Dr. Polk inquired again about why Dr. Hodge would choose to surrender his license rather than resolve the matter. Dr. Hodge stated that along with previous mentioned reasons this was also at the advice of his attorney. Ms. Baca-Chavez clarified that by choice of surrendering his license he has waived his option of ever choosing to maintain OH licensure as they will not accept an application of such.

The Board entertained thoughts of tabling Dr. Hodge's application pending an evaluation through BMI, which would include a polygraph, to determine if the results indicated he is suitable for practice or not and further recommendation's. Dr. Hodge reported he has previously spoken, unofficially, to Mr. Mike Todd with TMF to receive recommendations on what additional requirements the Board may ask of him. It had been suggested that he complete such an evaluation and this was completed about one month ago by Dr. Rochelle, whom previously worked with BMI. Dr. Hodge reported this was a three-day six thousand dollar evaluation, that did include a polygraph which he passed, but he has not received results of the evaluation. Dr. Hodge indicated he would sign a release for this evaluation to be available for the Boards review.

Dr. Zieren questioned Dr. Hodge on how long he has been out of practice and he reported one year. Dr. Zieren questioned how the Board would be able to ensure competency with one year out of practice. Dr. Hodge mentioned his wife is a physician and he continues to read the journals that are readily available because of this. Dr. Wieting suggested he is not as concerned about the one year of

no practice and motioned to table Dr. Hodge's application until the Board receives full documentation of his most recent evaluation and for Dr. Hodge to appear before the Board after this information is received. Dr. Zieren seconded this motion. The motion carried unanimously.

Dr. Cara Hartquist, DO – Dr. Hartquist is a third year family medicine resident that was arrested on July 27, 2014 for driving under the influence. Dr. Hartquist discussed she voluntarily wore a SCRAM device for almost 6 months, attended a drug and alcohol class, and alcohol and drug (A&D hereafter) assessment prior to the courts determination. On May 1, 2015 she states her charges were reduced to reckless driving and she as placed on pre-trial release in which she had to check-in every week at the court house and use a breathalyzer device. Dr. Hartquist reported that her probation ended successfully on November 1, 2015. She reported that after informing the program director and chair of this incidence it was determined that no ramifications would follow regarding her residency and noted that substance use has never affected her work. At this time Dr. Hartquist was recruiting chief and was able to run for chief resident the spring of 2015.

The Board questioned the applicant on past and current substance use, participation in alcoholics anonymous (AA hereafter) or other programs. Dr. Wieting discussed her A&D assessment that recommended Dr. Hartquist would benefit from AA meetings when the SCRAM device is removed, utilization of a sponsor to assist in following the AA program and to prevent relapse. Dr. Hartquist reported a desire to do whatever was necessary to obtain licensure but did not feel as though she previously was dependent on alcohol and believes that the past year sober and the incident has led to significant positive life changes in her life. Dr. Saunders addressed a section of the A&D assessment that stated Dr. Hartquist reported black outs occurring after alcohol use during her first year of medical school and suggested that Dr. Gray with TMF may have further insight for this applicant. Dr. Gray reported he is not familiar with this particular case but after a review TMF would be able to come up with a corrective plan and perhaps that would include following through with the psychiatrists' recommendations from the A&D assessment. Also, he stated that they could possibly monitor the applicant but monitoring for substance abuse is much shorter in length of time versus monitoring for substance dependency. Dr. Polk inquired about her substance abuse since the incident and Dr. Hartquist stated she has not consumed alcohol since the night of the incident specifically because of being monitored by the SCRAM bracelet and then the breathalyzer since November 2014. Ms. Judd inquired about Dr. Hartquist's volunteering experience and steps that have changed her life in the past year. Dr. Hartquist discussed being impacted by another clients' experience at the alcohol and drug class and the volunteering work, to include tutoring English to an Iraq refugee, helped her remain distracted from the negative influences she had in her life and grow to be passionate about refugees and indigenous populations. She discussed an employment contract to begin September 2016 where she will work with refugees and an indigent population. Dr. Wieting motioned to grant Dr. Hartquist a contingent license, non-reportable, with the requirement of having TMF assess the A&D assessment she has completed and follow any and all recommendations made by TMF. Dr. Garabedian seconded the motion. The motion passed unanimously.

