

**MINUTES
BOARD OF OSTEOPATHIC EXAMINATION
MAY 21, 2008**

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, Popular Conference Room, Heritage Place MetroCenter, Nashville, TN 37243

Members present: Jill Robinson, D.O., Donald H. Polk, D.O., Karen R. Shepherd, D.O., Paul G. Smith, Jr., D.O.

Members not present: Rafael M. Sanchez, D.O., Janis E. Hinton, Public Member

Staff present: Elizabeth Miller, HRB Director, Rosemarie Otto, BME Executive Director, Marsha Arnold, Unit Manager, Schean Belton, Esq., Advisory Attorney, David Hoffman, Board Administrator.

The Board was called to order at 9:11 a.m. with Dr. Robinson presiding. Dr. Robinson determined that a quorum was present in order to conduct Board business.

Conflict of Interest Policy

Ms. Belton reminded the Board of its obligation pursuant to the Department's Conflict of Interest Policy.

Minutes

Dr. Polk made a motion to ratify the minutes from the March 5, 2008 Board meeting. Dr. Smith seconded the motion. The motion carried.

Applicant Interviews

John Putman, D.O. requested to speak to the Board concerning the payment of his back renewal fees in order to reinstate his license, which went into fail to renew status in December 1991. The Board denied his request to waive these fees because they are assessed by rule and statute.

Administrative Staff Statistical Report

Marsha Arnold gave the Statistical Report to the Board. She reported that as of April 30, 2008 the total number of active Osteopathic Physicians was 781, active Midwives was 30, and D.O. X-Ray Operators was 17.

Office of General Counsel Report

Ms. Schean Belton reported that there were eight open cases in OGC against Osteopathic Physicians.

Ms. Belton also reported that the rules concerning X-ray revision/upgrades, Titles, Disciplinary Conditions and Training Licenses 1050-2-.04, .10. and .13 were sent to the Attorney General for review on December 12, 2007 and have not yet been approved.

Ms. Belton also reported that the rule for the Office Based Surgery List 1050-2-.21 became effective April 9, 2008.

Bureau Office Report

Rosemarie Otto, Executive Director reported on behalf of Lisa Tittle, Director of Administrative Services regarding the Board's budget. She stated that costs taxed to respondent physicians have been incorporated into the report with essentially no change since the last report. Ms. Otto also reported that the new Osteopathic school in Harrogate, Tennessee should provide new licensees to increase the Board's revenue. She also reminded the Board that a fee increase may be necessary in the future.

Office of Investigations Report

Juanita Stone, Disciplinary Coordinator reported on behalf of Denise Moran, Director for the Bureau of Investigations that there were currently twenty one open complaints currently being investigated. There were four new cases opened in April 2008.

Disciplinary Coordinator Report

Juanita Stone Disciplinary Coordinator reported that there were eight practitioners being monitored. She also explained the steps required of her to prepare a disciplinary file for transmittal to the Attorney General's Office for the purpose of obtaining a judgment to collect costs.

Review and Ratification of New Licenses

Dr. Shepherd made a motion to ratify the new licenses including Richard G. Newhouse, D.O. (Reinstatement), Christina M. Burns-Shaw, D.O., Carl W. Harris, Jr., D.O., David B. Mobley, D.O. Dr. Smith seconded the motion. The motion carried.

Dr. Smith made a motion to ratify reinstatement licenses as reported. Dr. Shepherd seconded the motion. The motion carried.

Midwifery Ratifications

Ms. Otto explained that the Midwifery Council appointed Heather Wilson, CPM as primary consultant and Kathleen Davies, CPM as secondary consultant to the Council to review complaints for the Office of Investigations and request medical records if necessary in the manner set forth in T.C.A. § 63-1-117. Dr. Polk made a motion to ratify these appointments. Dr. Shepherd seconded the motion. The motion carried.

Midwifery Presentation

Carol Ann Nelson, Vice-Chairperson for the Tennessee Council of Professional Midwifery gave a presentation regarding the educational requirements of the North American Registry of Midwives (NARM) certification. After the presentation and questions by the Board it was determined that the possibilities of an application change might assist the Board members when reviewing a midwifery application regarding education. MS. Otto reminded the Board of its limitations because the Midwifery Practice Act requires certification by the State if an applicant is certified by NARM.

Letter of Reprimand

Steven W. Johnson, D.O. – Dr. Johnson was not present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Johnson employed a physician assistant for five months whose license had expired. The Letter of Reprimand stipulated that Dr. Johnson pay one Type A civil penalty in the amount of \$500 and all cost associated with the prosecution of the matter not to exceed \$1,500. Dr. Shepherd made a motion to accept the Letter of Reprimand for Steven W. Johnson, D.O. Dr. Smith seconded the motion. The motion carried.

