



**TENNESSEE BOARD OF
PHYSICIAN ASSISTANTS
REGULAR BOARD MEETING**

November 20, 2023

MINUTES

The regular meeting of the Tennessee Board of Physician Assistants (hereinafter, "the Board") was called to order on November 11, 2023, at 9:00 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive Nashville, TN 37243.

Board Members Present: Robert Kasper, MD
 Andrew Hull, PA-C
 Robert White, PA-C
 Barbara Thornton, Consumer Member
 David Roberts, PA-C
 J. Seth Weathersby, PA-C
 C. Marie Patterson, Chair, PA-C
 Christina Free, Secretary, PA-C

Board Members Absent: Gregory Cain, PA-C

Staff Present: Stacy Tarr, Executive Director
 Brandi Allocco Administrative Director
 Tracy Alcock, Office of General Counsel
 Dexter Hawkins, Administrative Assistant

I. ELECTION OF OFFICERS

During the board meeting, there was a discussion regarding the election of officers. Rob White proposed a motion to maintain the current officers, thereby retaining Catherine Marie Patterson as the chair and Christina Free as the secretary. The motion was seconded by Mr. Hull and subsequently passed.

II. CONSIDERATION OF APPLICATIONS

None

III. APPROVAL OF MINUTES

Mr. Weathersby proposed a motion to accept the minutes from the meeting held on April 21, 2023. This motion was seconded by Ms. Thornton and subsequently approved by the board.

Similarly, Mr. Hull initiated a motion to accept the minutes of the Allen Tate Trial meeting that took place on April 21, 2023. Mr. Weathersby seconded this motion, which was approved by the board.

Mr. Roberts proposed a motion to accept the minutes from the meeting held on November 17, 2023. This motion was seconded by Mr. Weathersby and subsequently approved by the board.

IV. DEPARTMENTAL REPORTS

Receive reports and/or requests from the Office of Investigations

The Board 's Statistical Complaint report. New complaints for PA's open are Thirty-eight (38), total closed complaints are thirty-eight (38), one (1) closed due to insufficient findings, twenty-seven (27) were closed with no action, one (5) received a letter of concern, and three (3) was sent a letter of warning.

Of those numbers listed above the following are regarding which category they fall under: two (2) substance abuse, one (1) sexual misconduct, three (3) malpractice/negligence, twenty-two (22) unprofessional conduct, one (1) violation of Board order, two (2) overprescribing, and five (5) outside the investigative scope.

Under Orthopedic PA's, there were no new complaints.

Ms. Patterson initiated a discussion on the annual report, expressing a desire for a more comprehensive analysis. She emphasized the need for a detailed comparison with previous years, specifically addressing closed complaints with both disciplinary and non-disciplinary outcomes. Ms. Tracy Alcock informed the board that she could potentially gather the requested information.

Administrative Office

The following activity regarding Physician Assistants transpired in the administrative office between April 1, 2023, and June 30, 2023.

New Applications Received:

- Full licensure 164
- Temporary 4
- Upgrade to Full 4
- OPA Full Licensure 0

Total New Licenses Issued:	181
Total Number of Renewals:	488
Total Number of Online Renewals:	454
Average Renewals Online:	93%
Total Number of Reinstatements	3

As of October 31, 2023, the total number of active Physician Assistant licenses is 3,709. Of those licensees, 3,003 have a Tennessee mailing address. The total number of Orthopedic Physician Assistant licensees as of October 31, 2023, is 8

Financial Report

Ms. Emily Godwin presented the financial report to the board, elucidating the reasons for the deficit. A deliberation on salary and wage increments ensued. Furthermore, the board explored the prospect of augmenting application fees to rectify the financial shortfall. In this context, there was a request to examine fee adjustments implemented by boards of similar size to the Physician Assistant Board. Ms. Emily Godwin assured the board that she would furnish comprehensive data, including numerical figures and percentage increases, at the meeting scheduled for April 19, 2024.

