



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

August 5, 2022

MINUTES

The regular meeting of the Tennessee Board of Physician Assistants (hereinafter, “the Board”) was called to order on August 5, 2022, at 9:00 a.m. in the Iris Room, Ground Floor, MetroCenter Complex, 665 Mainstream Drive Nashville, TN 37243.

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

Board Members Absent: None

Staff Present: Stacy Tarr, Executive Director
 Candyce Wilson, Administrative Director
 Tracy Alcock, Office of General Counsel

The Chair, Ms. Patterson, called for a roll call of all members present.

**I. 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—SB1846/HB1843—Watson/Terry](#)

Re HIPPA Compliant Provider-Based Telemedicine. This public chapter recognizes HIPPA complaint 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 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 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 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.

[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. **ACTION ITEM: REPORT. Contact/responsible party needed.**

[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 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.

II. APPLICANT INTERVIEWS

Jenessa King, PA – appeared before the Board with her legal representative, Mr. Bryant Witt. Mr. Witt provided an overview of the pending malpractice case in which Ms. King is named a party of. Mr. White motioned to grant a full and unrestricted license. Mr. Cain seconded the motion and it passed.

Pareshkumar Patel, OPA – appeared before the Board without legal representation. Mr. Patel appeared before the Board due not meeting the qualifications for licensure. Ms. Tracy Alcock read aloud the statutory requirements for licensure as an OPA. Mr. Patel is not a graduate of a Board approved OPA program, has not completed the NBCOPA examination, and has not been practicing as an OPA in the State of Tennessee for the time period indicated within the law. Without an option to grant licensure, the Board offered Mr. Patel the option to withdraw his application. Mr. Patel requested to withdraw.

Heather Smith, PA – appeared before the Board without legal representation. Ms. Smith's California license was placed on probation in 2017 and probation extended in

2019 for issues related to inappropriate prescribing. The probation was terminated in February of 2022. Additionally, she has had two (2) DUI charges and prior DEA action. Ms. Smith applied for a Tennessee license in 2018 and again in 2019 and was denied. Ms. Tameka Webb, a case manager with the Tennessee Medical Foundation, was present for questions. Since Ms. Smith's last appearance with this Board, she has signed a two (2) year monitoring contract with TMF, and her CA license is now unrestricted. The Board presented Ms. Smith with several questions to better understand her path of recovery from 2017 to now. The Board led a lengthy discussion and proposed a couple of different motions, to include denying the license. During the interview, the Board acknowledged the applicants' efforts in completing her probationary period in California, but ultimately determined that they are unwilling to grant a full and unrestricted license to practice as a physician assistant in Tennessee. The Board felt that certain conditions and contingencies should be placed to adequately support her continued recovery.

Mr. Cain motioned to grant a conditional license, placing the license on probation, prohibiting her from prescribing controlled schedules II, III, and IV, a requirement of 50% chart review by a collaborating physician, an extension to her TMF contract for a total of three (3) years, to attend self-help (AA) meetings, complete random toxicology screenings, have quarterly TMF reports send to the disciplinary coordinator, and a requirement to appear before the Board at the end of her three (3) year monitoring contract. Mr. Weathersby seconded the motion. The motion passed with Mr. White and Ms. Thornton opposed.

The legal authority for the Board's action in issuing a Physician Assistant license in Tennessee conditioned on these requirements is based on the Board's authority granted under TCA § 63-19-110(b)(1)(3)(4)(5) and (6).

Ms. Alcock will report back to the Board when Ms. Smith signs the conditional licensure letter.

Lucas Spence, PA – appeared before the Board without legal representation. Mr. Spence appeared before the Board due to a current pending malpractice case. Mr. Spence provided a brief overview of the complaint. Mr. Cain motioned to grant a full and unrestricted license. Ms. Thornton seconded the motion and it passed.

III. APPROVAL OF MINUTES

Ms. Thornton made a motion to accept the May 6, 2022, meeting minutes. The motion was seconded by Mr. Weathersby, and it passed.

