



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

Wednesday, November 1, 2023

MINUTES

The regular board meeting of the Tennessee Board of Osteopathic Examination was called to order at 9:03 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Shant Garabedian, Board President.

Board members present:

Shant Garabedian, D.O., President
Otis Rickman, D.O, Vice President
Michael Wieting, D.O.
Jan Zieren, D.O.
Michael Bernui, D.O.
Ms. Penny Judd, Secretary and Consumer Member

Staff present:

Francine Baca-Chavez, Office of General Counsel
Stacy Tarr, Executive Director
Brandi Allocco, Administrative Director
Elizabeth Horner, Board Administrator

APPROVAL OF MINUTES

The Board reviewed the minutes from the August 2, 2023 meeting. Dr. Wieting motioned to approve the minutes. Dr. Zieren seconded the motion. The motion passed by unanimous vote.

CONSIDERATION OF APPLICATIONS- Patricia Rose Bast, DO

Dr. Wieting began the interview by addressing concerns regarding the applicant's post-graduate training, citing issues related to accountability, integrity, judgment, and professionalism, ultimately leading to dismissal from the residency program due to absenteeism and policy violations.

Furthermore, the discussion shifted to Dr. Bast's intended practice in Tennessee, focusing on regenerative and general medicine. Dr. Wieting sought clarification on the applicant's verifiable training in these fields and associated procedures, alongside inquiries about Board Certification.

Dr. Bast clarified that she may have misunderstood the Board Certification query and didn't intend to mark "yes." Regarding her training, she mentioned having trained in Georgia, performing bone marrow aspirations under a board-certified physician's supervision. Additionally, she highlighted her experience in joint injections involving the injection of plasma into joints.

Dr. Bast shared that her ability to perform during her residency was significantly impacted due to the sudden and profound loss of her mother, which caused immense grief. Consequently, she found herself unable to fully meet her responsibilities to patients. To address this challenge, Dr. Bast proactively sought grief counseling as a means to navigate and alleviate her grief, aiming to regain her capacity to excel in her residency duties.

After Dr. Bast provided responses to all inquiries from the board, Dr. Bernui moved to approve Dr. Bast for licensure. Dr. Rickman seconded the motion, which was unanimously passed by the board.

CONDUCT RULEMAKING HEARING – COUNCIL FOR PROFESSIONAL MIDWIFERY

Ms. Ronda Webb-Stewart initiated the discussion by introducing the proposed rule changes regarding fees. One of the primary changes suggested was reducing renewal fees from \$700 to \$300 and application fees from \$200 to help alleviate the financial burden on practitioners.

Ms. Emily Godwin highlighted concerns regarding the impact of reduced midwifery fees. She presented calculations indicating that such a drastic reduction could lead to a gradual decline in funds for the Midwifery Council, resulting in a surplus turning into a deficit over six years.

During the public comment phase, Sarah Hochstetler supported the fee decrease, emphasizing that these fees are burdensome for midwives, considering the financial strain in a profession where expenses related to childbirth are high.

Jennifer Fardink, President of the Midwife Association, explained that they are maintaining the current number of midwives without any increase or decrease.

Upon a request from the board, Ms. Godwin ran calculations on an Excel spreadsheet, determining \$455 for renewal fees and \$325 for application fees.

Dr. Wieting proposed setting the midwifery renewal fee at \$455 and the application fee at \$325, a motion seconded by Dr. Rickman, which ultimately passed.

Ms. Webb-Stewart commenced by detailing the new rules and invited public comments, which included written feedback from the Tennessee Medical Association concerning amendments to rules governing collaborative agreements between physicians and midwives.

Jennifer Fardink, President of the TN Midwifery Association, expressed a preference against formal written collaborative agreements, suggesting that oral agreements better serve the public's access to midwifery services.

Mary Ann Richardson, a former council member, highlighted that physicians may be reluctant to sign written agreements. She emphasized potential limitations on emergency services and urged the board to avoid mandating written agreements for midwives.

The board deliberated on the reasons behind the reluctance towards written agreements. Ms. Richardson and Christy Peterson, a nurse midwife, voiced concerns about competition, potential insurance implications for physicians, and the absence of standard care plans among midwives.

The discussion revolved around historical collaborative agreements, with Dr. Bernui expressing concern about the absence of standard care plans and Dr. Rickman emphasizing the risk assumed by physicians in written agreements. Eventually, a motion was made by Ms. Judd to accept the amendment striking the word "oral" from the rules, seconded by Dr. Wieting. The motion passed with Dr. Bernui in opposition.

Dr. Wieting proposed a motion to revise the definition of a physician to "a person who holds a license in the State of Tennessee to practice osteopathic medicine by the Board of Osteopathic Examination." Dr. Rickman seconded the motion, which passed successfully.

