



Tennessee Board of Osteopathic Examination Regular Board Meeting

Wednesday, August 3, 2022

MINUTES

The regular board meeting of the Tennessee Board of Osteopathic Examination was called to order at 9:05 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. J. Michael Wieting, Board President.

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

Board member(s) absent: None

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

APPLICANT INTERVIEWS

Joseph Kirkpatrick, DO – appeared before the Board without legal representation. Dr. Kirkpatrick subsequently voluntarily resigned from his first postgraduate training program following academic suspension. At his second program, Dr. Kirkpatrick received credit for completion of PGY1 and during PGY2 faced a series of disciplinary actions (to include behavioral issues and academic incompetence) resulting in termination. Dr. Kirkpatrick provided an explanation on the events surrounding his postgraduate training matters. He reports health issues leading to an inability to maintain the seventy-hour work week requirement. The Board interviewed the applicant extensively regarding his training interruptions, health matters identified by the applicant during the interview, specialty training, and his practice intentions in Tennessee. Dr. Kirkpatrick reports he intends to practice primary care and suboxone patients in Tennessee. Dr. Rickman motioned to grant unrestricted licensure. Dr. Wieting seconded the motion. It was noted that Dr. Kirkpatrick has completed one (1) year of accredited postgraduate training and holds two licenses in neighboring states without any board action since 2013. The motion passed with Ms. Judd opposed, and Dr. Garabedian abstained.

APPROVAL OF MINUTES

The Board reviewed the minutes from the May 4, 2022, meeting. Dr. Zieren motioned to approve the minutes. Dr. Garabedian seconded the motion and the motion passed.

RATIFICATION OF LICENSES

Dr. Garabedian motioned to ratify the list of new licensees. Dr. Bernui seconded the motion and the motion passed.

LEGISLATIVE UPDATE

Office of Legislative Affairs – 2022 Legislative Update Presented by Elizabeth Foye, Assistant Commissioner

Non-Health Related Legislative Activity of Note

- The legislature addressed legislative and Congressional redistricting.
- The “Truth in Sentencing” Act made mandatory sentences for certain criminal offenses.
- The “Tennessee Investment in Student Achievement (TISA) Act” reformed the school funding approach.

Highlights and Noteworthy Health-Related Legislation

- The Department had two successful legislative initiatives that became law relating to local county health departments and the Controlled Substance Monitoring Database, respectively.
- Healthcare Facilities will move to the Health Services and Development Agency (HSDA)/Health Facility Commission on July 1, 2022.
- Healthcare providers can continue to utilize telehealth and receive reimbursement for telehealth services.
- The Board of Pharmacy and the Board of Nursing will now hire and fire the Executive Director of the Board.
- A registry within the Tennessee Commission on Aging and Disability was created to combat the operation of unlicensed facilities.

Pertinent Public Chapters

Public Chapter 644—SB1823/HB1867—Johnson/Zachary

Re: Covid-19 Vaccine Exemptions. This public chapter requires that an employer grant certain exemptions to requirements of proof/receipt of vaccinations if the request for exemption is either (1) supported by signed/date statement by a licensed physician that the staff member has a condition recognized under generally accepted medical standards as a basis for the medical exemption or (2) the staff member attests in writing (including electronic means) that the staff member has a sincerely held religious believe that prevents the staff member from complying the requirement in accordance with guidance from Medicare and Medicaid services. This public chapter creates a civil penalty of \$10,000 for violation of this statute. Effective as of March 11, 2022.

Public Chapter 649—SB1984/HB2046—Walley/Bricken

Re: Child Protective Teams. This public chapter authorizes child protective teams that are established in each county to include a representative from one mental health discipline and one appropriately credentialed medical provider, as needed. Effective as of March 15, 2022.

