



**Tennessee Board of Osteopathic Examiners
Regular Board Meeting**

Wednesday, May 4, 2022

MINUTES

The regular board meeting of the Tennessee Board of Osteopathic Examiners was called to order at 9:02 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. J. Michael Wieting, Board President.

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

Board member(s) absent: none

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Rene Saunders, MD, Medical Consultant, BME
Stacy Tarr, Interim BME Executive Director
Candyce Wilson, Administrative Director
Cassandra Corbett, Board Administrator

ELECTION OF OFFICERS

The Board proceeded with the annual election of officers.

Dr. Zieren nominated Dr. Wieting to continue as President. This was seconded by Dr. Garabedian. Dr. Wieting accepted the nomination and it passed by unanimous vote.

Dr. Zieren nominated Dr. Garabedian to continue in his role as Vice President. Dr. Rickman seconded the nomination, which Dr. Garabedian accepted. The motion passed by unanimous vote.

Dr. Zieren nominated Ms. Judd to continue as secretary. Dr. Garabedian seconded and Ms. Judd accepted the nomination. The vote passed unanimously.

APPROVAL OF MINUTES

The Board reviewed the minutes from the March 2, 2022 meeting. Dr. Bernui motioned to approve the minutes. Ms. Judd seconded the motion. The motion passed by unanimous vote.

RATIFICATION OF LICENSES

Dr. Rickman motioned to ratify the list of new licensees for both osteopathic physicians and certified professional midwives who were approved at the Council's April 7, 2022 meeting. Dr. Garabedian seconded the motion and it passed by unanimous vote.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Dorsey Luther, a Legal Review Coordinator in the Office of Investigations, gave her report to the

The next report was the Board's statistical complaint report, which gives an overview of complaints received. In 2022, there have been thirty-three (33) new complaints opened and thirty-three (33) complaints were closed for the following reasons: eleven (11) were closed for insufficient evidence, two (2) were sent to the Office of General Counsel for formal discipline, sixteen (16) complaints closed with no action, two (2) closed with a letter of concern and two (2) closed with a letter of warning. Ms. Luther reminded the Board that letters of concern and letters of warning are not considered formal discipline and therefore were not reportable to the National Practitioner Data Bank.

Within the newly opened complaints, two (2) were regarding action in another state, 1 (one) regarding criminal charges, nine (9) alleging medical malpractice or negligence, seven (7) for unprofessional conduct, one (1) for overprescribing, one (1) for medical records request, two (2) for mental and/or physical impairment, eight (8) were outside of the investigative scope, and two (2) regarding COVID-19

REPORT FROM THE ADMINISTRATIVE OFFICE

The activities that have transpired in the administrative office between March 1, 2022 and April 30, 2022 concerning Osteopathic Physicians are as follows:

New Applications Received:

- Osteopathic Physician - 81
- Locum Tenens - 0
- Telemedicine - 3
- Special Training - 0
- Compact - 10

New DOX Applications Received - 0

Total New Licenses Issued:

- Osteopathic Physician - 58
- Telemedicine - 0
- Locum Tenens - 1
- Special Training - 0
- DOX - 0
- Compact - 17

Total Number of Reinstatement - 1

Total Number of Renewals:

Osteopathic Physician 168

Online 150 – 89%

Total number of active licensees as of April 30, 2022 is 2,421.

Total number of active licensees as of April 30, 2022 with a Tennessee mailing address is 1,424.

Total number of Special Training licenses as of April 30, 2022 is 16.

Total number of Telemedicine licensees as of April 30, 2022 is 23.

Total number of Active DO X-Ray Operators as of April 30, 2022 is 9.

Total number of Active Professional Midwives as of April 30, 2022 is 76.

Ms. Tarr updated the Board on changes within the Administrative Office, including the promotion of Ms. Angela Lawrence from Medical Boards Executive Director to Health Related Boards Director, Ms. Tarr's position as interim Medical Boards Executive Director, and the upcoming departure of the Board's Administrator, Cassandra Corbett.

REPORT FROM THE OFFICE OF GENERAL COUNSEL

Ms. Fran Baca-Chavez reminded the Board of the Conflict of Interest Statements. She followed up with a brief overview of rules that will become effective including a fee reduction, establishing the definition of "addiction specialist," and an amendment to the voluntary provision of healthcare services allowing for a maximum of 4 hours of continuing education that could be earned by performing volunteer services.

She informed the Board that there are 10 cases open against 10 osteopathic physicians. Regarding these cases, 3 involve allegations of over-prescribing and are being handled by attorneys on the overprescribing team. There are 3 open cases against 2 midwives.

Ms. Baca-Chavez reminded the Board that the disciplinary coordinators were now part of the Office of General Counsel and presented the monitoring report: 10 being monitored for disc 4 reprimand w term 5 prob w terms 1 suspension 1 revocation/susp no xray operators monitors

CONSENT ORDERS

James Maccarone, DO - did not appear before the Board nor did a legal representative appear on his behalf. Ms. Ashley Fine, senior associate counsel for the Department of Health, presented the case. On or about January 24, 2022, Dr. Maccarone entered a guilty plea in the US District Court for the Eastern District of Kentucky to one count of conspiracy to unlawfully distribute controlled substances. The agreement stipulates that Dr. Maccarone must forfeit his Tennessee medical license. The respondent agreed to voluntarily surrender his license and pay costs related to this matter, not to exceed five-thousand dollars (\$5,000). With no questions from the Board on the matter, Dr. Rickman motioned to approve the Order. Dr. Garabedian seconded the motion and it passed by unanimous vote.

