

MINUTES
BOARD OF OSTEOPATHIC EXAMINATION
NOVEMBER 17, 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, Iris Conference Room, Heritage Place MetroCenter, Nashville, TN 37243.

Members Present: Jill B. Robinson, DO, Donald H. Polk, DO, Paul G. Smith, Jr., DO, Karen R. Shepherd, DO

Members Absent; Rafael M. Sanchez, DO

Staff Present: Rosemarie Otto, Executive Director, Marsha Arnold, Unit Manager, Shiva Bozarth, Deputy General Counsel, Dave Hoffman, Board Administrator

The Board was called to order at 9:03 a.m. with Dr. Robinson presiding. Dr. Robinson determined that a quorum was present to conduct Board business.

Election of Board Officers

Dr. Smith nominated Dr. Robinson for Board President and Dr. Polk seconded the nomination. The vote was unanimous for Dr. Robinson to remain as Board President.

Dr. Smith nominated Dr. Polk for Vice President/Secretary and Dr. Shepherd seconded the nomination. The vote was unanimous for Dr. Polk to remain as Vice-President/Secretary.

Conflict of Interest Policy

Shiva Bozarth reiterated the Boards responsibility pursuant to the Department of Health's Conflict of Interest Policy

Minutes

Dr. Polk made a motion to ratify the minutes from the May 13, 2009, August 12, 2009 meeting and the September 22, 2009 Teleconference minutes. Dr. Smith seconded the motion. The motion carried.

Applicant Interviews

Russell Swanger, DO was invited to today's Board meeting to discuss past malpractice claims. After questioning by the Board, Dr. Polk made a motion to grant Dr. Swanger a license. Dr. Smith seconded the motion. The motion carried.

Jerry Mitchell, DO was invited to today's Board meeting to discuss past substance abuse actions in another state and legal problems. After questioning by the Board, Dr. Smith made a motion to reinstate Dr. Mitchell's Tennessee license. Dr. Shepherd seconded the motion. The motion carried.

Jana Margenhoff, DO submitted a letter to the Board requesting to withdraw her application to reinstate her Tennessee license.

Agreed Citations

Victor L. Perez, DO failed to properly maintain sufficient continuing education credits in the amount of 10.25 hours. Dr. Perez admitted to this insufficiency and agreed to pay a fine of \$410.00, and obtain these credits within 180 days, and complete an additional 10 hours of CME within 2 years.

Christian J. Rhea, DO, failed to properly maintain sufficient continuing education credits in the amount of 5 hours. Dr. Rhea admitted to the insufficiency and agreed to pay a fine of \$200.00, and obtain these credits within 180 days, and complete an additional 10 hours of CME within 2 years.

Administrative Staff Statistical Report

Marsha Arnold gave the statistical report which indicated that as of October 31, 2009 the total number of active Osteopathic Physicians was 851, active Midwives was 30, and DO X-Ray Operators was 15.

Office of General Counsel

Mr. Bozarth announced to the Board the he would be replacing Ms. Mona Jean-Baptiste as the Board's attorney going forward. He reported that the Office Based Surgery Rule has not yet been approved by the Attorney General, the Continuing Education Rule will take effect November 25, 2009, and the Tamper Resistant Prescription Rule is still in the Attorney Generals office. He also reported that there are 11 open cases in OGC, and 10 Privilege Tax cases open.

There was also discussion that OGC is having difficulty finding Osteopathic specialists to serve as expert witnesses. After discussion Dr. Polk made a motion that after exhaustive search for an Osteopathic physician in the required specialty, an Allopathic physician can be used, and that this motion be reviewed in 5 years. Dr. Smith seconded the motion. The motion carried.

Office of Investigation Report

Denise Moran, Director, Bureau of Investigations reported that there are currently 11 open complaints in Investigations.

Disciplinary Coordinator Report

Denise Moran, Director, Bureau of Investigation reported on behalf of the Disciplinary Coordinator that there are currently 10 practitioners being monitored.

Review and Ratification of New Licenses

Dr. Polk made a motion to ratify new licensees and reinstatements to include one Midwife. Dr. Smith seconded the motion. The motion carried.

Discussion

Rosemarie Otto reported to the Board that Public Chapter 48 allows the Department of Health to receive reports directly from insurers to satisfy the malpractice reporting requirements contained in the Consumer Right to Know Act.

Public Chapter 67 relative to controlled substances makes it unlawful for someone to deceive or fail to disclose to a physician or a nurse practitioner or other healthcare provider that he or she has received the same controlled substance or therapeutically similar controlled substance within the previous thirty days. Those physicians are to report that to law enforcement officials

Public Chapter 513 relative to domestic violence. That healthcare practitioners are required to report any injuries that are consistent with that of domestic violence. This can be reported to domestic.violence@tn.gov.

Public Chapter 42 extended the Osteopathic Board until 2015.

After discussion about the possibility of pursuing legislation requiring registering pain management clinics, Dr. Shepherd volunteered to be on the task force meeting in the future.

Dr. Smith made a motion that Dr. Polk attend the Annual FSMB meeting in April 2010 in Chicago, IL. Dr. Shepherd seconded the motion. The motion carried

Dr. Polk told the Board he was seeking nomination to the Board of Directors to the FSMB. He asked that the Board nominate and support his nomination. Dr. Smith made a motion to endorse Dr. Polk. Dr. Shepherd seconded the motion. The motion carried.

Dr. Polk made a motion to adjourn. Dr. Smith seconded the motion. The motion carried.
Meeting adjourned at 10:45 a.m.

These minutes were ratified by the full board on March 10, 2010.