Public Chapter 664—SB1248/HB1195—Reeves/Garrett

Re: Insurance Prior Authorization Notifications. This public chapter requires a healthcare facility to notify a patient of communication between the healthcare facility and a health insurance entity or provider concerning additional information needed to process a prior authorization request for the patient within five business days after the communication has occurred. This requirement does not apply to the TennCare program or a successor program. This public chapter also includes requirements for utilization review agents if needed more information to determine a request for prior authorization. For the purposes of rulemaking by the Commissioner of Commerce and Insurance, effective as of March 18, 2022. For all other purposes, effective on January 1, 2023 and applies to communications made pursuant to insurance policies entered into, issued, renewed, or amended on or after that date.

Public Chapter 680—SB1909/HB1904—Johnson/Faison

Re: Autoclave Requirements. This public chapter exempts autoclaves from the clearance requirements of the Board of Boilers Rules if the autoclave sterilizes reusable medical or dental equipment used by an individual licensed under title 68 or 63, is installed in accordance with the manufacturer's recommendations, contains a boiler, and is regulated by the FDA. Effective as of March 28, 2022. The Governor did not sign this public chapter.

Public Chapter 749—SB2572/HB2465—Crowe/Leatherwood

Re: Naloxone Standing Order. This public chapter allows licensed healthcare workers to prescribe, directly or through standing order, naloxone or other similarly acting and equally safe drugs approved by the FDA to an organization or municipal or county entity, including but not limited to a recovery organization, hospital, school, or county jail. This public chapter also allows an individual or entity under a standing order to receive and store an opioid antagonist and provide an opioid antagonist directly or indirectly to an individual. Additionally, this public chapter authorizes a first responder acting under a standing order to receive and store an opioid antagonist and to provide an opioid antagonist to an individual at risk of experiencing a drug-related overdose or to a family member friend or other individual in a position to assist an at-risk individual. This public chapter includes "unresponsiveness, decreased level of consciousness, and respiratory depression" to be included within the definition of drug related overdose. Effective on July 1, 2022.

Public Chapter 756—SB1789/HB2858—Briggs/Kumar

Re: Conditions of Participation. This public chapter removes the requirement that a healthcare provider enrolled in Medicare or Medicaid be subject to conditions of participation to be exempt from the definition of "private business" or "governmental entity" for purposes of the Title 14/Covid-19 state laws. Effective as of March 31, 2022.

Public Chapter 764—SB2427/HB2177—Johnson/Lamberth

Re: Drug Paraphernalia. This public chapter excludes narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid from the definition of "drug paraphernalia" as used within the criminal code unless the narcotic testing equipment is possessed for purposes of the defendant's commission of certain drug related offenses. This public chapter will be repealed on July 1, 2025. Effective as of March 31, 2022.

Public Chapter 766—SB2453/HB2655—Yager/Hawk

Re: Telehealth. This public chapter extends the ability for healthcare providers to receive reimbursement for healthcare services provided during a telehealth encounter. This public chapter also clarifies that a

healthcare provider acting within the scope of a valid license is not prohibited from delivering services through telehealth. Lastly, this public chapter adds that the requirement of an in-person encounter between the healthcare services provider, the provider's practice group, or the healthcare system and patient within sixteen months prior to the interactive visit is tolled for the duration of a state of emergency declared by the Governor provided that healthcare services provider or patient, or both, are located in the geographical area covered by the state of emergency.

Effective as of April 1, 2022 and applies to insurance policies or contracts issued, entered into, renewed, or amended on or after that date.

Public Chapter 769—SB568/HB702—Johnson/Lamberth

Re: Anatomical Gifts. This public chapter prohibits a healthcare provider, a hospital, an ambulatory surgical treatment center, a home care organization or any other entity responsible for matching anatomical gifts or organ donors to potential recipients from, solely on the basis of whether an individual has received or will receive a Covid-19 vaccine, (1) consider an individual ineligible for transplant or receipt of an anatomical gift, (2) deny medical or other services related to transplantation, (3) refuse to refer an individual to a transplant center or specialist, (4) refuse to place an individual on an organ or tissue waiting list, or (5) place an individual at a position on an organ or tissue waiting list lower than the position the person at which the individual would have been placed if not for the individual's vaccine status. Effective as of April 8, 2022.

