



**Tennessee Board of Medical Examiners  
Regular Board Meeting**

**Tuesday, January 10, 2017  
Wednesday, January 11, 2017**

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**MINUTES**

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The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:53 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Michael Zanolli, Board Chair.

Board members present: Michael Zanolli, MD  
Subhi Ali, MD  
Dennis Higdon, MD  
Michael Baron, MD  
Neal Beckford, MD  
Melanie Blake, MD  
Deborah Christiansen, MD  
Reeves Johnson, MD  
C. Allen Musil, MD  
Julianne Cole, Consumer Member

Board member(s) absent: Barbara Outhier, Consumer Member

Staff present: Andrea Huddleston, Chief Deputy General Counsel  
Rene Saunders, MD, Medical Consultant, BME  
Maegan Martin, Executive Director  
Stacy Tarr, Administrative Manager  
Candyce Waszmer, BME Administrator  
Tammy Davis, Medical X-ray Board Administrator

**I. CONSIDERATION OF APPLICATIONS**

**Medical X-Ray Applicant Interview(s):**

**Amanda N. Abele, AMDX** – Ms. Abele appeared before the board, without representation, because she has been out of practice since 2009 and elected to appear before the board to discuss her remediation options. Ms. Martin reminded the board that there is a statute effective January 1, 2017 that requires x-ray operators working within a hospital to be licensed; however, because members have not been appointed

and rules have not been promulgated, the Board is unable to move forward with implementation of the statute. Dr. Saunders recommended that Ms. Abele complete one hundred and ninety hours (190) of remediation within six (6) months, in order to be granted licensure. The board deliberated on the need for Ms. Abele to remediate before licensure can be granted and expressed concerns on the length of the application remaining open. Ms. Martin stated that it doesn't really matter how long the application remains open, as long as the Board provides a specific recommendation so that the administrative staff can properly work the application. Ms. Abele must also understand that she may be required to resubmit certain application documents that may expire during her remediation. Dr. Zanolli motioned to table the application until October 2017 and to allow Ms. Abele to complete remediation plan to be specified by Dr. Saunders. Dr. Baron seconded the motion and the motion carried.

**Amberlyn L. Brooker, MDXL** – Ms. Brooker appeared before the board, without representation, because she has been out of practice since 2010, and she has only presented CE hours with 2016 completion dates. Dr. Saunders stated that the twenty hours (26) of CE's submitted were completed in 2016 and was not accepted based on board rule 0880-5-.08(3)(c) stating the CE hours should have been completed within the timeframe her licensure was lapsed. Dr. Saunders recommended she complete one hundred and ten hours (110) of remediation. Dr. Higdon motioned to table the application until the July 2017 board meeting to allow time for the applicant to complete the remediation terms set forth by the medical consultant in order to be granted licensure. His motion was seconded by Dr. Ali and passed.

**Janet P. Martin, AMDX** – Ms. Janet Martin appeared before the board, without representation, because she has been out of practice since June 2014 and needed to discuss remediation options. Based on the training requirements specified in current rule, Dr. Saunders recommended ninety-five (95) remediation hours for Ms. Martin's remediation. Dr. Christiansen motioned to table this application until July 2017 to allow time for the applicant to complete the ninety-five (95) remediation hours and Dr. Baron seconded this motion. Dr. Beckford proposed her lengthy experience could be used to lessen her remediation requirement. The board discussed this but no changes were made to the motion and it passed without amendment.

#### **Medical Doctor Applicant Interview(s):**

**William Kincaid, MD** – appeared before the board, with representation by Mr. Guy Blackwell. Dr. Kincaid appeared for an interview because he has been out of practice since October 2012 and his Tennessee medical license was revoked in July 2015 due to his criminal history. Dr. Allen Musil recused himself. Dr. Kincaid indicated he has completed several CMEs through UptoDate and began reviewing preparatory questions for the SPEX exam.

