

MINUTES  
BOARD OF OSTEOPATHIC EXAMINATION  
March 5, 2014

A regular meeting of the Tennessee Board of Osteopathic Examination was held at the Health Related Boards, 665 Mainstream Drive, Poplar Conference Room, Nashville, TN 37243.

Members Present: Donald H. Polk, D.O.  
Jack G. Pettigrew, D.O.  
Karen R. Shepherd, D.O.  
J. Michael Wieting, D.O.  
Jeffrey L. Hamre, D.O.  
R. Fletcher Lance, Consumer Member

Staff Present: John Smith, Advisory Attorney  
Jennifer Putnam, Advisory Attorney  
Rosemarie Otto, Director  
Marsha Arnold, Unit Manager  
LaTonya Shelton, Administrator

The Board convened at 9:04 a.m. with Dr. Polk, Secretary, presiding and determining a quorum was present to conduct a meeting.

**Election of Officers**

Dr. Pettigrew made a motion to nominate Dr. Polk for chair and Dr. Shepherd seconded the motion. The motion carried.

Dr. Shepherd made a motion to nominate Dr. Hamre for vice chair and Dr. Pettigrew seconded the motion. The motion carried.

Dr. Polk requested to also remain secretary for association voting purposes. Dr. Shepherd made a motion that Dr. Polk also remain as the secretary and Dr. Pettigrew seconded the motion. The motion carried.

**Minutes**

Dr. Weiting made a motion to approve the minutes from the November 6, 2013 meeting of the board and Dr. Shepherd seconded the motion. The motion carried.

**Application Interviews**

**Alan Creek, DO-** Dr. Creek was present with legal counselor Ian Hennessey. Dr. Creek appeared before the board for a license to practice as an Osteopathic Physician in Tennessee.

After review and discussion with the board about his application Dr. Pettigrew made a motion to license Dr. Creek and Dr. Hamre seconded the motion which passed unanimously.

**Danny E. Hale, DO-** Dr. Hale appeared before the board to reinstatement his license to practice as an Osteopathic Physician in Tennessee. The Board reviewed and discussed Dr. Hale's reinstatement application. The Board voted to permit Dr. Hale to withdraw his application and he did.

**Michael V. LoGuidice, DO-** Dr. LoGuidice appeared before the board. After review and discussion with the board about his application Dr. Pettigrew made a motion to license Dr. LoGuidice and Dr. Hamre seconded the motion which passed unanimously.

**Jody M. Johnson, DO-** Dr. Johnson appeared before the board. After review and discussion with the board about his application Dr. Shepherd made a motion to license Dr. Johnson and Dr. Wieting seconded the motion which passed unanimously.

### **Office of General Counsel**

Jennifer Putnam reiterated the conflict of interest statement and the responsibilities of a board member. Ms. Putnam reported that as of February 28, 2014 there are currently 18 open disciplinary cases pending against 5 osteopathic physicians', 3 open cases against midwives and one litigation matter. Ms. Putnam also stated that she did not have any of the following to report at this time: legislation and rules to promulgate.

### **Order of Compliance**

**Fred Foshee, DO** – Dr. Foshee requested an Order of Compliance, filed on February 8, 2014 in regard to a conditional license letter entered on March 6, 2009. Dr. Foshee specifically requests that the Board lift the probation currently on his license to practice medicine. Dr. Foshee has complied with all terms of the aforementioned letter by appearing before the board annually during the duration of the five (5) year probationary period and successful completion with all the terms of his five (5) year monitoring contract with the Tennessee Medical Foundation. Based upon the evidence presented and affidavit of the Disciplinary Coordinator, Dr. Foshee has proven to the satisfaction of the Board that he complied with all provisions of the March 6, 2009 conditional licensure letter. Mr. Mike Todd, from TMF spoke on his behalf and agreed that Dr. Foshee was in good standing with their agency. Dr. Shepherd made a motion to accept the order of compliance lifting the probation on Dr. Foshee's license and Dr. Wieting seconded the motion. This motion carried.

### **Office of Investigations**

Mr. Michael Sobowale informed the Board that there are 29 open complaints for osteopathic physicians in the Office of Investigations. There are currently no complaints pending relative to osteopathic x-ray licensees.

### **Review and Ratification of Licenses**

Dr. Wieting made a motion to ratify all new Osteopathic licensees. Dr. Shepherd seconded the motion. The motion carried.

Dr. Wieting made a motion to ratify Dr. William J. Dobak and Dr. Karoly J. Dobay, III reinstated licenses except Dr. Geneth Wolfer. Dr. Shepherd seconded the motion. The motion carried.

The Board considered the action of the consultant in approving Dr. Geneth Wolfer's licensure reinstatement and declined the ratification and requested that Dr. Wolfer be notified to cease practicing immediately. The Board also instructed staff to ask Dr. Geneth Wolfer to appear at the May 7, 2014 meeting and at that time the Board will make a decision relative to reinstating Dr. Wolfer's Osteopathic license.

### **Manager's Report**

Ms. Marsha Arnold reported the following: Between November 1, 2013 and February 28, 2014 there were 51 new osteopathic physician applications received, 45 new licenses issued and 4 reinstatements. Online renewals are at 66% for the Osteopathic Board. The total number of active osteopathic licensees at the end of February 28, 2014 was 1,117, active midwives were 42, and osteopathic x-ray operators were 6.