V. NEW BUSINESS

Ratification of New Licenses

Mr. Weathersby initiated a motion to approve all licenses, which was seconded by Dr. Kasper. The board approved this motion.

Review Amended CME Policy

Mr. Hull proposed a motion for the full implementation of the amended policy, which was seconded by Ms. Thornton. The motion was duly approved by the board. The revised policy stipulates that "Physician assistants and orthopedic physician assistants falling short by up to five (5) hours of continuing education will be granted a thirty (30) day grace period following a continuing education audit to fulfill the deficit. Verification of the completion of the continuing education hours within thirty (30) days will be considered compliance with the continuing education requirements. Failure to provide evidence of completion of any continuing education hours within thirty (30) days will result in these hours being considered as deficient. Physician assistants and orthopedic physician assistants lacking more than five (5) hours of continuing education will not be afforded the thirty (30) day grace period to make up the deficit."

Applications with Criminal Conviction Policy

The board engaged in a deliberation concerning the existing criminal convictions policy, with a specific focus on the timeframe for misdemeanors and felony convictions outlined as follows: "Applicants revealing a single misdemeanor conviction in their application or Criminal Background Check need not appear before the Committee if more than five (5) years have transpired between the date of the conviction and the date of application, unless the underlying facts or circumstances warrant further inquiry, as determined by the Committee Consultant. Applicants indicating a felony conviction, irrespective of the date, are REQUIRED to appear before the Committee. If an applicant's application or Criminal Background Check discloses either of the following, and the Committee Consultant deems it beneficial for the applicant to be referred to the Tennessee Medical Foundation for an evaluation before an interview with the Committee, the Consultant may make such a referral: (1) More than one misdemeanor conviction, regardless of the date; or (2) A misdemeanor conviction within the five (5) years preceding the date of application."

The board deliberated on potential amendments or the complete elimination of the policy. It was emphasized that the discretion of board members remains pivotal, as they can choose to approve or request the applicant to appear before the board. Additionally, the option for a senior board member or Ms. Tracy Alcock to review and provide a second opinion on applications was discussed. Weathersby suggested reducing the misdemeanor timeframe to thirty-six months instead of five years, with discretion for the reviewer beyond thirty-six months, and maintaining five years for a felony conviction. Ms. Tracy Alcock assured the board that she would prepare a draft, incorporating the proposed changes, for their consideration in the upcoming meeting scheduled for January 19, 2024.

Tennessee Medical Association

Kathleen Caillouette presented the MATE Act compliance course from the Tennessee Medical Association to the board.

Adding information to the Board's website regarding continuing education courses that meet the requirement of two hours for controlled substance prescribing with Tennessee Chronic Pain Guidelines

The board deliberated on the inclusion of information on the board's website concerning the two hours for controlled substance with Tennessee Chronic Pain Guidelines. Robert White motioned to add TAPA to the list, a motion seconded by Weathersby. Furthermore, the board explored the

prospect of segregating the two hours from the eight-hour MATE Act courses for the DEA. Robert White proposed a motion to distinguish the courses with suitable language, positioning the TAPA course at the forefront and the eight-hour TMA course at the bottom. This motion received a second from Mr. Weathersby. The board approved this motion.

Redline Of Rules

Ms. Alcock informed the board that she does not have an update on the redline of rules but is currently in the process of continuing her work on them.

Update Regarding PA Sunset Hearing

Ms. Tracy Alcock provided a summary of the Sunset meeting she attended with Chair Ms. Patterson.

Update from Advisory Attorney Regarding 2023 FARB Conference

Ms. Tracy Alcock presented an overview of the 2023 FARB conference, emphasizing the significance of responsible social media use.

Change in Federal Law - Portability of professional licenses of service members and their spouses.