Ms. Webb-Stewart methodically reviewed various sections of the new rules during the board meeting. Dr. Wieting moved to accept the rules as they were outlined regarding renewal grace periods, late fees, and license expiration. Dr. Rickman seconded the motion, which passed unanimously.

After reviewing section five and implementing minor changes, Dr. Rickman moved to approve the rule as written, seconded by Dr. Zieren. The motion passed.

Section six, concerning obtaining a signed consent form informing patients of the provider's qualifications, was reviewed, and approved by a motion from Dr. Bernui, seconded by Dr. Zieren, leading to its passage.

Section seven, discussing postpartum depression consultation and lab procedures by a licensed provider, was approved via a motion from Dr. Zieren and seconded by Dr. Rickman. The motion passed.

Section eight, focusing on having a written plan within a patient's chart, was reviewed and approved by a motion from Dr. Wieting, seconded by Dr. Bernui. The motion passed.

For section nine, concerns were raised regarding specific situations, but due to the rule being statutory, the board decided to maintain consistency with the statute by leaving the rule unchanged. Dr. Wieting moved to keep the rule as it was, seconded by Dr. Rickman, and the motion passed.

Section ten, which pertained to providing care until signs of postpartum depression cease and guiding mothers to hospitals if needed, was approved by a motion from Dr. Bernui, seconded by Dr. Wieting. The motion passed.

Ms. Webb-Stewart continued reviewing the subsequent sections of the rules. Section eleven required midwives to instruct patients on newborn infant care, particularly regarding eye health, and document that this information was provided. Dr. Rickman moved to approve the rule, seconded by Dr. Wieting. The motion passed.

Section twelve emphasized the midwife's responsibility to educate clients on the significance of infant testing to prevent diseases or defects and to document providing this information. Dr. Bernui moved to approve the rule, seconded by Dr. Wieting. The motion passed.

Section thirteen stipulated the requirement for midwives to submit a certificate of birth to the Office of Vital Records within ten days of the infant's birth. Dr. Wieting moved to approve the rule as presented, seconded by Dr. Rickman. The motion passed, effectively concluding the rulemaking hearing segment of the meeting.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Barbara Graham, from the Office of Investigations, gave his report to the Osteopathic Board.

In 2023, there were ninety-seven (97) new complaints opened and ninety (90) were closed for the following reasons: forty-seven (47) closed for insufficient evidence to formally discipline, seven (7) complaints closed with no action, thirty-two (32) was closed with a letter of concern, and currently there are three (3) open complaints.

Of the open complaints: two (2) was for fraud or false billing, one (1) was for substance abuse, three (3) was for board action in another state, nineteen (19) were for malpractice negligence, fifty-six (56) for unprofessional conduct, one (1) was for violation of order, one (1) medical record request, , two (2) was for over prescribing, two (2) was prescribing to friends or family, and four (4) were outside the investigative scope.

The Osteopathic X-Ray examiners currently have zero open complaints.

There is currently one (1) open complaint for a DO Special Training.

FINANCIAL REPORT

Ms. Emily Godwin presented the revenue and expenditures for the fiscal year 2023, highlighting that the cumulative carryover exceeded expenses by more than double for two consecutive fiscal years. She suggested to the board that they could consider adjusting fees to mitigate the possibility of a continually increasing carryover.

Dr. Garabedian mentioned a recent fee adjustment during the last rulemaking hearing conducted by the Board of Osteopathic Examination, aimed at managing the carryover. Ms. Tarr added that since the fee change was relatively recent, its impact might not yet be fully visible. Dr. Wieting supported this notion, suggesting that the board might need to wait another year before assessing the need for further changes.

Consequently, the board collectively agreed to observe and assess the impact of the prior fee adjustments on the carryover balance in the coming year before considering any additional changes.

REPORT FROM THE ADMINISTRATIVE OFFICE

The activities that have transpired in the administrative office between August 1, 2023 and October 31, 2023 concerning Osteopathic Physicians are as follows:

New Applications Received:

- Osteopathic Physician: 111
- Locum Tenens: 0
- Telemedicine: 0
- Special Training: 4
- Compact: 48

New DOX Applications Received: 0

Total New Licenses Issued

- Osteopathic Physician: 62
- Telemedicine: 1
- Locum Tenens: 2
- Special Training:
- DOX: 0
- Compact: 48

Total Number of Reinstatement: 1

Total Number of Renewals:

Osteopathic Physicians: 264

Online 232 – 88%

Total number of active licensees as of July 31, 2023 is 2929.

Total number of active licensees as of July 31, 2023 with a Tennessee mailing address is 1636.