Dr. Johnson motioned that he complete formal competency assessment and follow recommendations for return to practice prior to licensing and Dr. Beckford seconded this motion. Dr. Saunders suggested Dr. Kincaid look at the Federation of State Medical Board competency testing options and communicate with her in setting up an appropriate option. Based on the re-entry policy, Ms. Martin suggested that Dr. Saunders would select one board member to review the results of the assessment with her.

Dr. Kincaid discussed previous and pending malpractice claims during the board's discussion. The board directed their attention to his reinstatement application page 4, questions 10a, 10b and 10c in which Dr. Kincaid answered no to all three. After reading the questions out loud to Dr. Kincaid he agreed that all of those questions should have been answered affirmatively. Mr. Blackwell spoke on Dr. Kincaid's behalf confirming, Dr. Zanolli's inquiry, that the legal suits against Dr. Kincaid were in respect to the drugs purchased from Canada and not any other actions.

Dr. Johnson motioned that Dr. Kincaid complete an assessment and comply with recommendations, have it reviewed by the medical director and a member of the board by following the re-entry policy terms, update his application, obtain a databank report to present to the medical consultant and appear before the board for further licensure consideration after he has completed those steps. Dr. Beckford seconded the motion. The motion carried with one recusal from Dr. Musil.

**Norman Weinstein, MD** – appeared before the board, without representation, to address his voluntary participation in physician health programs (PHP). Dr. Weinstein has completed about fourteen (14) months of monitoring and is due to complete this monitoring in November 2020. Dr. Weinstein has been in contact with Mike Todd from the Tennessee Medical Foundation (hereinafter “TMF”). Mr. Todd was present and stated that the TMF would recommend, at minimum, that Dr. Weinstein complete the same length of monitoring with TMF that he has agreed to in his current state of residence. Dr. Christiansen motioned to grant full unrestricted licensure contingent upon proof of Dr. Weinstein’s’ TMF monitoring agreement. Dr. Johnson seconded the motion and it passed.

**Hugh Winters, MD** – appeared before the board, without representation, because he has not completed a three (3) year U.S. residency training program nor is he certified in an ABMS board. Dr. Melanie Blake recused herself. The board interviewed the applicant determining his practice and/or training intentions in Tennessee. The board discussed Dr. Winters’ options for licensure with him. Board staff believed he might qualify for a single purpose license, a special training license or he could proceed with a petition for declaratory order. The board and staff thought that the single purpose license might be the best option for him and explored whether he had the support from his program to continue with that option. Dr. Christensen made a motion to table this application until after lunch to allow Dr. Winters time to talk with his employer and gather additional information that would be needed to process his application. The motion passed with one recusal from Dr. Blake.

The board reconvened on this discussion after a brief break for further consideration, Dr. Zanolli was absent from the meeting at that time. Based on Board rule the training obtained with a single purpose license will not qualify a person for full licensure; therefore if the intention is to obtain unrestricted full licensure then petitioning for a declaratory order would be most appropriate. Dr. Winters stated his intention is to take the position in Tennessee for one to two years and then return to Australia to practice.

The board opted to table the application until a later time today or tomorrow until the board, Dr. Winters or Dr. Saunders is able to contact with someone affiliated at his intended practice location.

## II. REPORT FROM THE NOMINATING COMMITTEE

A vacancy has been created on the Board due to Dr. Baron’s resignation. When a Board member dies or resigns, the Board, rather than the Governor’s office, is statutorily authorized to fill the vacancy. Accordingly, a committee of the Board has been working to select a nominee to recommend to the full board for ratification. There were fourteen (14) initial candidates recommended by staff, board members and the TMF. That list of candidates has been narrowed to 3. The Nominating Committee will be prepared to make a recommendation to the Board by the next meeting, if not sooner.