Dr. Vincent DiSanto, DO- Dr. DiSanto informed the Board's administration that he would be absent just prior to the meeting time and has requested to appear before the Board at their next regularly scheduled meeting, which is March 2, 2016.

Federation of State Medical Board Presentation

A presentation was led by Lisa Robin, Federation of State Medical Board Chief Advocacy Officer, along with Dr. Polk, whom of which is the Federation's Immediate Past Chair. Ms. Robin reviewed

Tennessee's historical proceedings towards health awareness and the beginnings of regulating the practice of medicine; as well as mentioning members on the Federation Board and Tennessee's long standing active role at the Federation. Dr. Polk presented an overview of the Federation's Texas headquarters and their Washington, DC location that opened January 7, 2010, offering greater representation for the Federation.

The House of Delegates is run by representatives of the seventy state licensing boards which elect the Federation's Board of Directors. The house accepts nominations for the board of directors, the nominating committee, and the officers of the federation. The board of director's works on behalf of the house by employing the chief executive officer.

The Federation's strategic plan was created through a collaboration of representatives for the AOA, AMA, two state board executive directors, and two past chairs of the Federation. This plan incorporates the Federations mission, vision, state medical board support, data and research services, organizational strength, education, advocacy and collaboration.

Dr. Polk reported that the Federation has recently become accredited through the ACCME allowing for the Federation to assist in approving continuing medical education courses. With this and collaborating with state medical boards, states will be able to offer continuing medical education that is pertinent to their licensees. Some states have already begun the processes of offering opioid prescribing courses with the assistance of the Federation. In other news there are now twenty-four states currently participating in the Federation's new uniform application and a new tool called *DocInfo* allows the public to locate any baseline information on a physician that is practicing in the country.

Policy & Advocacy at the Federation

Ethics and professionalism is a new standing committee that is currently discussing the issue of physician burn-out and will be issuing a report over the course of the next year and a half. A committee focused on telemedicine guidelines, in which a report was issued in 2014 for the use of telemedicine technologies in the practice of medicine of direct patient care. Another committee focuses on marijuana and medical regulation in response to the growing number of states passing legislation to allow medicinal marijuana use and/or recreational use. This committee is working to develop guidance for state Boards if legislation passes in their state and will be issuing a policy document on this matter in spring 2016. A committee will meet for the first time in December 2015 to review their policy on opioid analgesics in the treatment of chronic pain, which was first adopted in 2013 and may be adjusted to add new research based information.

Interstate Medical Licensure Compact

At first, a gathering of state boards met in January 2013, with about 48 Boards representation to discuss various pathways to facilitate mobility of physicians without interfering with state boards authority, a compact approach was deemed to be the best method for achieving this goal. The final model legislation was distributed September 2014 and has quickly passed through state legislature since that time. The compact is a separate piece of legislation that does not impact the Medical Practice Act and would need to be adopted by each state. This program is voluntary for physicians and state boards and not all physicians would qualify to utilize the compact licensure process. A physician will be considered to be practicing medicine where the patient is located and is bound to all applicable statues and rules of that particular state, ensuring that the state board maintains the

authority to monitor the practice of medicine. There will be an improved capability of sharing complaint and investigative information between medical boards through the compact. The compact does not remove the state board's ability to assess fees and revoke licensure.