Total number of Special Training licenses as of July 31, 2023 is 13.

Total number of Telemedicine licensees as of July 31, 2023 is 27.

Total number of Active DO X-Ray Operators as of July 31, 2023 is 5.

Total number of Active Professional Midwives as of July 31, 2023 is 86.

REPORT FROM THE OFFICE OF GENERAL COUNSEL

Ms. Francine Baca-Chavez proceeded to give her report to the board.

As of October 19, 2023, there were twelve (12) cases open against eleven (11) osteopathic physicians. Regarding these cases, six (6) involve allegations of over-prescribing and are being handled by other attorneys on the over-prescribing team. There is one (1) open case against one (1) midwife.

She then proceeded to give the Office of General Counsel report. The report is as follows:

The total number of Osteopathic Physicians being monitored for discipline is 8.

The total number on reprimand is 0.

The total number on probation is 5 with terms.

The total number on suspension is 0.

The total number that has had their license revoked or surrendered is 3.

The total number of Osteopathic X-Ray Technicians being monitored is 0.

RATIFICATION OF LICENSES

Dr. Wieting proposed to officially approve the list of new licensees, a motion seconded by Dr. Zieren. The motion passed unanimously.

UPDATE ON PUBLIC CHAPTER 470

The Graduate Physicians Act, effective January 1, 2025, facilitates the collaboration of medical school graduates who have cleared steps one and two of the USMLE but are yet to pass step three. This act allows them to work under physician supervision, primarily benefiting underserved rural areas in Tennessee.

During a recent meeting, concerns were raised by Dr. Zieren regarding discrepancies between the information presented and the details on the website. In response, Ms. Baca-Chavez requested Dr. Zieren to share all pertinent information for correction and to address any additional concerns.

Subsequently, the board engaged in a comprehensive discussion to gain a collective understanding of the implications of this new rule on medical school graduates.

RE-ENTRY POLICY UPDATE

Dr. Wieting elucidated that a thorough evaluation of the re-entry policy is underway in collaboration with Ms. Baca-Chavez. This assessment encompasses an examination of data sourced from various licensing boards, coupled with an analysis of guidelines and reports provided by the Federation of State Medical Boards.

Currently, Dr. Wieting and Ms. Baca-Chavez are actively crafting a comprehensive document slated for presentation during the upcoming spring board meeting. This document will outline meticulous processes and procedures pertaining to re-entry. Leveraging the existing successful re-entry policy for physician assistants as a reference, they aim to create an analogous framework.

The intent is to have the finalized presentation ready for discussion at the impending board meeting.

ATTORNEY UPDATE OF FARB AND CLEAR CONFERENCES IN SEPTEMBER 2023

Ms. Brittney Kendricks had the opportunity to participate in the FARB Conference, while regrettably, there was no representation at the CLEAR Conference. During the FARB Conference, several pertinent topics were covered, including our clientele, social media practices, insights from an expert presentation at the board meeting, physician monitoring, and discussions on board-related issues.

Dr. Wieting inquired about any discourse on Artificial Intelligence (AI), to which Ms. Kendricks highlighted that AI discussions took place within the context of the social media topic. The consensus was that while AI is an ever-present force, caution and vigilance are imperative in its utilization to prevent the dissemination of misinformation. There was a shared understanding that monitoring AI systems is crucial to mitigate the propagation of false information.

SENDING BOARD MEMBER TO IMLCC MEETING COMMISSION NOVEMBER 13TH AND 14TH

Ms. Penny Judd requested approval to attend the upcoming IMLCC Meeting scheduled for November and sought information regarding the FSMB Meeting slated for April 2024. Dr. Garabedian indicated that the allocation of attendees for the FSMB Meeting would be deliberated during the subsequent board meeting.

Subsequently, Dr. Garabedian proposed the approval of Ms. Judd's attendance at the IMLCC meeting, which was seconded by Dr. Wieting. The motion was successfully passed.

FARB FORUM ON PROFESSIONAL REGULATION

Ms. Baca-Chavez outlined that the forthcoming meeting was primarily tailored for board members, expressing her desire for board members to be informed about the event and attend if they deemed it appropriate.

Dr. Garabedian proposed the idea of designating one or two members to represent the board at this meeting. Subsequently, Dr. Wieting initiated a motion to authorize the board's participation by sending a maximum of two representatives to the FARB Meeting in January. Ms. Judd seconded the motion, which was unanimously passed.