## III. CONFERENCE REQUESTS

The Federation of State Medical Board’s (hereinafter “FSMB”) annual meeting will be held in Fort Worth, Texas this year. Ms. Martin, Dr. Saunders, one representative from the Office of General Counsel, and Dr. Johnson sought approval to attend the annual FSMB meeting on behalf of the Board. Dr. Johnson requested to be appointed as the Board’s delegate to the FSMB House of Delegates. There was a proper motion, which was seconded and passed. Dr. Ali requested that Ms. Martin continue to attempt to obtain

the consumer member scholarship; however, the Board will be willing to cover expenses for a consumer member's attendance if she learns that the Board cannot accept a scholarship.

#### IV. OFFICE OF GENERAL COUNSEL

Ms. Huddleston gave the report from the Office of General Counsel which included the following updates:

- The telemedicine rules became effective on October 31<sup>st</sup>, 2016.
- Ten year exception and "election of officers" rules were submitted to the Attorney General's office on August 3, 2016 for review.
- The med spa registry rules are awaiting internal review and approval.
- The intractable pain treatment act and fee increase rules are awaiting internal review and approval.
- There are two appeals currently pending.

At this time there are 148 disciplinary complaints against 98 distinct respondents. A new legislative session is commencing; consequently, the Board can expect legislation to be sent for review from the Department's legislative office between the middle and end of February.

#### Agreed Citations (CME)

Ms. Martin presented the agreed citations which were disseminated to the Board in advance of the meeting.

**Elaine Blount, MD** – was not present nor did a legal representative appear on her behalf. Dr. Blount has agreed to pay \$1,000.00 in civil penalties for practicing as a medical doctor on a lapsed license. Dr. Blake motioned to approve the agreed citation. Dr. Higdon seconded her motion and it passed.

**Britini Hinson, AMDX** – was not present nor did a legal representative appear on her behalf. Ms. Hinson has agreed to pay \$400.00 in civil penalties for failure to obtain twenty (20) CE hours, to include two (2) hours of instruction on appropriate statutes, rules, regulations, and A.R.R.T. Standards of Ethics. Dr. Ali motioned to approve, Dr. Johnson seconded and it passed.

**Jeffrey Hodrick, MD** – was not present nor did a legal representative appear on his behalf. Dr. Hodrick has agreed to pay \$200.00 in civil penalties for failure to obtain two (2) hours of prescribing practices with instruction on the Department's "Chronic Pain Guidelines". Dr. Christiansen motioned to approve this citation and Dr. Ali seconded the motion. The motion carried.

#### Order(s) of Compliance

Stephen Shiffman, MD – was not present nor did a legal representative appear on his behalf. Dr. Shiffman's presence was excused. Dr. Shiffman failed to meet the continuing medical education requirements of his profession and was issued an agreed citation. He has complied with all terms of the agreed citation and received a letter confirming his compliant status in December 2016. Dr. Shiffman is seeking an order of compliance and specifically requested that the agreed citation be removed from the license verification page. Ms. Huddleston stated that Dr. Shiffman is entitled to this order; however, current law requires that the Board make available to the public, any disciplinary orders. This is technically a disciplinary order. Accordingly, it must be published. Ms. Martin added that this is a common complaint from licensees who have been found to be deficient in the continuing medical education requirements of their profession. They don't seem to mind paying the penalty and completing

the deficient hours. The publishing of the agreed citation, however, can disrupt the credentialing process and cause other problems. Although the Board was sympathetic to this issue, Ms. Huddleston confirmed that Tennessee law requires the information be published. Accordingly, the Board determined that the request could not be granted. Dr. Christiansen made a motion to approve the order of compliance. Dr. Johnson seconded the motion, which passed. Dr. Beckford abstained.

The Board recessed for lunch and the Board reconvened at 1:15pm CT.

