

MINUTES  
BOARD OF OSTEOPATHIC EXAMINATION  
AUGUST 15, 2007

A regular meeting of the Tennessee Board of Osteopathic Examination was held at the Bureau of Health Licensure and Regulation, 227 French Landing, 1<sup>st</sup> Floor, Iris Room, Heritage Place Metro Center, Nashville, TN 37243

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

Members not present: Paul G. Smith, Jr., D.O.

Staff present: Larry Arnold, M.D., Medical Director, Rosemarie Otto, Executive Director, Marsha Arnold, Unit Manager, Robert Kraemer, Esq., Advisory Attorney, David W. Hoffman, Board Administrator

The Board convened at 9:20 a.m. with Dr. Robinson presiding. Dr. Robinson determined that a quorum was present in order to conduct Board business.

Review Conflict of Interest Policy

Mr. Robert Kraemer reviewed Exhibit 4 of the Conflict of Interest Policy and reminded the Board that they had a duty to recuse themselves if they had a personal interest in any matter that was before them in their official capacity. If they recused themselves, the basis for the recusal would not be discussed.

FSMB Presentation

Cheryl A. Vaught, JD (citizen member of the Oklahoma Board of Osteopathic Examiners) and Tim R. Knettlar, MBA (Vice-President and Interim Chief Financial Officer of the Federation of State Medical Boards) addressed the Board on behalf of the FSMB. Mr. Knettlar presented a slide presentation describing the organizational structure of the FSMB, its many services to member boards and outlining the goals and mission of the FSMB. The presentation was well-received by Board members who expressed their appreciation for the many and varied services of the FSMB. There was brief discussion about amending the language in the Board's rules to "encourage" the use of the FSMB's Federation Credential Verification Service but it is unlikely that this will occur.

Minutes

Dr. Polk made a motion to ratify the minutes from the May 9, 2007 meeting. Ms. Hinton seconded the motion. The motion carried.

## Managers Report

Ms. Marsha Arnold gave the Director/Managers report to the Board, noting that as of July 31, 2007 the total number of active licenses for Osteopathic Physicians was 741, Active Midwives were 30, and D.O. X-Ray Operators were 16. Ms. Arnold informed the Board our actual processing time for applications was 74 days as set against the benchmark of 100 days. As previously reported, the Board's administrative staff continue to experience delays in the processing of criminal background checks.

## Office of General Counsel

Robert Kraemer, Deputy General Counsel and Advisory Attorney to the Board read his report to the Board. He reminded members that the rule requiring one continuing medical education hour every renewal cycle in the area of appropriate prescribing (06-1325) went to rulemaking hearing on October 24, 2006. It was adopted by the Board on November 15, 2006 and was sent to the Attorney General on November 17, 2006. It was signed by the Attorney General and subsequently filed with the Secretary of State on April 17, 2007. It became effective on July 1, 2007.

Mr. Kraemer also reported that the Office of General Counsel currently has three (3) open disciplinary cases pertaining to the Board of Osteopathic Examination.

Mr. Kramer reported on the activities of the General Assembly as it pertained to their licensees. He discussed Public Chapters 69, 83, 117, 182, 196, 265, 365, 366, 373, 391, 393, 407, 410, 446, 458, 464, 469, 487, 498, 518, 529, and 579 and encouraged members to take the copies home with them.

Mr. Kraemer made a point to discuss with the Board Public Chapter 373 which was a compromise bill agreed to by the Tennessee Hospital Association and the Tennessee Medical Association. This new statute allows Osteopathic Physicians to perform office based surgery in their offices and requires the Board to promulgate rules and regulations to implement the statute. The Public Chapter became effective June 7, 2007 for promulgation of rules, and October 1, 2007 for all other purposes. He informed members that the Board must establish a specific list of approved (or unapproved) Level III surgical procedures that can (or cannot) be performed in a physician's office. The Ambulatory Surgical Center Covered Procedures List promulgated by the Centers of Medicare and Medicaid, as amended from time to time, must be used as a guide. No physician can perform any Level III surgical procedures that are not included on (or specifically excluded from) the list as determined by the Board. An electronic meeting will need to be convened on or before September 7, 2007 for the purpose of complying with this aspect of the Public Chapter. Ms. Hinton agreed to be the member present at the electronic meeting with other members participating by telephone.

Mr. Kraemer also pointed out Public Chapter 410 which creates the Non-Smoker Protection Act. This prohibits smoking in all enclosed environments (with notable exception) and requires the Department of Health to enforce it by injunction or civil penalties against persons or owners of places it regulates or controls.

### Bureau Office Report

Ms. Rosemarie Otto reported to the Board for the Bureau Office that there was a \$66,000 deficit for the Board of Osteopathic Examination. She reported to the Board that Ms. Lisa Tittle, Director of Administrative Services informed her that it looks like the Board will close with a surplus this fiscal year of about \$20,000, thus reducing their overall deficit to around (\$42,000), and that the Board did in fact close FY 2006 with an annual surplus of \$1,664.96. Even though the Department has not officially closed the boards for FY 2007, considering the Board is projected to close with a surplus, she believes that the Board should stay on their current path with close monitoring.

