



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

November 28, 2018

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 28, 2018.

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

Staff Present: Angela Lawrence, Director
Candyce Waszmer, Administrative Director
Stacy Tarr, Administrative Director
Rene Saunders, BME Medical Director
Sherry Williams, Board Administrator
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 President, J. Michael Wieting, DO, called the meeting to order at 9:00 a.m.

Ms. Francine Baca-Chavez reminded the Board of its Conflict of Interest Policy and further reminded the Board of their duty to protect the health, safety and welfare of the citizens of Tennessee.

Minutes

The Board reviewed the previously distributed minutes. Dr. Shant Garabedian motioned to ratify the August 8, 2018 meeting minutes. Dr. Jeffrey Hamre seconded the motion and it passed.

Applicant interview(s):

Jerry Childs, DO – appeared before the Board without legal representation. Dr. Childs appeared before the Board to address his history of substance abuse, addiction issues and the surrendering of his DEA certificate in 2006. Dr. Childs sought treatment for his addiction in 2006 signing a five year contract with the Oklahoma Health Professionals Program (OHPP) where he has completed the program. Dr. Childs

spoke with Dr. Michael Baron, Medical Director of the Tennessee Medical Foundation and Dr. Baron did not recommend monitoring. Dr. Childs explained he voluntarily relinquished his DEA certification and entered into the rehabilitation program. Dr. Shant Garabedian made a motion to grant Dr. Childs a full license. Dr. Jan Zieren seconded the motion. The motion passed.

Arthur Cowden, DO - appeared before the Board without legal representation. Dr. Cowden appeared before the Board to explain the administrative order from the Florida Medical Board and his resignation of hospital privileges while under investigation. Dr. Cowden explained how the assessment fees were assessed and summarized the reason for resigning. Dr. Cowden was asked to correct his application by changing his answers to questions #6 and #12, and changing his licensure status in Florida from active to inactive. Answers were changed. Dr. Shannon Kilkelly made a motion to grant an unrestricted license. Ms. Penny Judd seconded the motion. The motion passed.

Michael Hillman, DO - appeared before the Board without legal representation. Dr. Hillman was asked to appear before the Board to address his five (5) malpractice settlements. Dr. Hillman give an overview of all five (5) cases. Dr. Garabedian made a motion to approve the application of Dr. Hillman. Dr. Hamre seconded the motion. The motion passed. Ms. Penny Judd - abstained.

Juzer Husaini, DO - appeared before the Board without legal representation. Dr. Husaini was asked to appear before the Board to address resigning from his residency program at Vanderbilt University and his interaction with law enforcement. Dr. Husaini explained his reason for resigning from Vanderbilt University residency program and addressed the interaction with law enforcement. Dr. Kilkelly made a motion to approve Dr. Husaini's application. Dr. Garabedian seconded the motion. The motion passed. Ms. Judd abstained from the vote and Dr. Zieren- opposed.

Ratification of New Licensees

Dr. Garabedian made a motion to ratify all initially approved applications with the exception of file #3525 until further review. Dr. Kilkelly seconded the motion. The motion passed.

Presentation from Dr. David Bess and Dr. David Reagan

Dr. Mitchell Mutter, Medical Director for Special Projects spoke on behalf of Dr. David Bess and Dr. David Ragan in their absence. Dr. Mutter spoke on getting financial support from each Board from their reserve funds to pay for the integration for the CSMD into the Electronic Health Record (EHR) and this could be complete by early 2019. The proposed plan would be funded by eight (8) medical related boards/committees contributing a percentage based on their total number of licensees. The request is for the Board to approve a specific amount of reserve funds to support the project for the first two (2) years. After going through the plan, he informed the Board that the Board of Medical Examiners (BME) voted to provide financial support contingent upon participation by all the medical related boards/committees. Dr. Garabedian made a motion to approve the funding for the new project contingent upon participation by all the medical related boards/committees. Dr. Kilkelly seconded the motion. The motion passed.