### **Administrative Office Report**

#### **Ms. Martin presented an overview of the board's achievements in 2016 which included:**

- The Board's Reentry Report
- Facilitating the Surgeon General's appearance at the University of Tennessee Medical Center (Knoxville)
- Finalization and implementation of the revised telemedicine rule
- Development of FAQs for Telemedicine and Physician Supervision
- Welcome Brochure for medical doctors finalized. The printing cost and design services estimates are available. The board has already approved up to \$1500 for this project and the initial cost total is less than the approved amount. The Welcome Brochure will be added to the envelopes of those receiving a licensure approval letter to better educate the new licensee on how to maintain their Tennessee license.
- Improved 2016 Newsletter
- Development and adoption of several policies that have caused a steady decrease of the number of applicant interviews before the Board. This, of course, means that the Board has more time to address other pressing matters.
- The most time-consuming project has been the transition to our online application system. We are set to launch in May or June 2017.

#### **Ms. Martin presented an overview of her projected goals for 2017 which included:**

- Develop a multi-year, multi-pronged, strategic plan to assist the board in organizing each year's objectives and determining a method to identify progress.
- Initiating engagement with medical schools, residencies, and fellowship programs. The point of this project is to educate licensees on Board's mission, its expectations for licensees and information on how to successfully maintain one's medical license.
- On January 17<sup>th</sup> a Masters of Public Health student enrolled at ETSU will be interning with the medical board unit and offering remote support to identify as much information possible on the state's licensee population. Ms. Martin offered the board members to present her with any licensee population questions. Also, there may be some disciplinary data that she could put together as well.
- Improvements will be made to the Board's member orientation process.
- Ms. Martin would like to see physician wellness become the main policy objective for the Board this year.

Dr. Zanolli proposed identifying a means for ensuring licensee e-mail address are current. Dr. Baron asked whether a licensee can update their e-mail address at the time of renewal. Ms. Martin confirmed that they can.

Dr. Baron thought that Judge Stovall's one hour video addressing administrative law would be a helpful "onboarding" tool. Dr. Baron spoke in favor of having a joint BME and TMF physician wellness program and Ms. Martin agreed. She reminded the Board that at the last BME meeting it was discussed

that the FSMB is developing a physician wellness policy that will be published in February 2017 and that it will be brought before the board, if available, at the next meeting.

Ms. Martin set a timeline for May 2017, thirty days from the close of the legislative session, for when the next newsletter will be published. If a board member is interested in volunteering to write an article please let her know.

Dr. Johnson suggested profiling one board member in each Newsletter. Ms. Martin added the Newsletter could also include an article on charitable or important work of licensee and nominees could be taken.

### **MS. MARY KATHERINE BRATTON, JD'S PRESENTATION ON OVERPRESCRIBING**

Ms. Bratton provided an overview of the complaint and disciplinary process that occurs within the Office of Investigations and the Office of General Counsel. Consent orders and agreed orders are presented because both parties have come to an agreement on the charges. If there is no agreement then formal charges are filed, which results in a public record.

#### **In inappropriate prescribing cases there is a spectrum of different behaviors identified as the underlying catalyst:**

- Insurance won't approve alternate modalities or patients won't comply
- Codependency
- Unknowing or ignorant
- Under pressure to see patients quickly, bad environment
- Interest in making money

#### **Overprescribing is not clearly defined. In cases of overprescribing common issues noted are:**

- Recordkeeping issues
- Amounts prescribed or a combination of drugs
- Justification for diagnosis

#### **Basic Disciplinary Parameters:**

- Reprimand
- Probation
- Suspension
- Revocation
- Requirement of additional coursework specific to violations.

#### **Other disciplinary parameters, that are more case specific, focus on rehabilitation while being punitive:**

- DEA restrictions
- Practice restrictions
- Intensive evaluation
- Practice monitoring
- Decrease overall MME
- Cap on MEDD
- Practice monitoring agreement

The board was reminded that all of the cases have been reviewed by a medical consultant of the Board. Dr. Saunders reviews cases that do not involve prescribing and Dr. Mutter reviews prescribing cases. The

proposed discipline has been agreed upon by all parties, including the medical director who reviewed the file.