Public Chapter 804—SB1802/HB1763—Reeves/Lamberth

Re: Drug Paraphernalia. This public chapter includes pill press devices and pieces of pill press devices to the definition of drug paraphernalia for the purposes of drug offenses. Pill devices or pieces of pill press devices are not included within this definition if used by a person or entity that lawfully possesses drug products in the course of legitimate business activities, such as a pharmacy or pharmacist. Effective on July 1, 2022 and applies to offenses committed on or after that date.

Public Chapter 807—SB SB1846/HB1843—Watson/Terry

Re: HIPPA Compliant Provider-Based Telemedicine. This public chapter recognizes HIPPA compliant audio only conversation for the provision of certain behavioral health services and healthcare services as "provider-based telemedicine" when the use of HIPPA compliant real-time, interactive video, video telecommunications, electronic technology, or store-and-forward telemedicine services are unavailable. Additionally, this public chapter specifies requirements for a healthcare provider, office staff, or party acting on behalf of the healthcare provider submitting for reimbursement of an audio-only encounter. Effective as of April 8, 2022.

Public Chapter 825—HB2171/SB2421—Lamberth (Terry)/Johnson (Reeves)

Re: CSMD. Creates data protection and pathways through the CSMD for reporting of Part 2 data and methadone. Expands data sharing within the CSMD committee process but requires that the commissioner enter into agreements in order to disseminate such data. Health's Administration Bill. Effective as of April 14, 2022. ACTION ITEM: CSMD rule-making.

Public Chapter 833—HB1997/SB1936—Cochran/Jackson

Re: UAPA. Clarifies that the ALJ shall decide a procedural questions of law. Allows the director of the administrative procedures division of the secretary of state's office to issue subpoenas. Allows electronic participation in hearings, by agreement of the parties. The hearing officer may allow electronic testimony if the absence of the witness would otherwise cause of delay of the hearing. Requires that a final orders be issued within 90 days. Allows that a petition for reconsideration be filed within 15 days of the entry of the final order or initial order. Effective as of April 19, 2022.

Public Chapter 854—HB2733/SB2879—Windle/Bailey

Re: Veteran's Day Holiday. Requires that private businesses provide a veteran with Veteran's Day as a non-paid holiday if the veteran provides proof of status, notice to the employer and the employee's absence will not cause the employer significant issue. Effective as of April 20, 2022.

Public Chapter 881—SB2240/HB2335—Haile/Vaughn

Re: Buprenorphine. Prohibits prescribing of buprenorphine via telehealth unless the healthcare provider is employed by a licensed non-residential opioid treatment facility, a community mental health center, an FQHC, a hospital, or through TennCare. Effective as of April 14, 2022.

Public Chapter 883—SB2285/HB1749—Bell/Ragan

Re: UAPA and Judicial Review Standards. Requires that a judge over a contested case not defer to an agency's interpretation of the statute or rule and shall interpret it de novo. Remaining ambiguity shall be resolved against the agency. Effective as of April 14, 2022.

Public Chapter 896—SB896/HB1960—Bowling/Hulsey

Re: Title 14. Eliminates the sunset provisions in Title 14 for the definitions section and for the section that prohibits government entities from mandating vaccinations. Deletes a variety of definitions from the Title. For the deletion of definitions, effective July 1, 2022 at 12:01 AM. For all other purposes, effective as of April 19, 2022.

Public Chapter 902—SB2306/HB2220—Campbell/Hodges

Re: Military Record Review and Cause of Death. Upon the death of a US veteran, if a medical examiner, attending physician or chief medical officers knows that the decedent was a veteran, then that physician shall review the veteran's medical records, including those from the VA to evaluate if the death is service-related. Effective as of April 19, 2022.