Physician Compact Eligibility

There are an estimated 80% of physicians that will be eligible to participate in the compact system. The following is a list of requirements that must be met for eligibility in the compact and all of these either meet or exceed every state board's specific licensure eligibility requirements:

1. Successfully passed USMLE or COMLEX-USA
2. Successful completion of a GME program
3. Specialty certification or a time-unlimited certificate
4. No discipline on any state medical license
5. No discipline related to controlled substances
6. Not under investigation by any agency

Entry point for eligible physicians

1. State must be a Compact State
2. Physician must obtain (or hold) a full and unrestricted license

What state can serve as State of Principal License?

1. State of physician's primary residence
2. State where 25% of medical practice occurs
3. Location of physician's employer
4. State designated for federal income taxes

Interstate Compact Pathway

Step One: Eligible Physician is/becomes licensed in a Compact State (State of Principal License)

Step Two: Eligible Physician applies for expedited licensure in other Compact states via State of Principal License; State of Principal License verifies eligibility

Step Three: State of Principal License sends attestation to an Interstate Commission; Eligible physician transmits fees to Interstate Commission

Step Four: Interstate Commission sends fees and physician information to other Compact states selected by Physician

Step Five: Selected member states issue physician a license, this license is the same type of license that would've been obtained through the traditional licensure pathway

Step Six: ONGOING: Commission is used as a clearinghouse for shared discipline and investigatory information, renewals

Impact of Disciplinary Actions

If a physician's license has a major action (such as a revocation, suspension, anything that would take the physician out of practice) listed from their principal state their licensure status will change for all compact states. If the major action occurs in a non-principal state then licensure status changes for all compact licenses for 90 days and each particular state would need to choose how to move forward with licensure status. However, every state will have the authority determine how to proceed with action and licensure status but will not have to go through the fact finding process. Although the different of processes were added to the legislation, the committee will still need to interpret definitions of what a minor action include due to different states encumbering licensees based on their applicable statues and rules. Dr. Garabedian questioned that when the initiated or principal state chooses to reinstate licensure after disciplinary action if all other states would maintain the authority of choosing whether or not to automatically reinstate licensure in their state and Ms. Robin confirmed this to be true.

Dr. Zieren questioned the meaning behind "where the patient is located". Ms. Robin stated the authority falls under the state that the practice of medicine was provided for the patient. Thus meaning, the patient may be a resident in one state but travels to another for medical care and the authority lies in the state where care was provided. Ms. Robin further explained that for the practice of telemedicine the authority lies in the state where the patient is located at the time of care and not the location of the physician. Ms. Andrea Huddleston, Chief Deputy General Counsel, questioned how one is supposed to truly know where the patient is located in telemedicine practice. Ms. Robin stated that the intent is that a physician will already know that he/she is providing services to residents of a particular state and the theory is that the patient will be in this state while receiving service. However, if the patient is on vacation at the time of service it would be difficult to be knowledgeable of this.

Ms. Rosemarie Otto, Director of Health Related Boards, inquired if the medical school transcripts that the Federation has begun to take custody of will be available to be integrated into an online application system of any particular state. Ms. Robin stated uncertainty in the authority of releasing the transcripts but recognizes the technological capabilities to do so and suggested she could look into this matter further and provide Ms. Otto with a more definitive answer at a later time. Ms. Otto referenced steps being made for online applications to be available in this state and would be interested in working out the logistics, early on, for this type of transfer of information to be utilized.

Review and Ratification of Licenses

Dr. Zieren made a motion to ratify all new and reinstatement applications. Dr. Wieting seconded the motion. The motion carried unanimously.

Radiology Education Seminars

Dr. Saunders summarized BOE x-ray rule 1050-03-.07 (1) which states once an x-ray program becomes Board approved the Director of the program is supposed to submit to the Board every two years, certain information so the Board can ensure their continued approval. The Board has received their first request for biennial renewal from Radiology Education Seminars (hereinafter "RES").

Dr. Saunders stated after reviewing the submitted application, requesting and receiving additional information for review, it is her opinion that pursuant to BOE rule 1050-03.07 (1) Radiology Education Seminars application should be approved for biennial renewal. Dr. Wieting motioned to

approve Radiology Education Seminars application for biennial renewal and Dr. Garabedian seconded the motion. The motion carried unanimously.