Lastly, Ms. Bratton stated that it might be important to resolve some disciplinary matters as quickly as possible, even if through settlement. Trial is a very lengthy process and while the provider is waiting for trial, he or she will continue to practice.

**Applicant Interview(s):**

**Hugh Winters, MD (continued)** – The Board returned to its deliberations on whether Dr. Winters currently qualifies for and would be willing to accept a single purpose license, a special training license or if he desires to pursue full licensure via a petition for declaratory order. Dr. Saunders has been in communication the Dr. Blaise, his proposed employer, and it appears that a single purpose license would allow him to practice in his proposed setting. Dr. Blaise agreed to be his supervising physician. The Single Purpose application requirements will be met soon because the majority of needed documents can be provided from the information found in the full licensure application. At the request of Dr. Winters and Dr. Blaise, the full medical licensure application can remain open because they will likely want to petition the board for a declaratory order. Dr. Beckford motioned to grant Dr. Winters a petition for declaratory order. Dr. Higdon seconded. After further discussion Ms. Huddleston suggested since there is no petition for declaratory order then it would be best to just table the full application. The original motion is withdrawn. Dr. Ali motioned to table his application for six (6) months and Dr. Johnson seconded it. The motion passed and Dr. Blake recused herself.

**Conflict of Interest Statement:**

Ms. Huddleston directed the board’s attention to the conflict of interest statement which was provided to them. She indicated that this form has not changed and it is required that they sign it annually. No further discussion was held.

**Larry Duberstein, MD** – Dr. Duberstein was not present; however, his attorney, Mr. Chuck Cagle appeared on his behalf. Francine Baca-Chavez represented the state. Dr. Higdon and Dr. Beckford recused themselves. Between 2010 and 2012, Dr. Duberstein had at least five (5) pediatric patients develop nasopharyngeal stenosis after the he performed tonsillectomy/adenoidectomy procedures on them; which is at a heightened rate compared to relevant literature. The consent order requires that he retire his license effective the same date the order is passed and complete a competence assessment to be reviewed by the medical director of the board. He must also comply with any recommendations of the assessment, the rules regarding reinstatement (should he later choose to apply), and he must appear before the Board for an interview if he later seeks reinstatement. Dr. Christensen motioned to approve the order and Dr. Baron seconded the motion. The motion passed with two recusals from Dr. Higdon and Dr. Beckford.

**V. REPORT FROM THE DEVELOPMENT COMMITTEE**

The Development Committee met on the Monday evening before the meeting and considered several issues. Their deliberations yielded the following:

**TMF funding presentation from Dr. Baron and Dr. Reagan, CMO, Department of Health**

The last time funding for TMF was discussed was in 2011 prior to the opioid epidemic. The need for TMF’s quality services has greatly increased since that time. Of the estimated one million dollar TMF 2016 budget, the Board of Medical Examiners contributed about two hundred and fifty thousand dollars. After a thorough discussion of the services provided by the TMF, it was determined that it might be appropriate to reevaluate the funding mechanisms such that the Board is offering a budget that is in line with the amount of support being provided.

Dr. Zanolli suggested that the budget discussion is board business and should not have to go through the development committee first. After further discussion on this matter, Dr. Ali requested that a presentation from Dr. Baron on this be made before the full board during its March 2017 meeting. At that meeting, Dr. Baron will no longer be a board member and will present as a representative of the TMF.

### **Review of National Practitioner Databank Reporting Requirements**

Ms. Huddleston led a discussion of the reporting requirements of the National Practitioner Databank (NPDB) and explained, in great detail, the difference between licensure actions which are contingent upon some thing being done and actions which are conditioned upon the licensee's willingness to continue to meet some requirement(s). Dr. Ali requested that the document reviewed by the committee be available on the iPads for the board members to refer to during future meetings.