Public Chapter 908—SB2188/HB2746—Niceley/Lynn

Re: Ivermectin. Permits a pharmacist to enter into a collaborative practice agreement with a physician in order to provide ivermectin. Requires that the Board of Pharmacy adopt rules to establish standard procedures for the provision of ivermectin by pharmacists, including a risk assessment tool and a standardized fact sheet. Provides civil liability protection against pharmacists who dispense ivermectin pursuant to this statute except under gross negligence circumstances. Effective as of April 22, 2022. Mandatory rulemaking. ACTION ITEM: Board of Pharmacy rule-making.

Public Chapter 911—HB2309/SB2464—Freeman/Reeves

Re: Professional License Requirements. Mandates that a person seeking a professional license have US citizenship or be authorized under federal law to work in the US as verified by the SAVE Program (allows DACA children who are now adults to obtain professional licensure if not otherwise prevented by the license). Effective July 1, 2022.

Public Chapter 930—HB1871/SB1982—Hulsey/Hensley

Re: Covid Vaccinations and Acquired Immunity. Amends Title 14 to mandate that acquired immunity from a previous Covid-19 infection be treated the same as a Covid-19 vaccination by a governmental entity, school, or local education authority. Mandates that private businesses who require vaccinations also include recognition for acquired immunity for Covid-19. Effective as of April 11, 2022—This was not signed by Governor.

Public Chapter 933—HB1913/SB1866—Eldridge/Jackson

Re: Remains of Incarcerated Individuals. Requires that the warden of a penitentiary contact a licensed physician in the county, the county medical examiner, or the state medical examiner to attempt to

ascertain the cause of death, which shall be reported to the commissioner of TDOC. Effective as of April 29, 2022.

Public Chapter 949—HB2537/SB2511—Gant/Massey

Re: Nurse Practitioners & FQHCs. Extends NPs the ability to write prescriptions at FQHCs. Allows APRNs to collaborate on up to 10 sites with a physician and the physician's reviews may be done electronically. Allows PAs to collaborate on up to 10 sites with a physician and the physician's reviews may be done electronically. There shall be an annual review in-person between the physician and the APRN/PA. Effective as of April 29, 2022.

Public Chapter 954—HB2667/SB2550—Sexton, C./Jackson

Re: Workforce Flexibility for Nurses. Allows the Commissioner to promulgate rules so that during a workforce crisis a nurse from out-of-state can practice on a temporary basis. Allows certain professions to do tasks outside of their scope of practice if approved by the rules. Permits students in respiratory care programs to practice without licensure during a healthcare workforce crisis. The commissioner determines if there is a workforce crisis and shall notify the governor, the Lt. governor, and the Speaker of the House. Flexibility rules also apply to graduate professional nurses. Effective as of April 29, 2022. ACTION ITEM: Optional rule-making by Commissioner.

Public Chapter 970—SB1902/HB2849—Briggs/Kumar

Re: Visiting Licenses for Physicians and Surgeons. Permits the Board of Medical Examiners and the Board of Osteopathic Examiners to issue short-term visitor licenses for a maximum of 90 days for physicians and surgeons who are from abroad. Provides the specific duties that may be performed by the visitors. Effective as of May 3, 2022.

Public Chapter 1001—HB2416/SB2281—Moody/Bell

Re: "Tennessee Abortion-Inducing Drug Risk Protocol Act." Mandates that any abortion-inducing drug must be provided in-person. A qualified physician must examine a patient and determine that there is not an ectopic pregnancy, provide RhoGAM medication if needed, and schedule a follow-up visit with the patient. The physician is required to make reasonable efforts to ensure that the patient appears at that visit and shall document those efforts. It is a E Felony for failure to comply with this law. Failure to comply is also the basis for disciplinary action against the licensee. For rulemaking purposes, effective as of May 5, 2022. For all other purposes, effective January 1, 2023.

Ms. Baca-Chavez will follow up on the intent of this bill, Public Chapter 1001, per the request of the Board.