Unauthorized X-Ray Operation

Ms. Baca-Chavez summarized the issue relating to the awareness that the Board does not have a policy addressing the unauthorized operation of x-ray equipment. In an effort to bring uniformity to the Board of Medical Examiners and this Board and the administrative processes, Ms. Martin previously provided a draft policy for Unauthorized X-ray use specific to the Osteopathic Board. Ms. Baca-Chavez indicated one correction she would suggest which would replace the language “medical interns” to “osteopathic interns”. Dr. Polk suggested that some Osteopathic Physicians attend allopathic training programs. Dr. Wieting proposed the option of negating the word “medical” and leaving the statement as “interns, residents, and clinical fellows”. The Board members suggested they were in agreement with the proposed change. Dr. Wieting questioned, and Dr. Saunders confirmed, that this policy does not include x-ray technicians whom hold full certification through the ARRT and full licensure with the state. Dr. Saunders emphasized that the presented draft policy is written and titled to apply only towards limited scope x-ray technicians. Dr. Wieting motioned to approve this policy with the discussed amendment of negating the word “medical” on line (2) of the policy. Dr. Garabedian seconded the motion. The motion carried unanimously.

Approved BOE X-ray Operator Educational Providers

In response to Dr. Polk’s inquiry at the August 12, 2015 meeting a report was presented by Ms. Candyce Waszmer on the currently approved educational providers for osteopathic x-ray technicians and the percentage of each educational provider utilized by those who have obtained licensure in this state. During the licensure process only those who have obtained limited scope certifications are required to submit proof of completion of the specific course, which would allow the Board to ensure the applicant completed a course from an approved educational provider. Applicants applying for full licensure need not to show proof education but must show proof they are certified through the American Registry of Radiologic Technologists. In tracking which educational provider applicants chose to complete their training through it was determined that 61% of applicants completed limited scope educational training through RES.

Dr. Polk inquired on the status each provider and if these are acceptable to obtain licensure in this state. Ms. Waszmer confirmed that if a limited scope applicant submits proof of completion from an approved provider then this is acceptable to the Board to grant licensure within that scope of practice. She also reported that a survey had been sent out to all educational providers currently listed on the state’s website as an approved provider. This survey inquired detailed information on the certifications offered; the number of students at their last graduating class, number of classes graduated annually, descriptive course information, course curriculum, and the names of physicians who are instructors. The survey responses indicated that currently the only approved educational provider for the Osteopathic Board is RES. Dr. Polk stated it would seem appropriate to remove all educational providers from the approved list if they have been unresponsive to this survey or any future requests. Ms. Waszmer confirmed that the Board just re-approved RES as an educational provider and with the lack of response or information on recent re-approvals it would seem appropriate to remove the other providers from the list.

Continuing Education Policy

Ms. Baca-Chavez summarized the Boards rules regarding continuing education. She indicated that the rules allow for osteopathic physicians to complete IA, IIA, and IB credits as defined by the AOA and the rules do not require limitations on the number of hours that can be completed in each category. Dr. Saunders discussed the continuing education policy language in that it suggests penalizing a licensee for deficient hours in Category IA and IIA but does not indicate IB credits and again does not discuss any division of hours required. The policy reads as though a licensee could complete all Category IB hours and may or may not be penalized. Dr. Wieting discussed that with Osteopathic Board certifications there is a limit of hours allowed for Category IB within each three year cycle. Dr. Wieting proposed that the Boards' policy apply a 10 hour Category IB limit and no limits on Category IA and IIA. Dr. Polk suggested, and the other Board members were unanimously in agreeance, allowing Dr. Wieting and Dr. Zieren form a taskforce to define and develop a continuing education policy for the Board to review at the next regularly scheduled meeting, March 2, 2016.