### Investigation Report

Ms. Juanita Stone, Disciplinary Coordinator for the Bureau of Investigations reported to that there were seventeen (17) open complaints in Investigations.

### Disciplinary Report

Ms. Juanita Stone, Disciplinary Coordinator for the Bureau of Investigations reported to the Board that there were currently eight (8) Osteopathic physicians currently being monitored by the Disciplinary staff.

### Applicant Interviews

Gina V. Bray, D.O., was invited to appear before the Board regarding her application for licensure. Dr. Larry Arnold, Medical Director, reviewed the application for the Board in the absence of Dr. Smith who originally reviewed her application. Dr. Bray had a previous history of alcohol dependence which is well-controlled and in remission. Dr. Polk made a motion to approve Dr. Bray's application for licensure. Dr. Sanchez seconded the motion. The motion carried unanimously.

Donna J. DeLouis, D.O., was invited to appear before the Board regarding numerous entries on her Iowa Board of Medical Examiners Case History file. Dr. Sanchez made a motion to approve Dr. DeLouis's application. Dr. Shepherd seconded the motion. The motion carried unanimously.

### Rules and Regulations

Jerry Kosten, Rules and Regulations Coordinator asked the Board to consider a Rulemaking Hearing regarding Rule 1050-2-.04 Training, Rule 1050-2-.10 Licensure Discipline and Civil Penalties, Rule 1050-3-.04 Qualifications for Limited Certification and Rule 1050-3-.12 Continuing Education. Dr. Polk made a motion to send the rules to Rulemaking Hearing. Dr. Shepherd seconded the motion. The motion carried.

Rule 1050-3-.07, Educational Course Approval and Curriculum for Limited X-Ray Certification was discussed. Dr. Shepherd made a motion to send the rule to Rulemaking Hearing for keeping classroom hours the same as written and deleting the decreases in classroom time as proposed. Dr.

Sanchez seconded the motion. All were in favor except Dr. Polk who voted nay. The motion carried.

### Reinstatement Interviews

Robert J. Edgidio, D.O. was invited to re-appear before the Board regarding his arrest in Banner Elk, NC in 2005 and his appearance before the North Carolina Board in July 2006. No further information was received from Dr. Edgidio or the North Carolina Medical Board and Dr. Edgidio was not successful in explaining why he could not return to North Carolina and clear all encumbrances from his license there before seeking reinstatement of his Tennessee license. After further questioning by Board members, Dr. Edgidio withdrew his application for reinstatement.

Judith S. Moore, D.O. was invited to the Board to discuss the issue of her malpractice claim in Michigan and the amount of time between the last time she practiced medicine and now. After questioning by the Board Dr. Polk made a motion to approve reinstatement pending completion of fifty (50) hours of continuing medical education courses in the area of family practice and the successful completion of the SPEX or COMSPEX. Dr. Sanchez seconded the motion. The motion carried. If any when Dr. Moore submits proof that she has complied with these two requirements, the Board's administrative staff will issue her a license to practice osteopathic medicine in Tennessee.

### Review and Ratification of New Licensees

Dr. Shepherd made a motion to ratify the new licensees including James L. Blair, D.O. approved after the August 5, 2007 report. Dr. Sanchez seconded the motion. The motion carried.

Ms. Otto proposed to the Board that a letter be sent from the Board to the Dean of Lincoln Memorial University DeBusk College of Osteopathic Medicine, regarding support for a medical professionalism course. Dr. Shepherd made a motion to approve the letter. Ms. Hinton seconded the motion. The motion carried.

### Criminal Background Check Policy

Ms. Otto explained to the Board that many times Criminal Background Checks are rejected for poor quality fingerprints. After the second set of fingerprints is rejected, a report is submitted to us from the TBI/FBI where their search was generated by name and social security number only. Ms. Otto submitted to the Board several options for their review and asked the Board how would they like our office to respond to the report. Dr. Shepherd made a motion to require all to submit to an FBI/TBI fingerprint scan through the State of Tennessee's approved vendor or its equivalent as determined by the Board or its equivalent in the state the applicant is located in. Dr. Sanchez seconded the motion. The motion carried.

Tennessee Improving Patient Safety (TIPS) Committee Designation

Dr. Polk nominated Dr. Shepherd to be the Board of Osteopathic Examination's designated member to the (TIPS) Committee, and to attend the September 5, 2007 meeting at the Renaissance Hotel located in Nashville, Tennessee. Ms. Hinton seconded the motion. The motion carried.

Contested Case Hearing

The contested case hearing for Philip Morson, D.O. was continued.

The Meeting adjourned at 1:50 p.m.

**Ratified by the Board of Osteopathic Examination November 14, 2007.**