Public Chapter 1049—HB1686/SB1749—Williams/Reeves

Re: Alzheimer's Patients and Payments for Caregivers. "Colonel Thomas G. Bowden Act" Creates a pilot program to provide grants for the purposes of developing payment to caregivers of Alzheimer's and dementia patients. An agency can use its current infrastructure to develop this program but must report the costs. This program runs from July 1, 2022 through June 30, 2025, and creates an income-based fee structure. Each agency shall provide a report on January 15 of each year of the program. Effective as of May 25, 2022.

Public Chapter 1054—HB1747/SB1877—Jernigan/Yarbro

Re: Cannabanoid Oil and Quadriplegia. Adds quadriplegia to one of the qualifying ailments that can be in legal possession of cannabanoid oil. Effective as of May 25, 2022.

Public Chapter 1061—HB2228/S2465—Ramsey/Reeves

Re: Opioid Antagonists. Requires that a prescriber offer a prescription for an opioid antagonist when issuing a prescription for an opioid if the prescription is for longer than 3 days and there is a history of or suspicion of abuse. This does not apply in palliative care or veterinarian settings. Penalties are included for failure to comply. Effective on July 1, 2022 and applies to opioid prescriptions issued after that date.

Public Chapter 1064—HB2308/SB2725—Hawk/White

Re: Confidentiality of Photographs of Deceased. Declares that photographs of minors who are deceased are confidential and not subject to public records requests. Also declares that photographs of deceased in a car wreck are also not subject to public records requests. Effective July 1, 2022.

Public Chapter 1068—HB2544/SB2711—Alexander/White

Re: Mammograms for Women at 35 Years Old. Requires that a health benefit plan provide access to annual low-dose mammograms and other breast cancer screenings for women between the ages of 35 and 40 if risk factors exist and for those over 40. Effective as of May 25, 2022.

Public Chapter 1073—HB2665/SB2449—Sexton, McNally

Re: Covid Visitation Policies and Limitations on Covid Treatment Exemptions. Clarifies that a prescriber can be disciplined for prescribing controlled substances and/or narcotics for treatment of Covid, if appropriate. In addition, creates a patient advocate process that hospitals must follow during times of covid concern. Allows that person to enter a facility if they agree to follow procedures but provides certain exceptions to access to locations within the hospital. Effective as of May 25, 2022.

Public Chapter 1083—SB0887/HB0519—Stevens/Gant

Re: Professional Privilege Tax. Eliminates the professional privilege tax for physicians (both those licensed under the Board of Medical Examiners and the Board of Osteopathic Examiners). Effective as of May 27, 2022 and applies to privilege taxes due and payable after May 31, 2023.

Public Chapter 1094—SB1891/HB1905—Hulsey/Doggett

Re: Mandatory Reporting of Fatal Drug Overdoses. Requires that a fatal overdose be reported to law enforcement, including by doctors and nurses. Effective July 1, 2022.

Public Chapter 1117—SB2448/HB2671—White/Farmer

Re: Extended Liability Protection Against Covid Claims. Extends the liability protection against claims based on Covid exposure until July 1, 2023. Effective as of June 1, 2022.

Public Chapter 1123—SB2574/HB2535—Crowe/Alexander

Re: End-of-Life Visitation at Nursing Homes and Assisted Living Facilities. Requires that nursing homes and assisted living facilities allow for visitation during a disaster, emergency, or public health emergency for Covid-19. Provides an exemption if the visitation would violate federal or state law. Effective July 1, 2022.

Public Chapter 1135—SB1997/HB2043—Bell/Cochran

Re: Tianeptine as Controlled Substance. Classifies Tianeptine and all derivatives thereof as Schedule II controlled substances. Effective July 1, 2022.

COLLABORATIVE PHARMACY PRACTICE RULES presented by Lucy Shell, Board of Pharmacy Executive Director

Public Chapter 908 – bill that allows for pharmacists to enter into a collaborative practice agreement with a prescriber for the provision of ivermectin. Due to this new law, the Board of Pharmacy is required to adopt certain rules. Within the revised rules for this type of agreement includes a requirement of a screening risk assessment tool and a standardized fact sheet. Dr. Shell presented all specific changes within the rules that were approved by the Board of Pharmacy.