Board of Medical Examiners Policy on Prescribing for Oneself and Family

Dr. Wieting discussed recent awareness of the Board of Medical Examiners policy on prescribing for oneself and family. He stated that this Board does not have such a policy and this may need to be considered. Secondly, he expressed that rural settings may have limited access to care in emergency situations and family members may specifically choose to have their family member physician operate on them. Dr. Saunders reported that the Board of Medical Examiners policy is influenced by the AMA Code of Ethics and in reference to this Board the AOA Code of Ethics does not address prescribing for oneself and family. Dr. Saunders discussed the need for consideration of practicing on a family member and a family member's best interest when in a non-emergent situation that is potentially out of the physicians' specialty practice. Dr. Garabedian made note that the policy title states prescribing for oneself and family but the information in the policy addresses prescribing and treating oneself and family. Ms. Baca-Chavez advised the Board that given the AOA is silent on this issue and this Board has adopted the AOA Code of Ethics; this Board would need to consider a rule change for non-compliance in this to be enforceable opposed to only adopting a policy. Another option, Ms. Baca-Chavez, proposed would be to add language into a policy that the Board makes this finding, which these actions would constitute unprofessional conduct and are subject to discipline. The Board did not take any action or have further discussion on this matter.

Controlled Substance Monitoring Database (CSMD)

Dr. Polk provided the Board with a brief overview of the CSMD's last meeting, which was held on August 25, 2015. He informed the Board that Dr. Mutter continues to provide continuing education throughout the state and to any medical organizations upon request. Further, the epidemiologists that work with the CSMD are working to identify the highest prescribers; letters are sent to the top 50 prescribers who are required to respond in writing and address Departmental concerns. Ms. Andrea Huddleston stated that the total amount of morphine equivalent prescriptions across the state have continued to decrease over the last couple of years. Also, within the last couple of days the press has released that the rate of babies born with neonatal abstinence syndrome has stabilized. Furthermore, the Office of General Counsel has hired three new attorneys on the prescribing team, with the intent of maintaining five attorneys at time on this team.

Dr. Garabedian expressed concerns in regards to the prescription monitoring database, its functionality and reliability. He stated at times the website will be unavailable for more than one day. Dr. Saunders expressed that, similar to all software programs, this program allows for updates when new information is determined to better assist physicians. Dr. Garabedian further expressed that previously the database would allow a physician to search for a patient by their last name and date of birth, but now the database requires a first name, last name, and date of birth for all searches. He stated this can sometimes lead to inconclusive results with more information being required. Dr. Polk suggested that Dr. Garabedian put his concerns and thoughts in writing to be forwarded on to the CSMD.

Public Chapter 396 Addiction Specialists

Ms. Huddleston stated that this Board and the Board of Medical Examiners are required to make decisions on Public chapter 396 and she presented an update on the Board of Medical Examiners status regarding this chapter. Public chapter 396 deals with appropriate uses of buprenorphine and requires the Board of Medical Examiners and this Board to promulgate rules regarding the definition of an addiction specialist. The Board was presented with the proposed definition developed by the Board of Medical Examiners. Ms. Huddleston advised the Board that this legislation went into effect in July 2015 therefore the Board should consider action at this meeting or the next. In referencing the Board of Medical Examiners proposed definition, Dr. Wieting inquired on the reasoning for the absence of a pain medicine specialty and subspecialties in pain medicine in the definition presented. Other notations were made in regards to the language of the definition not reflecting an Osteopathic Physician and this Board. Ms. Huddleston stated that this was written for the Board of Medical Examiners and she took notes for all amendments needed to be specific to this Board. Ms. Huddleston confirmed that the Board of Medical Examiners has decided to adopt this definition and it is in the early stages of internal review. Dr. Saunders proposed that the definition as written allows for a greater population of Tennessean's to be served; and questioned why pain management specialty was not included in the definition and for the Board to consider the blurred lines between pain management and addiction specialists when looking at the policy. Dr. Garabedian inquired on the statistics of providers that would lose their ability to continue treating patients based on this definition. Ms. Huddleston directed the members to public chapter 396 which states there are soft limits on the dosage and above a certain dosage is when you would need to qualify as an addiction specialist or consult with an addiction specialist. After further discussion between Dr. Garabedian and Ms. Huddleston, Dr. Saunders summarized by stating physician's should not be under the presumption that a patient is being treated for chronic pain in higher doses of suboxone, subutex, or any similar prescriptions, and if the patient needs more than 16mg a day than the physician should be referring the patient to be evaluated to determine if the core issue is an addiction or psychological dysfunction. Dr. Polk suggested that this item be tabled for the next meeting, to allow time for the Board members to complete a further review, on March 2, 2016.