Presentation by Dr. Michael Baron

Dr. Michael Baron, Medical Director of the Tennessee Medical Foundation (TMF) provided the Board with an outline on how the funding provided to TMF has been spent over the last year.

- There are currently one hundred and ninety-eight (198) participants being monitored by TMF
- The number of physicians requiring mental health treatment has greatly increased.

- Began using smart phone technology for compliance conformation. Now TMF receives electronic notification when participants check-in and out of the meetings they are supposed to attend.
- Initiated a senior contract for participants who have been monitored for five (5) or more years that end monitoring but want to stay active with TMF advocacy. This involves a written agreement and toxicology screening. There are currently four (4) participants who have initiated a senior contract.
- Dr. Baron is a participant in the FSMB's sexual boundaries violation group. This group has met once this year, with another meeting scheduled for later this year.
- TMF was awarded the Physician Assistant contract from the Department of Health for monitoring and TMF is currently monitoring eleven (11) Physician Assistants.
- Developing, along with the American Foundation for Suicide Prevention, a proactive and interactive hotline screening program for physicians and other professionals under the health professionals monitoring purview. This Board, the TMA and other professional organizations would have a link set up on their respective website that directs physicians to information on the hotline.

Update from the Opioid Minimum Disciplinary Taskforce

Dr. Wieting provided an update on the two meetings held. Dr. Wieting shared with the Board that reviews were held with multiple stakeholders, license professions and their professional organizations. Dr. Wieting shared with the Board the objective of the taskforce is to respond to the legislative mandate that minimum discipline for opioid prescribing issues be created. If the taskforce does not come up with something what will become affective in April 2019 is that" minimum discipline will be a restriction of the ability to prescribe opioids for a minimum of five years." The taskforce approved the draft proposal of the minimum discipline.

Report from the Office of Investigations

Lori Leonard appeared on behalf of the Office of Investigations. Ms. Leonard reported that there are five (5) practitioners on probation being monitored, three (3) suspended, one (1) revoked and three (3) under board order. She reported there have been sixty-seven (67) newly opened complaints for the year. Of those newly opened complaints, one (1) was for fraud, eighteen (18) were actions in another state, two (2) for criminal charges, twenty-one (21) for malpractice/negligence, seventeen (17) for unprofessional conduct, six (6) for over prescribing, one (1) for failure to supervise, and one (1) for prescribing to friends/family. Of those closed complaints, one (1) insufficient, one (1) no violation, eight (8) sent to BIV, EMS, HCF and AW, forty-four (44) closed, ten (10) warning letters.

Update from the Informed Consent Form Taskforce

Dr. Hamre provided a brief update from the last taskforce meeting held on September 4, 2018. Dr. Hamre reminded the Board they serve as the umbrella boards for the Midwifery Council and by statute are responsible for their rules and regulations. This Board has concerns about the Midwifery Council's informed consent form with their client due to no mention of physician collaboration within the form. The taskforce discussed and came up with an agreement for the Midwifery Council to draft for consideration.

Midwifery Council attorney, Ms. Kyonzte Hughes-Toombs shared with the Board the two things that come out of the meeting: The first was to place the name of the collaborating physician in the informed consent form and the proposed definition of what a collaborative care plan is. The second was to have the collaborative care plan with purposed definition put in a written agreement into the emergency care plan, which is sent to the collaborative care plan physician as required by law. This

proposal has to go before the Midwifery Council in April 2019 for approval and/or amendments. The proposal will then come before this Board for approval.