Consent Orders

Beatrice Claude Eugene, D.O. – Dr. Eugene was not present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Eugene's license in Florida had been disciplined and the Tennessee Board will mirror the discipline set forth in the Florida order. Dr. Eugene pre-signed fourteen super bills; maintained medication in her office that was prescribed to other individuals other than her patients and then dispensed the medication to her patients; and, allowed approximately six of her patients to receive IV therapy from an unlicensed physician in her absence. The order stipulated that Dr. Eugene's license be suspended for a period of twelve months; however, the suspension is stayed. Dr. Eugene's license is placed on probation for a period of no less than three years to run concurrent with the Florida Board's disciplinary period. Dr. Eugene may not act as or be employed as a medical director at any facility or clinic for a period of five years; and that practice is restricted in that Dr. Eugene may not examine or treat patients infected with HIV or AIDS for a period of three years unless the patient's care is being co-managed by a physician that specializes or is board certified in infectious diseases. Dr. Eugene's license is hereby reprimanded and shall submit evidence that she has paid the administrative fine to the State of Florida in the amount of ten thousand dollars (\$10,000.00) as set forth in the Florida Order, dated October 2, 2007. Dr. Eugene shall submit evidence that she has performed one hundred hours of community service as set forth in the Florida Order, dated October 2, 2007. Dr. Eugene shall submit evidence that she has attended and completed the additional Continuing Medical Education (CME) hours in the area of Medical Ethics and Record keeping as set forth in the Florida Order, dated October 2, 2007. These hours shall be in addition to those hours required for license renewal. Dr. Eugene must petition the Board for an Order of Compliance modifying the probationary status of her license to practice medicine in the State of Tennessee and present evidence to the Board that she has complied with all of the terms and conditions of this Consent Order and the Florida Board Order. This Consent Order is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank and/or similar agency. Dr. Shepherd made a motion to accept

the Consent Order of Beatrice Eugene, D.O., of Miami, Florida. Dr. Smith seconded the motion. The motion carried

Robert E. Sylvester, D.O. – Dr. Sylvester was not present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Sylvester is charged with having his clinical privileges at Henderson County Community Hospital suspended for allegations that Dr. Sylvester was unable to practice safely by reason of physical illness or impairment. Dr. Sylvester signed a five year contract with the Tennessee Medical Foundation (TMF) on or about August 23, 2007. Dr. Sylvester's clinical privileges were restored at the hospital with conditions on or about September 5, 2007. The Order stipulated that Dr. Sylvester's license be placed on Probation for a period of no less than five years commencing from the effective date of the order. Dr. Sylvester must maintain advocacy of the TMF for the duration of his licensure in Tennessee. Additionally, Dr. Sylvester must execute all appropriate releases with TMF and cause the TMF to report quarterly and forward the same to the Board's Consultant/Disciplinary Coordinator: a) Compliance or non-compliance of any other recommendations proposed by the TMF and/or, b) Compliance or non-compliance with this Consent Order. Dr. Sylvester shall pay all cost associated with the prosecution of this matter not to exceed two thousand dollars (\$2,000.00), and that any and all cost shall be paid in the full by the end of the probationary period. Dr. Sylvester must petition the Board for an Order of Compliance modifying the probationary status of his license to practice medicine in the State of Tennessee and present evidence to the Board that he has complied with all of the terms and conditions of the Consent Order. The Consent Order is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank and/or similar agency. Dr. Smith made a motion to accept the Consent Order of Robert E. Sylvester, D.O., of Jackson, Tennessee. Dr. Shepherd seconded the motion. The motion carried.

Rulemaking Hearing

Ms. Belton conducted a Rulemaking Hearing regarding amendments to the Office Based Surgery Rule (07-0464). No one attended the hearing and no comments were received. After the Rulemaking Hearing closed Dr. Polk made a motion to accept the rule. Dr. Shepherd seconded the motion. A roll call vote was unanimous.

Application Review

Dr. Smith reviewed the application of Andrew M. Kellerman, D.O. and made a motion to ratify his application. Dr. Shepherd seconded the motion. The motion carried.

Federation of State Medical Boards

Dr. Polk reported to the Board regarding the Federation of State Medical Board's annual meeting May 1-3, 2008 in San Antonio, Texas.

The meeting adjourned at 12:15 p.m.