Public Chapter 261 Telehealth Bill

Dr. Polk requested that the Board members be given the FSMB's policy on telemedicine. Ms. Huddleston stated she would obtain the FSMB's telemedicine policy and provide to the Board at a later date. She provided an overview of the lengthy process, beginning in 2012; the Board of Medical Examiners has undergone to reach determinations on the final telemedicine draft rules. Ms. Huddleston stated that Public Chapter 261 retains the Boards authority to create different standards for telemedicine than for traditional practice. Ms. Huddleston advised that this new legislation limits the Board on what rules they may promulgate. The Board members were given a copy of the draft

telemedicine rules for the Board of Medical Examiners to review and assist in further discussion of this Boards current telemedicine rules. Ms. Huddleston stated she will provide the Board with an update on the Board of Medical Examiners rules status at the next regularly scheduled meeting.

Intractable Pain Act Public Chapter 26

Public Chapter 26 repealed the intractable pain treatment act and orders the Boards who have rules, emanated by that act to repeal their rules. Ms. Huddleston provided the Board members with a draft proposal of rule changes for Board rule 1050-02-.13; more specifically subparagraph 5 of this rule. The guidelines in this section of the current rules discuss the intractable pain act and Ms. Huddleston advised that the Board remove this language pursuant to public chapter 26. Also, 1050-02-.13 (6) which discusses general prescribing practices has been reformed minimally. Dr. Polk stated that the legislature provided 180 days for applicable Boards to comply with this new legislation. Ms. Huddleston stated the Board would not be able to meet that deadline given the lengthy rule change process and reiterated the importance of this item being an action item for today. She advised the Board that after the rule change process has occurred that the Board is allowed to make minimal changes at the Rulemaking Hearing, but they cannot make large substitutive changes at that point. Dr. Garabedian expressed that current rule 1050-02-.13 (5a) (5-7) provide valuable language that protects physicians from disciplinary action based on certain circumstances. Ms. Huddleston stated that this language was derived from the intractable pain act; also that the Board has rules that state a physician is subject to disciplinary action if they are in violation of the rules and that this language may have created a lack of fear of disciplinary action for prescribing patterns. Furthermore, the new proposed language indicates standards that explain what will be defined as legitimate medical purposes and documenting procedures to avoid disciplinary action.

The Board recessed for lunch.

Ms. Huddleston questioned the Board on how they would like to proceed with the Intractable Pain Act legislation. Dr. Zieren made a motion to accept as presented, with the option of minimally changing language later on as previously discussed, which is to remove subparagraph 5 and 6 from Rule 1050-02-.13 in its entirety and replace it with the new proposed language. Dr. Wieting seconded this motion. The motion carried unanimously. Ms. Huddleston advised she will begin the rulemaking process and include this on the Boards March meeting in case any member wishes for further discussion.

