

MINUTES
BOARD OF OSTEOPATHIC EXAMINATION
MARCH 4, 2009

A regular meeting of the Tennessee Board of Osteopathic Examination was held at the Bureau of Health Licensure and Regulation, 227 French Landing, 1st Floor, Poplar Conference Room, Heritage Place MetroCenter, Nashville, TN 37243.

Members Present: Donald H. Polk, D.O., Karen R. Shepherd, D.O., Jill B. Robinson, D.O., Rafael M. Sanchez, D.O., Janis Hinton, Public Member

Member Absent: Paul G. Smith, Jr., D.O.

Staff Present: Rosemarie Otto, Executive Director, Elizabeth Miller, HRB Director, Marsha Arnold, Unit Manager, Mona Jean-Baptiste, Advisory Attorney, David Hoffman, Board Administrator

The Board was called to order at 9:05 a.m. with Dr. Robinson presiding. Dr. Robinson determined that a quorum was present in order to conduct Board business.

Conflict of Interest Policy

Mona Jean-Baptiste reiterated the Board's responsibility pursuant to the Board's Conflict of Interest Policy. Dr. Polk asked questions of Ms. Miller regarding what other Boards did, including the Medical Board. She told the Board that most Boards signed the Conflict of Interest Policy. Nevertheless, for those that have not, the Policy is in effect. Dr. Shepherd expressed her concern about the policy.

Minutes

Dr. Polk made a motion to ratify the minutes from the November 12, 2008 Board meeting. Ms. Hinton seconded the motion. The motion carried.

Applicant Interview

Fred C. Foshee, D.O. was present and was represented by Philip Barber, Esq., and accompanied by Eric Redmon, MD. Dr. Foshee was asked to attend because of concerns regarding the personal misuse of chemical substances. After questions from the Board to Dr. Foshee, and supporting remarks from Dr. Redmon. Dr. Sanchez made a motion to grant a probationary license for five years, under the following terms: (1) Dr. Foshee will pay all outstanding costs associated with prior actions. (2) Sign a new 5 year contract with the Tennessee Medical Foundation and strictly comply with its terms (3) Petition for an Order of compliance no sooner than 5 years from the date of the order to have the probation lifted. The motion was seconded by Ms. Hinton. Dr. Polk made a motion to

amend this decision by requiring Dr. Foshee to report yearly to the Board. Ms. Hinton seconded the motion. The motion carried.

Administrative Staff Statistical Report

Marsha Arnold gave the statistical report that as of January 31, 2009 the total number of active Osteopathic Physicians was 803, active Midwives was 28, D.O. X-Ray operators was 16.

Rulemaking Hearing

A Rulemaking Hearing was conducted by Mona Jean-Baptiste concerning Rule 1050-2-.12 Continuing Education Requirements. The rule is amended by deleting the text of subsection (1)(a) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1)(a) shall read:

(1)(a) During the two (2) calendar years that precede licensure renewal, all licensees must complete forty (40) hours of courses approved by the Board in category I-A, II-A and/or I-B continuing medical education as defined in the most current annual American Osteopathic Association Yearbook and Directory. And further amended by inserting the following language as new subparagraph (1)(c) and renumbering the current subparagraphs (1)(c), (1)(d) and (1)(e) as (1)(d), (1)(e) and (1)(f) respectively:

(1)(c) Osteopathic physicians serving as preceptors in any AOA approved osteopathic medical education program may be granted one (1) Category I-B credit for each hour of preceptor work actually performed, up to a maximum of fifty percent (50%) of the total biennially required continuing medical education. No comments to the proposed rule, either orally or in writing were offered.

Ms. Hinton made a motion to adopt the rule as amended and Dr. Shepherd seconded the motion. A roll call vote was held with all voting to approve the amended rule.

Office of General Counsel

Ms. Jean-Baptiste reported that a rule for X-Ray revision/upgrades, Titles, Disciplinary Conditions and Training Licenses (07-0465) went to rulemaking hearing on November 2, 2007; they were adopted by the Board on November 14, 2007. These rules have been approved by the Attorney General's Office and were filed with the Secretary of State's Office on October 21, 2008 and became effective on January 4, 2009.

Office Based Surgery Rule (07-0464) On May 21, 2008, a rulemaking hearing was held with regard to the amendments to the Office Based Surgery rules before the Board. The rules were sent to the Office of the Attorney General on May 22, 2008 for review. They have not yet been approved by the Attorney General.

Ms. Jean-Baptiste also reported that OGC has 8 open cases pertaining to the Tennessee Board of Osteopathic Examiners. One of the eight was on today's Agenda.

Bureau Office Report

Ms. Rosemarie Otto reported to the Board on behalf of the Director of Administrative Services regarding the Board's budget. She reported that the most current report showed a reduction in the overall deficit because the Board's revenues exceeded their expenses. If the trend continues it is anticipated that the Board will be in a positive position at the time of its next Sunset Review hearing in 2015.

CME Report

Ms. Rosemarie Otto reported to the Board on behalf of the CME Coordinator that audits are being conducted. She stated that the licensees were mostly in compliance and that only one licensee has been forwarded to the Office of General Counsel for further processing.

Office of Investigations Report

Juanita Stone, Disciplinary Coordinator reported on behalf of Denise Moran, Director of the Office of Investigations that there were currently 20 open complaints in various stages of investigation.

Disciplinary Coordinator Report

Juanita Stone, Disciplinary Coordinator, reported that there were ten practitioners being monitored.

Review and Ratification of New Licenses

Dr. Polk made a motion to ratify the new licenses. Dr. Shepherd seconded the motion. The motion carried.

Dr. Shepherd made a motion to ratify the reinstated licenses. Dr. Sanchez seconded the motion. The motion carried.

Dr. Shepherd made a motion to ratify failed to renew licenses. Dr. Polk seconded the motion. The motion carried.

Ms. Arnold noted for the Board that half as many licensees renewed online than by mail.

Discussion

Dr. Shepherd made a motion to designate Dr. Polk as voting delegate to attend the FSMB annual meeting in Arlington, VA. Dr. Sanchez seconded the motion. The motion carried.

Ms Otto informed the Board that, unfortunately due to current state of the budget and their own deficit, the Department of Health would not approve Dr. Polk for reimbursement of his expenses associated with attending the annual meeting.

Ms. Rosemarie Otto read a proposed letter that will be mailed to licensees who failed to pay the professional privilege tax timely.

Ms. Janis Hinton notified the Board that she will resign her position on the Board effective after the May, 13, 2009 Board meeting.

Adjournment

Dr. Polk made a motion to adjourn the meeting. Dr. Sanchez seconded the motion. The motion carried. The meeting was adjourned at 10:50 a.m.

These minutes were ratified by the Board on May 13, 2009.