Virgil McMillion, DO - did not appear before the Board nor did a legal representative appear on his behalf. Ms. Baca-Chavez presented the case. She started with background information on Dr. McMillion's licensure, explaining that he was licensed in Tennessee via the Interstate Medical Licensure Compact. Because of this, different statutes and procedures apply in the event of disciplinary action. The State of Tennessee was notified by the Interstate Medical Licensure Compact Commission that the Wyoming Board of Medicine had summarily suspended Dr. McMillion's license. This action allowed Tennessee to summarily suspend Dr. McMillion's Tennessee medical license as well.

On or about February 5, 2022, the West Virginia Board of Osteopathic Medicine executed a consent order that reprimanded Respondent and fined him \$1,000 for failing to disclose that he was under investigation by law enforcement when he applied for renewal of his Letter of Qualification for expedited licensure through the IMLC. In addition, the West Virginia Board voided the Letter of Qualification it had issued to Respondent. On or about February 17, 2022, the Wyoming Board of Medicine summarily suspended Respondent's license pending a contested case hearing. The Wyoming Order stated among other things, that it was alleged that on or about August 1, 2019, Respondent committed the offense of Sexual Assault in the Second Degree, a felony, against a healthcare worker at a healthcare facility in Lewis County, West Virginia. Dr. McMillion was indicted on or about July 12, 2021.

On April 7, 2022, the Respondent agreed to a Consent Order in Michigan Board of Osteopathic Medicine and Surgery and permanently surrendered his license to practice in that state. Based on this action and statutes in relation to the Interstate Medical Licensure Compact, Tennessee disciplined Dr. McMillion for unprofessional conduct. He agreed to voluntarily and permanently surrender his license to practice medicine in Tennessee.

Ms. Baca-Chavez explained that the respondent is aware that this is a formal disciplinary action that is reportable to the National Practitioner Data Bank. Dr. Rickman requested for clarification on the timeline regarding action and discipline from other state medical boards. Ms. Baca-Chavez provided that information along with how this process differed due to the Compact statutes. Ms. Judd inquired about the respondent's West Virginia license. Dr. Rene Saunders, the Medical Director for Medical Boards, explained the different situations where the Dr. McMillion might be able to continue practicing in West Virginia. Dr. Zieren motioned to approve the consent order. Ms. Judd seconded the motion and it passed by unanimous vote.

INTRODUCTION OF MR. MICHAEL VARNELL

Ms. Baca-Chavez introduced Mr. Michael Varnell, a new attorney with the Office of General Counsel, and provided a brief summary of his background and experience along with a list of the Boards he is expected to represent.

AGREED CITATIONS

Benny McKnight, DO - did not appear before the Board nor did a legal representative appear on his behalf. Dr. McKnight was found to be deficient in his continuing education audit by ten and one half (10.5) hours of required continuing education specific to prescribing practices. This order requires Dr. McKnight to pay a civil penalty for a total of four hundred and twenty dollars (\$420.00). Dr. McKnight must submit proof of the ten and one half (10.5) hours he is deficient within one hundred and eighty (180) days and an additional ten (10) hours of continuing education within two (2) years. Dr. Garabedian motioned to approve the agreed citation. Dr. Zieren seconded the motion and it passed by unanimous vote.

UPDATES FROM THE FSMB CONVENTION

Dr. Wieting opened the discussion on the recent FSMB Convention. He invited Dr. Michael Baron, Medical Director of the Tennessee Medical Foundation Physician's Health Program, to announce his recent appointment as President-elect of the Federation of State Physician Health Program. Conversation then segued to the 2024 Federation of State Medical Boards conference, which is expected to be held in Nashville.

Various attendees volunteered recaps of information, seminars, and discussions with other medical boards. Ideas and experiences were shared on topics ranging from introducing medical residents and medical students to the roles of the regulatory board will have on their practice, reasoning behind COMLEX exam changes, emergency licensure processes, telemedicine laws.

One topic of particular interest involved the Board's ability to communicate with the constituents and the public. Dr. Saunders expressed that although the Administrative Office is available to answer questions from licensees, applicants, and the public, it may be beneficial to offer other official avenues for communication such as social media.

Dr. Wieting posited establishing a presence in medical schools to familiarize future physicians with Medical Boards. Dr. Saunders explained that there may be restrictions as far as what they are permitted to do but it would be beneficial to communicate and educate and that the funding may be permitted within statute. Ms. Baca-Chavez contributed a project from the North Carolina Medical Board where they created an outreach committee with the intent to introduce first year med students to disciplinary parameters by creating case studies based on the common complaints their Board was receiving and educating students.

Ms. Baca-Chavez gave a summary on changes to the COMLEX exam, including reducing the number of attempts allowed and transitioning from numeric scores to pass/fail.

PUBLIC COMMENTS – No public comments

The meeting adjourned at 9:56 a.m., CST