Naloxone

The Board was presented with information on naloxone, its administration, and a sample standing order. Ms. Huddleston stated this is in relation to previous public chapters in relation to naloxone, buprenorphine, and physician immunity for those who administer naloxone and authorizing physicians to enter into a standing order that authorizes other prescribers or dispensers to dispense naloxone. She advised the Board that this is for informational purposes only in case they are presented with entering into a standing order. Dr. Wieting stated that section 8 of the sample form should also indicate D.O where M.D. is indicated if this form is to be universally used for both professions and Ms. Huddleston made note of the needed change. Ms. Huddleston stated this form has been vetted by the office of general counsel and elsewhere in the department that this is an appropriate type of form; however, she is not sure if this form will be accessible on the department's website for physician access.

Collaborative Pharmacy Practice Update

Ms. Baca-Chavez reported that the Collaborative Pharmacy Practice rules have been reviewed by the governor's office and a rulemaking hearing has been scheduled for December 18, 2015 at 9am CT before the Pharmacy Board. Ms. Huddleston informed the Board that the final rules in review were sent out this morning by e-mail along with the rulemaking hearing date. She also emphasized that the Pharmacy Board will be able to minimally adjust the rules at the rule making hearing and she reminded the Board members that the rulemaking hearing is open to the public. Dr. Polk reported that one key concern discussed among this Board and the Board of Medical Examiners taskforce members was the consideration of pharmacists to prescribe controlled substances and this led to many taskforce meetings with this discussion.

Upcoming Conferences and Organizational Participation Requests

No discussion presented.

Office of General Counsel

In reference to Medical Spa legislation, public chapter 494, Ms. Baca-Chavez reported that the technological infrastructure is not ready to support the requirements of this new legislation and therefore we are not ready to discuss fees that need to be promulgated with this Board and the Board of Medical Examiners.

Ms. Francine Baca-Chavez reported that there are twenty-five (25) open cases against six (6) osteopathic physicians, no open cases against midwives. Also, she stated that at the Boards March 2, 2016 meeting there may be some contested cases to review.

Dr. Bowdin Smith, DO Agreed Order

Pursuant to a consent order that Dr. Smith signed in 2012 there were stipulations in that order that he had to fulfill. He has sense fulfilled those terms; he has been placed on a three year probationary period and was required to complete courses, as well as paying a civil penalty. Dr. Smith has presented proof of completion of the required courses. The Disciplinary Coordinator has ensured that he is now compliant and Ms. Baca-Chavez and Dr. Saunders are in agreement with the Disciplinary Coordinators' determination that this physician is now in compliance with this order. Also, this consent order includes that Dr. Smith will appear before the Board in order to petition for an order of compliance.

Dr. Polk inquired on Dr. Smith's current licensure restrictions. Ms. Baca-Chavez reported that Dr. Smith is still on probation, meaning a probationary licensure status, until this Board accepts the order of compliance. Ms. Baca-Chavez directed the Board members to the letters, following the consent order, from the various facilities where he was required to complete course work as well as a cost payment tracking form both indicating compliance with the consent orders' terms.

Dr. Smith had not returned to the Board meeting following the Board's lunch recess. The Board has opted to continue with the agenda items to allow more time for Dr. Smith to be present.

Statistical Report

Ms. Stacy Tarr provided the following statistical information: between August 1, 2015 and October 31, 2015 there were thirty-two (32) new osteopathic physician applications received, zero (0) new locum tenens applications, zero (0) new osteopathic telemedicine physician application, zero (0) special training osteopathic physician applications, and zero (0) DO x-ray operator applications received. Per Ms. Tarr, there were forty-three (43) new licenses issued for osteopathic physicians, three (3) special training physicians, three (3) telemedicine physicians, one (1) DO x-ray operator and three (3) reinstatements. Of the one hundred and thirty-three (133) Osteopathic Physician renewals processed during that time, eighty-eight (88) were completed online, bringing the online renewal percentage to 66% for the Board.

The total number of active osteopathic licensees as of October 31, 2015 is 1,315. The total number of active osteopathic licensees with a Tennessee mailing address is eight hundred and thirty-one (831). The total number of active osteopathic telemedicine licensees as of October 31, 2015 is thirty-four (34). The total number of osteopathic x-ray operators is fifteen (15). The total number of active professional midwives is forty-four (44).