Ms. Baca-Chavez informed the Board that they are being asked to approve the rule revisions presented before them. These rules will also need to be approved by the Board of Medical Examiners and the Board of Pharmacy. The rules presented before the Board of Medical Examiners tabled their vote on this matter to allow time to consider the rule revisions. If the Board has concerns regarding the revised rules, then the Board may wish to form a taskforce for further discussion and collaboration among the three Boards. Dr. Wieting expressed an interest in forming a taskforce to collaborate and discuss the requirements of the risk assessment screening tool to allow for uniformity. Ms. Baca-Chavez stated these rules expand on the statute and some type of action will be required.

Dr. Zieren motioned to create a taskforce about the Board of Osteopathic Examination, the Board of Medical Examiners and the Board of Pharmacy. Dr. Garabedian seconded the motion and it passed. Dr. Rickman was nominated to participate in this taskforce.

CSMD GATEWAY PROJECT REQUEST by Peter Phillips, CSMD Director

Dr. Phillips provided an update of the CSMD Gateway Services Extension and the Enhanced Prescriber Report. He showed a tutorial on how a licensee would use the database. The Board was asked to approve a two-year funding request, with a total of \$79,248.79, from their carryover funds to support the Gateway Project. Funding is being requested from all prescribing Boards, except for the Veterinary Board, and at an allocation percentage based on each Boards licensed prescribers. Dr. Zieren motioned to approve the funding request. Dr. Garabedian seconded the motion and it passed.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Dorsey Luther, with the Office of Investigations, gave her report to the Osteopathic Board.

There have been fifty-five (55) new complaints opened this year. Out of the fifty-five (55) new complaints, five (5) is for action in another state, one (1) for criminal investigation, fourteen (14) for malpractice or negligence, seventeen (17) for unprofessional conduct, two (2) for medical records request, three (3) for over-prescribing, one (1) for failure to supervise, two (2) for mental and/or physical impairment, eight (8) for outside of the investigative scope, and two (2) related to COVID.

Thus far this year, there were sixty-six (66) complaints closed for the following reasons: twenty-seven (27) closed for insufficient evidence to formally discipline, three (3) sent to the Office of General Counsel for formal discipline, twenty-eight (28) complaints closed with no violation, two (2) closed with a letter of concern and six (6) closed with a letter of warning.

REPORT FROM THE ADMINISTRATIVE OFFICE

The activities that have transpired in the administrative office between May 1, 2022, and July 31, 2022, concerning Osteopathic Physicians are as follows:

New Applications Received:

- Osteopathic Physician: 102
- Locum Tenens: 0
- Telemedicine: 1
- Special Training: 0
- DOX Applications Received: 0

Total New Licenses Issued

- Osteopathic Physician: 76
- Telemedicine: 1
- Special Training: 0
- DOX: 0
- Compact: 41

Total Number of Reinstatement: 0

Total Number of Renewals:

Osteopathic Physicians: 241

DO Online Renewals 224 – 93%

Total number of active licensees as of July 31, 2022 is 2,495

Total number of active licensees as of July 31, 2022 with a Tennessee mailing address is 1,485.

Total number of Special Training licenses as of July 31, 2022 is 16.

Total number of Telemedicine licensees as of July 31, 2022 is 24.

Total number of Active DO X-Ray Operators as of July 31, 2022 is 9.

Total number of Active Professional Midwives as of July 31, 2022 is 75.

REPORT FROM THE OFFICE OF GENERAL COUNSEL

Ms. Baca-Chavez informed the Board that there are nine (9) cases open against eight (8) osteopathic physicians. Regarding these cases, two (2) involve allegations of over-prescribing and are being handled by attorneys on the overprescribing team. There are one (1) open case against 1 midwives. There are no appeals pending. There are no pending rule changes currently in process.

Ms. Baca-Chavez introduced three new attorneys their office has recently hired.