IV. DEPARTMENTAL REPORTS and NEW BUSINESS

Receive reports and/or requests from the Office of Investigations

Ms. Dorsey Luther presented the Board Statistical Complaint report. New complaints for PA's open are thirty-five (35), total closed complaints are twenty-nine (29), four (4) closed due to insufficient findings, one (1) was closed with no violation, two (2) were transferred to the Office of General Counsel, twenty-one (21) were closed with no action, one (1) was closed with a letter of concern.

Of those numbers listed above the following are in regard to which category they fall under: one (1) substance abuse, one (1) action in another state, seven (7) malpractice/negligence, thirteen (13) unprofessional conduct, one (1) violation of Board order, one (1) medical records request, three (3) overprescribing, one (1) prescribing to friends/family, six (6) outside investigative scope, and one (1) related to covid-19.

Consider approval for an Over/Improper-Prescribing Complaint Review Physician Assistant Consultant

The Board reviewed information on the proposed physician assistant, Scott Fowler. Ms. Patterson provided this individual as a recommendation. Mr. Fowler has extensive knowledge in pain management. Mr. Cain motioned to accept Mr. Fowler as the Boards over-prescribing/improper prescribing consultant. Mr. White seconded the motion and it passed.

Consider request for funding the CSMD Gateway Project – Dr. 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 \$105,823.23, 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. The Board asked several questions on the functionality of the system and requested information on how other Boards are responding to this ask. Mr. Roberts motioned to table this discussion. Mr. White seconded the motion and it passed. The Board would like feedback on how other Boards are responding and if other Boards are approving use of their carry over funds for this project. Ms. Alicia Grice stated the Board will have a financial report to review at their October meeting. Without the funding being approved, the CSMD staff will soon need to alert active users, of the system, that they may have to set up their own methods of payment to continue accessing the system.

Receive report from Administrative Office

Ms. Stacy Tarr reported that the following activity regarding Physician Assistants transpired in the administrative office between May 1, 2022, and July 31, 2022

New Applications Received: 114

- Full licensure 113
- Temporary 0
- Upgrade to Full 0
- OPA Full Licensure 1

Total New Licenses Issued:	63
Total Number of Renewals:	327
Total Number of Online Renewals:	327
Average Renewals Online:	90%
Total Number of Reinstatements	6

As of July 31, 2022, the total number of active Physician Assistant licenses is 3,249. Of those licensees, 2,723 have a Tennessee mailing address. The total number of Orthopedic Physician Assistant licensees as of July 31, 2022, is 10.

Ratification of New Licenses

Mr. Weathersby made the motion to approve all licenses. Mr. Robert seconded the motion and it passed.

Request For Proposal Process

Melissa Painter was scheduled to appear to present and discuss the RFP Process. Ms. Painter is unable to appear today, and this discussion will be tabled for the next meeting.

FARB and/or CLEAR Conference Attendance Request

Ms. Alcock requested the Board consider approving her attendance to either the upcoming FARB or CLEAR conference which are regulatory board related conferences. Mr. Hull motioned to approve Ms. Alcock to attend either the FARB or CLEAR conference. Mr. White seconded the motion and it passed.

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

Ms. Alcock reminded the Board of the conflict-of-interest policy and the sunshine law. The Office of General Counsel currently has six (6) open cases pertaining to Physician Assistants. One (1) case has been set for trial, and it is an improper prescribing case. There are no appeals and no civil suits.

Public Chapter 949 – which allows PA's to have ten (10) of their required twelve (12) annual site visits, by a collaborating physician, through a HIPPA compliant electronic means and the other two (2) must be in person.

Public Chapter 1061 – 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. Not all PA's prescribe controlled substances, but for those that do and prescribe opioids this is a major change.

Ms. Alcock will continue to work with Ms. Free on the rule amendments and have more information on this at the next meeting.

Public Comment – None

The meeting adjourned at 1:03pm.

These meeting minutes were ratified by the Board at their October 21, 2022, meeting.