Update on the Interstate Compact

Ms. Penny Judd shared with the Board information from the Interstate Medical Licensure Compact Commission (IMLCC) meeting held in Denver, Colorado on November 16, 2018. Ms. Judd serves as the representative from this Board and Dr. Zanolli represents the Board of Medical Examiners for Tennessee. Ms. Judd explained that the IMLCC offers a new voluntary expedited pathway of licensure to qualified physicians to get their license in multiple states. There are currently 26 states and territories participating. The IMLCC is still working through the organizational structure and working toward having at least two (2) fulltime employees to handle daily activities. Ms. Judd shared with the Board she was appointed to the budget committee. Ms. Judd informed the Board there was a rule making hearing where three (3) rules were considered: The first rule related to the state of principle licensure, which did pass. The second rule related to how disputes will be resolved among states, the conflict would go to the executive committee to be resolved as a first step. The last rule related to physician disciplinary action and how it would take place. Ms. Judd, as well as Dr. Zanolli, voted no on this rule, but it did pass. Ms. Judd brought copies of these rules to share with the board members to provide better understanding on the background. The IMLCC meets once a year and there are also monthly committee meetings.

Financial Report

Ms. Noranda French provided the following financial Fiscal Year report for 2018.

Total Expenditures	\$225,497.76
Board Fee Revenue	\$319,807.58
Current Year Net	\$94,309.82
LARS Improvements	\$8,872.60
Cumulative Carryover	\$879,668.11

Ms. French also informed the board that by them voting to reduce fees during the March 2018 meeting and agreeing to participate in funding their percentage of the Gateway Project, they should still close in the black.

Office of General Counsel

Rules

Ms. Francine Baca-Chavez presented to the Board that the rules changes have been combined into one rulemaking packet and are in the internal review process.

Ms. Baca-Chavez presented to the Board there are twenty-six (26) cases open against six (6) osteopathic physicians. Regarding these cases, twenty-two (22) involve allegations of over-prescribing and are being handled by other attorneys on the over-prescribing team. There are five (5) open cases against midwives and there are no appeals pending at this time.

Ms. Baca-Chavez asks the Board to consider sponsoring an attorney from her office to attend the FSMB annual meeting in Fort Worth, TX April 25th – 27th 2019. Dr. Hamre made a motion to send an attorney to attend the FSMB conference. Dr. Garabedian seconded the motion. Motion passed.

Dr. Zieren made a motion to send the Executive Director to attend the FSMB annual meeting in Fort Worth, TX April 25th – 27th 2019. Dr. Hamre seconded the motion. Motion passed.

Ms. Judd made a motion for Dr. Wieting to serve as the Board's voting delegate at the FSMB annual meeting and to fund one non-voting member to attend the FSMB annual meeting TX April 25th – 27th 2019. Dr. Zieren seconded the motion. Motion passed.

Disciplinary Order(s)

Consent Order

Dr. John Jason James, DO – did not appear before the Board nor did a legal representative appear on his behalf. Dr. James served as the Chief Operating Officer and Chief Operations Manager for Memorial Medical Group. He sold his share of Memorial Medical Group and pursuant to the rules he's required to inform his patients of his departure from Memorial Medical Group. The Respondent sent a letter, however, it did not contain information about the physician's new address, nor did it contain information about the patients' ability to select a new physician and their opportunity to have copies of their medical records forwarded to their new physician upon authorization. Respondent also worked for Eclipse Pain Network in Clarksville, Tennessee. The order gives operation of hours and times Respondent worked. Respondent also served as a supervising physician for A.S., an APRN who worked at the clinic. Upon review of a random sampling of six patient records from Eclipse Pain Network, Respondent failed to make a personal review of the historical, physical and therapeutic data and so certify by his signature on patient charts within thirty days when a controlled substance was prescribed. Respondent has agreed to be reprimanded. Respondent shall pay six (6) Type B civil penalties in the amount of five hundred (\$500.00) dollars each for a total of three thousand (\$3,000.00) representing each patient chart that Respondent failed to make a personal review of within thirty days. Civil penalties shall be paid within ninety (90) days of the effective date of this Consent Order. Respondent has agreed to pay costs of two thousand dollars (2,000.00). Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.).

Dr. Kilkelly made a motion to ratify the Consent Order. Dr. Garabedian seconded the motion. Motion passed. Dr. Hamre recused himself from the Consent Order.