### **General Discussion**

#### **Unreadable fingerprints policy**

The Board reviewed and adopted the following criminal background check policy regarding unreadable fingerprints:

Health care consumers are dependent upon professional licensing boards to conduct appropriate screening of applicants. The Tennessee Board of Osteopathic Examination has the responsibility protecting the health, safety and welfare of the citizens of Tennessee and to that end has a duty to exclude individuals who pose a risk to the public health, safety and welfare. One means of predicting future behavior is to look at past behavior. Checking whether applicants for licensure have a criminal history and examining the nature of that history can provide significant information for boards to use in making licensure decisions. To that end, the Board of Osteopathic Examination asks all new applicants to obtain a criminal background check and have the results transmitted to the board for examination. In most cases the fingerprints are clear and easily readable. However, some individuals cannot get readable fingerprints. For applicants with unreadable prints, the Board of Osteopathic Examination adopts the following policy relative to unreadable fingerprints:

In all cases where applicants fingerprint cards are unreadable, the applicant shall be required to come to the state of Tennessee and submit to a FBI/TBI fingerprint scan through the State of Tennessee approved vendor or its equivalent as determined by the Board.

For applicants not licensed in any other jurisdiction the Board shall require the applicant to submit to an FBI/TBI fingerprint scan through the State of Tennessee's approved vendor or its equivalent as determined by the board or its equivalent in the state applicant is located in.

For applicants licensed in other jurisdictions the board shall require the applicant to submit to an FBI/TBI fingerprint scan through the State of Tennessee's approved vendor or its equivalent as determined by the board or its equivalent in the state applicant is located in.

Dr. Shepherd made a motion to adopt the policy regarding unreadable fingerprints and Dr. Wieting seconded the motion. This motion carried.

### **Pain Management Guidelines and report**

Dr. Mutter gave the following drafted introduction regarding Tennessee Clinical Practice Guidelines for Management of Chronic Pain

**The purpose** of these guidelines is to define appropriate treatment of chronic pain, a common and often serious condition. We want to foster timely and appropriate treatment for pain, which improves both the ability to function and quality of life. These guidelines are intended to be used to support clinicians in their treatment of patients with chronic pain with particular reference to the prescribing of opioid medications. We want to avoid addiction and adverse outcomes. Optimal treatment of chronic pain, defined as pain lasting longer than 90 days, is an interdisciplinary process that includes many interventions which do not always involve opioid pain medications.

**The method** used to formulate these guidelines included a review of national expert panel recommendations and state practice guidelines, multiple listening sessions with clinicians in Tennessee, oversight of a multidisciplinary steering committee and recommendations of an advisory committee with strong representation by clinicians with specialty training in pain medicine. Draft clinical guidelines were also circulated to a broader group of professional associations within Tennessee, including mental health and substance abuse and workman's compensation programs.

**The importance** of management of chronic pain is apparent by the following facts:

- In 2011, Tennessee had the second highest per capita prescription rate for opioids in the US.
- Unintentional overdose deaths increased more than 250% from 2001 to 2011, exceeding deaths due to motor vehicle accidents, homicide or suicide in 2010.
- The number of babies born dependent to drugs who suffered from Neonatal Abstinence Syndrome (NAS) grew ten-fold from 2001 to 2011.
- Worker's compensation programs have seen the number of people treated for substance abuse increase five-fold in ten years.
- In the midst of this substance abuse epidemic, chronic pain is likewise a significant public health problem. At least 116 million US adults—more than the number affected by

heart disease, diabetes and cancer combined—suffer from common chronic pain conditions.

- Acute and chronic pain are among the most common reasons for physician visits, for taking medications and are major causes of work disability. Severe chronic pain affects physical and mental functioning, quality of life and productivity.

**The long term goals** of appropriate pain management are to improve symptoms, function and overall quality of life while minimizing adverse effects, addiction, overdose deaths and NAS. These guidelines can help providers reduce problems associated with prescription opiates while maintaining access to compassionate care and appropriate medications for patients living with chronic pain. These guidelines are organized into three sections and appendices contain additional tools and guidance.

*These guidelines are not applicable to end-of-life care, emergency room care or acute pain management. The guidelines apply to all healthcare providers. These guidelines would not apply to patients in a hospice program or in a palliative care setting with a life expectancy of six months or less. These guidelines are not meant to dictate medical decision making. They are guidelines of generally accepted medical practice rather than absolutes. Providers still have flexibility to deal with exceptional cases. Occasional deviation from these guidelines for appropriate medical reasons is to be expected and documented.*

Dr. Mutter reported there were 18 audits and 19 investigations regarding pain clinics and investigations for 2013. Dr. Mutter stated the plans for 2014 Audits and investigations are as follows: (a.) Audits- 100; (b.) Investigations- PRN which will be about 25 and (c.) BIV investigators are fully hired, trained and operational and will make goal of auditing every pain clinic every 3 years more feasible.

Dr. Mutter informed the Board that the overall morphine milligram equivalent dispensed and reported to the controlled substance monitoring database that between the years of 2010-2013 has increased by .1 percent and benzodiazepine has declined. Dr. Mutter also stated the future plans are to improve CSMD workflow, interstate data sharing and unsolicited reports. Dr. Mutter informed the Board of rulemaking hearings regarding attaching the driver license number to a mid-level provider supervisee, ARCOS data being housed with the Pharmacy Board and not by CSMD and future qualifications for medical directors of pain clinics.

Adjourned 11:44

**These minutes were ratified by the Board of Osteopathic Examination May 7, 2014**