### **Consideration of a Thirty Day Grace Period for Continuing Medical Education Audits**

The Development Committee was asked to consider a thirty (30) day grace period for continuing education audit as well as a rule amendment to make all CME due at the license expiration date instead of the two calendar years preceding the year the licensee renews his or her license.

Ms. Martin referred the Board to an e-mail from Mr. Yarnell Beatty, Tennessee Medical Association (TMA). He stated that the TMA agrees with changing the due date for CME so that it aligns with a licensee's renewal period. The TMA is also in support of allowing a thirty (30) day grace period for individuals who have shown effort in obtaining the required CMEs but fell short a few hours or completed the hours outside of the appropriate timeframe.

Ms. Martin said that most licensees who are short, are short only the Tennessee-specific controlled substances prescribing course. Dr. Musil made a proposal to allow licensees to make up two (2) general or specific hours of CMEs. This proposal is not to restrict the makeup hours to only include the two (2) hours of prescribing. The board led a discussion on how many hours they would be comfortable allowing a licensee to make up in the grace period. Dr. Ali made a motion to allow a thirty (30) day grace period for a licensee to make up to five (5) CME hours. Dr. Blake seconded the motion. Dr. Zanolli opposed, Dr. Higdon and Dr. Christiansen abstained. The motion carried.

Dr. Ali made a motion to allow for the CME time frame to be amended to the time period between licensure renewals (the 24 months prior to renewal) rather than the two calendar years preceding the year the license is required to be renewed. Dr. Musil or seconded this motion and it passed.

Dr. Zanolli motioned to request a rule making hearing reflecting the changes just approved. Dr Ali seconded the motion which passed.

### **Composition and Term length for Development Committee Members**

The Board was asked to consider approving a rule to identify the composition and length of terms for the Development Committee. Development Committee members will serve for two years and their terms will run congruent with the President's two year term. The President will appoint Committee members and will request the Board's ratification of his or her appointments.

### **Discussion of Prescribing CME**

Dr. Johnson would like to collaborate with other state boards to ease the burden of complying with content-specific CME requirements that may apply to physicians who hold a medical license in multiple states. Dr. Johnson is interested in seeing the Board allow an individual to comply with the Tennessee specific prescribing course requirement by completed any states course. The Board discussed this and determined that Dr. Johnson should do additional research, unofficially, and perhaps make a proposal to the FSMB.



Dr. Zanolli, Dr. Ali and Dr. Beckford left the meeting to attend the Office Based Surgery meeting scheduled for 4 pm CT.

#### **Consent Orders:**

**David B. Coffey, MD** – Dr. Coffey was not present nor was he represented by counsel. Ms. Jennifer Putnam represented the state. On or about July 29, 2016 Dr. Coffey advised one of his nurses to order Botox from the cheapest source she could find. Dr. Coffey was unaware of whether the purchased Botox was FDA approved and of its source. It was to be used for personal use for himself and his wife. This consent order requires Dr. Coffey to pay 5 Type C civil penalties and pay reasonable costs related to this matter. Dr. Christiansen motioned to accept this order. Dr. Higdon seconded. The motion passed.

**Staci Ridner, MD** – Dr. Ridner was not present nor was he represented by counsel. Ms. Putnam represented the state. On or about August 31, 2016 the FDA intercepted a parcel of five boxes of foreign, unapproved Botox. Dr. Ridner purchased the Botox not knowing it was not FDA approved. She was also unaware that her intention to use the Botox to treat her husband for a minor condition would be a violation of the Board's policy regarding treatment of family members. This consent order requires Dr. Ridner to pay 5 Type C civil penalties and pay reasonable costs related to this matter. Dr. Baron motioned to approve this order. Dr. Musil seconded and the motion passed.