Tracy Alcock explained the new law that has taken effect. This new SCRA provision allows servicemembers and their spouses to use their professional licenses and certificates in certain circumstances when they must relocate due to military orders. For a license to be considered valid in a new location, a servicemember or their spouse must satisfy the following five criteria:

1. Have moved to a location outside the jurisdiction of the licensing authority that issued the covered license or certificate because of orders for military service.
2. Provide a copy of the military orders to the licensing authority in the new jurisdiction.
3. Have actively used the license or certificate during the two years immediately preceding the move.
4. Remain in good standing with:
 - a. the licensing authority that issued the covered license or certificate; and
 - b. every other licensing authority that issued a license or certificate valid for a similar scope of practice and in the discipline applied for in the new jurisdiction; and
5. Submit to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

Propose to delegate representatives to attend the Federation of State Medical Boards (FSMB) conference, which is scheduled for April 18-20, 2024, in Nashville, TN

The board deliberated on the appointment of representatives to attend the Federation of State Medical Boards (FSMB) conference, scheduled for April 18-20, 2024, in Nashville, TN. Expressing interest in attending, Ms. Patterson, Ms. Thornton, Mr. Hull, Dr. Kasper, and Mr. Roberts. To this end, Mr. Weathersby proposed a motion to delegate three board members, two staff members, and the board attorney. This motion found a second in Mr. Hull. The board approved this motion.

Propose to delegate representatives to attend the 2024 Federation of Associations of Regulatory Boards (FARB) Forum on Professional Regulation, which is scheduled to take place from January 25 to 27, 2024 at the Omni Fort Worth in Fort Worth, Texas

In a separate discussion, the board considered appointing representatives for the 2024 Federation of Associations of Regulatory Boards (FARB) Forum on Professional Regulation, scheduled for January 25 to 27, 2024, at the Omni Fort Worth in Fort Worth, Texas. Mr. White proposed a motion to delegate one staff member for attendance, which garnered a second from Mr. Weathersby. The board approved this motion.

VI. APPROVAL OF AGREED CITATIONS

There were no citations for approval.

VII. OFFICE OF GENERAL COUNSEL AND PRESENTATION OF DISCIPLINARY ORDERS

Report from the Office of General Counsel by Tracy Alcock, Advisory Attorney

Ms. Tracy Alcock would begin by informing the Board Conflict of Interest: Board members are reminded to disclose any personal or financial interests in matters before the Board to avoid any appearance of bias.

Rules:

The Office of General Counsel has conducted a retrospective review of Physician Assistant Rules and plans to present proposed changes for the Board's review.

Litigation:

Pending Litigation: As of October 2023, six open cases relate to physician assistants.

Appeals:

None.

Civil Suits:

None.

Legislation:

Public Chapter 300: Mandates public comment periods for governmental meetings, allowing reasonable restrictions.

Public Chapter 316: Addresses the term limits for members of the advisory council on state procurement.

Public Chapter 1: Prohibits gender conversion procedures in minors, with violations warranting emergency action.

Public Chapter 107: Allows the practice of physical therapy under the referral of a nurse practitioner or physician assistant, with changes to education requirements.

Public Chapter 949: Permits physician assistants to arrange remote site visits through electronic means, requiring potential amendments to Prescription Writer Rules and PA rules.

Consent Order(s)

1. Benjamin Reese, PA 2381

Tracy Alcock presented a consent order to the board concerning Benjamin Reese, outlining the following details:

Summary of Consent Order - Case No: 2019061381

The Division of Health-Related Boards of the Tennessee Department of Health and Benjamin Reese, P.A. ("Respondent") have entered into a Consent Order, subject to approval by the Tennessee Board of Physician Assistants. The Board, entrusted with the regulation of physician assistants in the state, holds the authority to ensure adherence to laws governing their practice.

Key Points:

Respondent waives the right to a contested case hearing and judicial review.
Respondent acknowledges formal disciplinary action, to be reported to the National Practitioner Data Bank.
The Order is presented to protect public health by ensuring compliance with laws related to prescribing controlled substances.

Stipulations of Fact:

Respondent holds a Tennessee P.A. license (No. 2381) with an expiration date of October 31, 2023. An investigation revealed improper prescribing practices, including escalating dosages and inadequate documentation. Respondent worked at Main Street Family Medicine and the Chester County Jail with collaborating physician Paul Schwartz, M.D.