CHANGE IN FEDERAL LAW

Ms. Baca-Chavez detailed the implementation of a law effective since January, benefiting service members and their spouses by enabling the utilization of their professional licenses and certificates upon relocation due to military orders. To validate a license in a new jurisdiction, specific criteria must be met:

1. The individual must have moved to a jurisdiction where the license is recognized.
2. Submission of a copy of the military order to the new jurisdiction's licensing authority.
3. Recent use of the license or certificate within the past two years.
4. The licensee must be in good standing with the initial licensing authority.
5. Submission of additional documentation or continued education to maintain the standard of practice.

This legislation essentially allows Tennessee to acknowledge licenses issued by other states without requiring additional fees or applications. Instead, the state recognizes that the individual meets the specified criteria and can utilize their existing license or certificate.

Dr. Garabedian inquired about the process for individuals to notify the state about this information. Ms. Baca-Chavez clarified that they would need to notify both the state and her team. Additionally, efforts are underway to develop a website for notifications and formulate new rules aligning with federal law.

Dr. Rickman emphasized the importance of tracking these individuals entering the state under these circumstances, ensuring the maintenance of continuing education, and enabling the board to address any complaints against the licensee.

CREATING A TASK FORCE OF OFFICE-BASED SURGERY

Ms. Baca-Chavez conveyed that she and Ms. Tarr had conducted a review of the board's rules to identify any areas needing updates, ensuring compliance. They discovered a rule concerning Office-Based Surgery, specifying the appointment of a standing committee meeting twice yearly to review these rules. Notably, the Board of Medical Examiners has a similar rule, and discussions on this matter were ongoing.

Dr. Wieting proposed involving an active licensee for office-based surgery to gather their insights and perspectives on the rules, a suggestion Ms. Baca-Chavez agreed could offer valuable expertise. Dr. Wieting inquired about the possibility of the Board of Medical Examiners and the Board of Osteopathic Examination convening jointly for the Office-Based Surgery Task Force. Initially, it was stated that these would be separate meetings; however, after deliberation, it was decided that both boards would collaborate to update these rules.

Ms. Judd, Dr. Bernui, and Dr. Rickman volunteered to collaborate with the Board of Medical Examiners in revising the Office-Based Surgery rules.

PRESENTATION OF DISCIPLINARY ORDERS

Ms. Brittney Kendrick initiated the presentation, representing Albert Lee, who had been practicing without full licensure in Tennessee under a Medical Doctor instead of an Osteopathic physician. Additionally, Dr. Lee had subpar record-keeping practices for prescriptions. However, Dr. Lee had consented to disciplinary orders and provided evidence to the Office of General Counsel that he had updated his record-keeping system to an electronic format. He agreed to a probationary period of up to a year, fulfilled all requirements outlined by the Office of General Counsel, and settled the associated disciplinary fees.

Dr. Wieting moved to ratify the presented order, with Dr. Bernui seconding the motion, which subsequently passed.

Dr. Belinda Collias was under monitoring by the Tennessee Medical Foundation when, during a medical leave, she tested positive in a drug screening, breaching the agreement. Following treatment in Florida and a brief interim period, Dr. Collias signed a new agreement with the Tennessee Medical Foundation, allowing her to resume practice under supervision for up to two years. Although her Tennessee license was active, she was not practicing. The Office of General Counsel proposed placing her license under probation for at least five years, stipulating terms and conditions, considering her lifetime agreement with the Tennessee Medical Foundation and advocacy as long as she holds a Tennessee license.

During the review of the order, Dr. Wieting inquired about the requirement for a psychiatrist per the agreement. Ms. Kaitlin Parham, Dr. Collias's attorney, confirmed that Dr. Collias had complied with the agreement and secured a psychiatrist.

Dr. Wieting further inquired about the need for a supervisor within the same specialty. A representative from the Office of General Counsel clarified that the supervisor physician could be either a medical doctor or an osteopathic physician working in the same office or hospital.

After discussions and clarifications about the order, the board proceeded to ratify the disciplinary order. Dr. Rickman made the motion, seconded by Dr. Zieren, and the motion passed unanimously.

The board proceeded to review disciplinary orders presented during the Certified Professional Midwifery meeting on October 19, 2023, by Ms. Webb-Stewart, which were ratified by the council.

Shannon Smajda faced disciplinary action for providing midwifery services and receiving compensation while not certified, resulting in a \$500 fine for unprofessional conduct. Ms. Webb-Stewart indicated that additional fees would follow once the investigation concluded. Dr. Wieting moved to ratify Ms. Smajda's order as written, seconded by Dr. Bernui, and the motion passed.

Kathy Williams was disciplined for acting as a preceptor to Shannon Smajda, enabling her to receive compensation as an unlicensed midwife. Dr. Rickman moved to ratify Ms. Williams's order as written, seconded by Dr. Zieren, and the motion passed.

PUBLIC COMMENTS – No public comments

Meeting adjourned at 1:33 p.m., CST