AGREED ORDER

Richard A. Nance, DO – was not present nor did a legal representative appear on his behalf. Ms. Paetria Morgan represented the State. Respondent has been licensed as of January 14, 2015, and his license is set

to expire March 31, 2023. On September 20, 2021, Respondent entered into a Consent Order with the Mississippi State Board of Medical Licensure which placed the Respondent's license on probation, with additional terms, for pre-signing prescriptions. The act for which Respondent was disciplined in Mississippi would be grounds for disciplinary action in Tennessee. Respondent has fully complied with the Mississippi Consent Order. The facts stipulated are grounds for discipline. This order shall place Respondent's license on probation, effective the date of entry of this order. Respondent's license shall remain on probation until he has paid the costs assessed for this case. Respondent shall pay all actual and reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Dr. Garabedian motioned to ratify this order. Dr. Bernui seconded the motion and it passed.

CONSENT ORDER

Brandon Tolman, DO – was not present nor did a legal representative appear on his behalf. Ms. Jessica Turner represented the State. Respondent has been licensed as of June 8, 2016, and his license is set to expire June 30, 2024. Respondent practices at Integrity Pain Consultants (“IPC”) from early 2017 to December 2020. From approximately September 2017 to January 2019, Respondent provided care for patient, A.B., in his capacity as an Osteopathic Physician at IPC. Respondent admits that Respondent had a friendship and then consensual sexual relationship with A.B., prior to A.B. becoming his patient, and that said relationship continued after she became his patient. From approximately November 2019 to at least June 2020, Respondent provided care for patient, S.D., in his capacity as an Osteopathic Physician at IPC. Respondent admits that he had a friendship with S.D., which led to her becoming Respondent's patient, and that Respondent then had consensual sexual relationship with S.D., while she was his patient, which began in January or February of 2020. Respondent admits that Respondent's conduct was not predatory, forcible, or otherwise nonconsensual. No other disciplinary complaints are pending with the Board at time of entry of this Order. The facts stipulated are grounds for discipline. This order shall place Respondent's license on probation for a period of two (2) years, effective the date of entry of this order. This probation does not restrict the Respondents ability to independently practice medicine. During probation, Respondent shall maintain good and lawful conduct, shall not serve as a collaborating physician to any APRN, PA, or Pharmacist in Tennessee. The order further outlines requirements of the Respondent to include completing a course in maintain proper boundaries and how to petition the Board for an order of compliance. The Respondent shall pay two (2) Type A Civil Penalties for a total of two thousand dollars (\$2,000.00). The Respondent shall pay all reasonable costs of this case not to exceed five thousand dollars (\$5,000.00). Dr. Bernui motioned to ratify this order. Dr. Rickman seconded the motion and it passed.

Ms. Baca-Chavez reminded the Board that the disciplinary coordinators are now part of the Office of General Counsel and that she will be providing their report as well. The report is as follows:

The total number of Osteopathic Physicians being monitored for discipline is 13

The total number on reprimand is 4 with terms.

The total number on probation is 5 with terms.

The total number on suspension is 1.

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.

CONSENT ORDER(S) (continued)