Grounds for Discipline:

Violations include inappropriate prescribing of controlled substances, failure to inform patients of risks, and inadequate documentation.

Policy Statement:

The Board takes action to protect public health by ensuring compliance with laws related to prescribing controlled substances.

Order:

Reprimand of Respondent's P.A. license.
Prohibition from prescribing opioids for six months or until completion of specified continuing education courses.
Successful completion of specified continuing education courses.
Civil Penalty of One Thousand Dollars (\$1,000.00).
Notification of disciplinary action to collaborating practitioners.
Payment of actual and reasonable costs for prosecuting the case, not exceeding Three Thousand Dollars (\$3,000.00).
Report to the National Practitioner Data Bank.

After reviewing the facts of the consent order, Mr. White moved to deny it, a motion supported by Mr. Weathersby, who stipulated that there should be no prescribing of controlled substances, not just opioids. Following the denial, the board discussed the collaborating physician's role and whether they should also face reprimand. Ms. Patterson noted her intention to file a formal complaint against Mr. Reese's collaborating physician, emphasizing their accountability in the matter.

2. Donald Hakes, PA 1237

Tracy Alcock presented a consent order to the board concerning Donald Hakes, encapsulating the following details:

Summary of Consent Order - Case No: 2022021481

The Division of Health-Related Boards of the Tennessee Department of Health and Donald Hakes, P.A. ("Respondent") have reached a Consent Order, seeking approval from the Tennessee Board of Physician Assistants. The Board, responsible for overseeing and regulating physician assistants in the state, emphasizes strict compliance with laws to preserve the quality of medical care.

Key Points:

Respondent waives contested case hearing rights and judicial review, acknowledging formal disciplinary action reported to the National Practitioner Data Bank.
Board approval is sought to address disciplinary matters concerning Respondent's physician assistant license.

Stipulations of Fact:

Respondent, licensed by the Board since January 20, 2005, is currently licensed until September 30, 2024 (License No. 1237). From November 20, 2017, to August 8, 2022, Respondent worked at Erlanger Medical Center, Chattanooga, providing neurological treatment. Respondent faced termination due to suspicion of being under the influence on May 31, 2022, confirmed by positive breathalyzer tests on August 8, 2022. Respondent admitted himself to inpatient treatment, completed on October 26, 2022, and is compliant with a five-year contract with the Tennessee Medical Foundation.

Grounds for Discipline:

Potential violations include unprofessional conduct, dishonorable behavior, and habitual intoxication affecting professional practice.

Policy Statement:

The Board acts to protect public health by ensuring physician assistants adhere to legal and ethical requirements.

Order:

Respondent's license is placed on PROBATION for two years. During probation, Respondent must comply with Tennessee Medical Foundation (TMF) monitoring, including quarterly reports and adherence to TMF recommendations.

Any future impairment incidents may result in further disciplinary action.

Civil Penalty of Four Hundred and Fifty Dollars (\$450.00).

Payment of actual and reasonable prosecution costs, not exceeding Three Thousand Dollars (\$3,000.00).

At the end of the probationary period, Respondent may file a petition for Order of Compliance, subject to Board approval.

The disciplinary action is reported to the National Practitioner Data Bank (N.P.D.B.).

Motion and Approval:

Mr. Roberts made a motion to accept the consent order, seconded by Mr. White. The motion received approval from the board.

Public Comment

Ms. Katherine Moffitt addressed the board to discuss the PA compact, emphasizing her intention to introduce a bill before legislation. She elaborated on the requirement for seven states' participation in the PA compact. Furthermore, Ms. Moffitt inquired about the feasibility of moving the October 2024 date, a suggestion that found consensus among the board members. Stacy Tarr, the executive director, assured the board that she would initiate communication regarding the proposed date change.

The meeting adjourned at 11:20 am.

These meeting minutes were ratified by the Board at their February 16, 2024, meeting.