Re-entry Policy for x-ray operators

Dr. Saunders reported that the Board of Medical Examiners is being faced with reinstatement and initial applications for licensure from x-ray operators who have been out of practice for longer than two years. Pursuant to the Board of Medical Examiners rules, an applicant who has been out of practice for longer than 2 years must achieve remediation before they may be licensed. Furthermore, there have been several of these applicants who are struggling to find opportunities for remediation. The Board of Medical Examiners requested the administration gather a list with healthcare facilities throughout the state to determine who would be interested helping applicants out with remediation. Thus far, communication has been sent out to hospitals, imaging centers, Radiological Education Seminars, and the American Registry of Radiological Technologists (ARRT hereafter) to hopefully identify pathways to direct these applicants who need assistance with remediation. Dr. Wieting questioned if the ARRT provided examinations for limited scope and Dr. Saunders confirmed that they do. Dr. Zieren suggested that one of the proposal options suggesting a specific number of hours completed for remediation be considered to be changed to a specific number of procedures performed. Dr. Saunders reported the administration is trying to filter the incoming responses based on geographical locations in this state. However, she stated that many of the responses she has received thus far indicate that there is not an interest in offering a method for remediation due to liability on the facility or yes there is interest in this but only for an individual being considered for employment. Dr. Saunders reported the continued outcome of responses will be presented to the Board at their meeting.

Dr. Bowdin Smith, DO Agreed Order, continued

Dr. Smith presented his case and steps towards meeting all of the terms of his consent order signed in November 2012. Ms. Baca-Chavez reported that technically Dr. Smith's three year probation ends on November 8, 2015. Dr. Wieting made a motion to approve the order of compliance, lifting the probation, effective November 8, 2015. Dr. Zieren seconded this motion and the motion carried unanimously.

Pain Management Clinics

Dr. Saunders briefly added to the agenda to discuss an issue at hand that has been misconstrued. She reported that the Department's Chronic Pain Management rules do not require that a community physician give up all of his/her patients to a pain manager. It does require that the community physician refer their patient for an evaluation consultation with a pain management specialist if they're receiving over 120 morphine mil-equivalents over a period greater than 90 days.

Agenda Outline

The Board requested that the names of those appearing before the Board, in reference to the Office of General Counsel, be added to the agenda.

Office of Investigations

Ms. Nichelle Dorroh informed the Board that there are sixteen (16) open complaints against osteopathic physicians in the Office of Investigations, which are regularly reviewed.

Disciplinary Coordinator

Ms. Dorroh directed the Board to the list of individuals currently being monitored by the Office of Investigations and the summary of monitored practitioners. She stated that along with Dr. Bowdin Smith there are other osteopathic physicians on probation that are in compliance but did not submit their order of compliance in time to be presented at today's meeting. Dr. Wieting asked if Ms. Dorroh had seen any patterns and she stated not with this Board. Dr. Polk noted that Middle Tennessee has the most number of complaints this year. Dr. Saunders suggested that a large number may not indicate a higher percentage due to population differences. Dr. Polk questioned if any of the listed complaints were from the CSMD and Ms. Dorroh stated that those complaints would be monitored through the over-prescribing report and if the physicians were investigated then they would be tracked through the Bureau of Investigations. Ms. Dorroh did note that two complaints filed this year were specific to prescribing practices.

Division of Health Licensure and Regulation

No reports were given. Ms. Tarr reported that the Board's financial report was not ready for this meeting due to close out but there is no indication that this should be of concern to the Board and a report will be given at the March 2016 meeting.

Dr. Polk moved to adjourn the meeting. Dr. Wieting motioned to adjourn and Dr. Zieren seconded the motion. The motion carried unanimously.

The meeting adjourned at 2:14 pm.

These minutes were ratified by the Board of Osteopathic Examination on March 2, 2016.