Dr. John Tabit, DO - did not appear before the Board nor did a legal representative appear on his behalf. Ms. Jennifer Putnam represented the state. In September 2018, Dr. Tabit was disciplined by the West Virginia Board of Osteopathic Medicine and assessed a civil penalty cost for engaging in unprofessional conduct towards female co-workers. In addition, the Respondent was ordered by the West Virginia Board of Osteopathic Medicine to enter Talbott Recovery Center to obtain an evaluation and assessment regarding his boundary issues. The Respondent has agreed to voluntarily surrender his license.

Dr. Hamre made a motion to ratify the Consent Order. Dr. Zieren seconded the motion. Motion passed.

Agreed Order

Carolyn Drake Reisman, CPM – was not present nor did a legal representative appear on her behalf. Ms. Kyonzte Hughes-Toombs represented the state. Ms. Reisman has been disciplined before in 2013 for not having a collaborative care plan and not developing an emergency care plan for four (4) patients. In 2008 to 2016, according to the Respondent, she had a collaborative care plan in place

with Dr. Koella; however Dr. Koella disputes that there was ever a collaborative care plan in place between the two (2) of them. Dr. Koella stated that he had agreed to help with one patient in 2008. Ms. Riesman had been sending Dr. Koella her collaborative care plans from 2008 to 2016 and according to Dr. Koella they were going to a spam folder and he did not discover this until 2016. Dr. Koella then told Dr. Reisman to cease sending him any more emergency care plans and that he was not her collaborating physician. According to Ms. Reisman, once she was contacted by Dr. Koella she entered into another collaborative care plan with Dr. Mark Sherfey who does admit he has a collaborative care plan in place with Ms. Reisman. The violation is that she did not have a collaborative care plan in place from 2008 to 2016. The Respondent has agreed to be on probation for six (6) months. During the probationary period, the Respondent shall adhere to the following terms:

- A. Respondent shall submit a copy of each emergency care plan for each client. The emergency plan shall document the name of the physician with whom the Respondent has entered into a collaborative care plan as well as the date upon which the agreement was entered.
- B. Respondent shall have a collaborative care plan in place for all clients.

If the Respondent chooses to retire her license prior to the expiration of the probationary period, then the license will still remain on probation until the expiration of the probationary period. Upon receiving Respondent's executed retirement affidavit, no further emergency care plans will need to be submitted. The respondent shall pay one Type C civil penalty of one hundred dollars (\$100.00) for each year that she did not form a collaborative care plan with a physician for a total civil penalty of eight hundred dollars (\$800.00). The Respondent shall pay cost up to three thousand five hundred dollars (\$3,500.00).

Dr. Zieren made a motion to ratify the Agreed Order. Dr. Hamre seconded the motion. Motion passed.

Administrative Office Report

The Board was presented with the August 1, 2018 through November 1, 2018 data as follows:

New applications received:	Total New Licenses Issued:
Osteopathic Physician – 92	Osteopathic Physicians – 97
Locum Tenens – 0	Locum Tenens – 0
Telemedicine – 0	Telemedicine – 0
Special Training – 2	Special Training – 4
X-Ray – 0	X-Ray – 0
Reinstatements – 0	

Total number of active licensees as of November 1, 2018 is 1,651.

Total number of active licensees as of November 1, 2018 with a Tennessee mailing address is 1,068.

Total number of Telemedicine licensees as of November 1, 2018 is 28.

Total number of Active DO X-Ray Operators as of November 1, 2018 is 15.

Total number of Active Professional Midwives as of November 1, 2018 is 48.

Ratification of New Licensees continued

Ms. Angela Lawrence revisited file 3525 withheld from the ratification list this morning. It was determined the file was approved in error and Ms. Waszmer reached out to the education program and found the post graduate verification form was marked incorrectly. The corrected documentation

was received and presented to Dr. Hamre for review. After reviewing the corrected information, Dr. Hamre made a motion to approved file 3525. Dr. Garabedian seconded the motion. Motion passed.

Adjournment