Shannon Calhoun, DO – was not present nor did a legal representative appear on her behalf. Ms. Francine Baca-Chavez represented the State. Respondent has been licensed as of February 8, 2006 and his license is set to expire December 31, 2022. On or about September 9, 2021, the Colorado Medical Board issued a Stipulation and Final Agency Order placing Respondent’s license on probation for five (5) years under the following conditions: a. Respondent must abstain from addictive substances; b. Respondent must not use a habit-forming drug or controlled substance given by an authorized person unless Respondent has received prior written approval from the treatment minor; and c. Respondent must participate in treatment and monitoring as determined by the Colorado Physician Health Program, with quarterly reports. Respondent has a physical or mental illness or condition which renders Respondent unable to perform a medical service with reasonable skill and safety to patients in the absence of treatment monitoring. Respondent habitually or excessively used or abused alcohol, a habit-forming drug, or a controlled substance. Respondent’s actions constituted unprofessional conduct in Colorado. On or about March 16, 2022, the Wisconsin Medical Examining Board ratified a Consent Order entered into by Respondent whereby the Wisconsin Board issued a suspension against Respondent’s Wisconsin medical license based on the Colorado action. The suspension of Respondent’s license was stayed but Respondent’s license was limited as follows: a. Respondent shall comply with the Colorado order; b. Respondent shall notify the Wisconsin Board of any modifications to the order; c. Respondent shall submit quarterly self-reports to the Wisconsin Board summarizing his compliance with the conditions of probation in the Colorado order; and d. Respondent shall pay the costs in the matter. On or about April 15, 2022, the Virginia Department of Health Professions ratified an Order of Mandatory Suspension upon receiving evidence that the Wisconsin Board suspended his license. On or about April 21, 2022, the Kentucky Medical Board entered into an agreed order, placing Respondent’s license on probation for a period of five (5) years. Among other things, Respondent was to enter into a monitoring contract with the Kentucky Physicians Health Foundation for a period of five (5) years and shall maintain and fully comply with all requirements of that contractual relationship. The facts stipulated are ground for discipline. This order shall place Respondent’s license on probation, effective the date of entry of this order. The Respondent shall maintain 100% compliance with all provisions of her monitoring contract, Respondent shall cause her monitoring contract to send quarterly reports to this Board and Respondent shall notify this Board of any violation of that contract or extension. Respondent shall comply with the terms of her Colorado Order. Respondent shall not serve as a supervising physician while her license is on probation. At the end of probation and full compliance with the terms of the Colorado Order and that license being restored with no restrictions, Respondent may petition the Board for an Order of Compliance to have the probation lifted. Dr. Zieren motioned to ratify this order. Dr. Garabedian seconded the motion and it passed.

CONDUCT NEW BUSINESS

Discuss and consider revision of Continuing Medical Education Policy – In July 2022, this Board had new rules take effect which amended the cycle in which a licensee would be responsible for completing continuing medical education. The Board reviewed a draft revision of the Continuing Education Policy which mirrors the new rule language. Dr. Zieren motioned to adopt amended the policy. Dr. Garabedian seconded the motion and it passed.

Discuss and consider sending an e-mail blast to licensees specific to the CME rule change – The administrative office will send a specific e-mail notification to all licensees in regard to the CME rule change. Dr. Rickman motioned to approve this e-mail blast notification. Dr. Garabedian seconded the motion and it passed. Ms. Tarr will draft the e-mail and send this to Dr. Wieting for review prior to sending it to licensees.

Discuss and consider sending an e-mail blast to licensees/applicants and specific request(s) for use of carry over funds – At the last meeting, the Board discussed a desire to use their carry over funds if permitted. Ms. Tarr requested the Board be specific in their request, as in what they would like to use the money for. The Board will table this matter to see how the Gateway Project funding affects their carry over funds.

Approve attendee(s) for the FSMB's Tri-Regulator Symposium – Ms. Judd motioned to approve one (1) Board member and one (1) staff person to this symposium. Dr. Garabedian seconded the motion and the motion passed. The Board members will look over their calendar to see who would be interested in attending and let staff know.

Approve attendee(s) for the FARB Annual Conference – Dr. Rickman motioned to approve one (1) attorney to attend this conference. Dr. Zieren seconded the motion and it passed.

Approve attendee(s) for the IMLCC Meeting in November 2022 – Dr. Garabedian motioned to approve one (1) Board member to attend this meeting. Dr. Zieren seconded the motion and it passed.

Update on CSMD – Dr. Garabedian informed the Board that he has been elected as Chair of the CSMD Committee.

Update on Government Operations Meeting – Dr. Garabedian informed the Board that this recent meeting went well and during that meeting no questions were asked about the new rules.

E-mail Blast Request – Dr. Wieting requested the administrative office send out an e-mail blast attaching the Board's policy on Prescribing to oneself and one's family.

PUBLIC COMMENTS – No public comments

The meeting adjourned at 11:38 a.m., CST.