**John Hochberg, MD** – Dr. Hochberg was not present nor was he represented by counsel. Ms. Putnam represented the state. On or about August 12, 2016, Dr. Hochberg's New Jersey medical license was suspended for five (5) years for failure to properly maintain patient records. Dr. Hochberg records were so insufficient, it was impossible to determine to what extent he was involved in the treatment of various diseases, whether he understood patient concerns or had any treatment plan other than the continued prescription of medications. The order proposed that Dr. Hochberg's license be suspended for a minimum of two (2) years. The remaining three (3) years may be served as a period of probation assuming he has complied with all other terms of the Order. Dr. Hochberg may petition for an Order of Compliance once his the probation of his NJ medical license is terminated. Also, all reasonable costs will be paid by Dr. Hochberg. Dr. Blake motioned to approve this consent order. Dr. Musil seconded the motion and the motion passed.

**Ron Mark, MD** – Dr. Mark was not present nor was he represented by counsel. Ms. Putnam represented the state. On or about August 26, 2016, Dr. Mark entered into an Agreed Order with the Texas Medical Board for failure to diagnose metastatic cancer while interpreting a mammogram screen. The Texas order was based on a public Letter of Admonishment from the Colorado Department of Regulatory Agencies, which was the state of the patient's care. The Texas order required Dr. Mark to complete at least twelve (12) hours of CME approved for Category 1 credit by the American Medical Association with eight (8) hours in subject of Breast Imaging and four (4) hours in the subject of Risk Management. The consent order requires Dr. Mark to pay 1 Type B civil penalty and all reasonable costs related to this matter. Dr. Blake motioned to approve this order and Dr. Higdon seconded. The motion passed with one opposition from Dr. Baron.

#### **Agreed Orders:**

**Philip Roberts, MD** - Dr. Musil was recused. Dr. Roberts was not present nor was he represented by counsel. Ms. Putnam represented the state. On or about March 23, 2015, the Kentucky Board of Medical Licensure restricted Dr. Robert's medical license for an indefinite period of time with specific limitations noted. Additionally, Dr. Roberts was required to enroll in the Medical Record Keeping seminar at the Center for Personalized Education for Physicians (CPEP), complete the 6-month Personalized

Implementation Program after completing the seminar and complete the Prescribing Controlled Drugs course at Vanderbilt University. This agreed order requires that his license be restricted in accordance with the terms of the Kentucky order. Dr. Roberts' license will be limited to the practice of emergency medicine in an emergency department or urgent care facility affiliated with an accredited hospital and shall only prescribe, dispense, or otherwise professionally utilize controlled substances to patients of the same up to a 72-hour period following the patient's discharge. Dr. Roberts will also be restricted from prescribing or dispensing controlled substances to himself or to any immediate family member. His license will remain restricted until the removal of the indefinite restriction issued upon his Kentucky license and proof of successful completion of the courses required in the Kentucky order. Upon removal of the restriction of his Kentucky license, Dr. Roberts may request an Order of Compliance to have the restriction of his Tennessee license lifted. He must appear before the Board at that time. Lastly, Dr. Roberts will pay all reasonable costs related to this matter. Dr. Christensen motioned to accept the agreed order. Dr. Higdon seconded the motion with passed with one recusal by Dr. Musil.

**Thomas Klinner, MD** – Dr. Blake recused herself. Mr. Klinner was not present nor was he represented by counsel. Mr. Samuel Moore represented the state. The Department conducted an investigation of twenty-two (22) of Dr. Klinner's patient charts. The investigation concluded that Dr. Klinner had prescribed multiple combinations of controlled substances without appropriate documentation in areas outlined within the order. Dr. Klinner's prescribing patterns were likely lead to addiction and he failed to counsel his patients about the risk. This order requires Dr. Klinner's license to be placed on probation for a period not less than five (5) years. He must petition the board for an Order of Compliance and appear before the board in order for this restriction to be lifted. Dr. Klinner must surrender his DEA registration and successfully complete a three (3) day medical course on prescribing controlled drugs, a three (3) day course on intensive course in medical documentation, and a course on medical ethics, boundaries and professionalism. The order requires Dr. Klinner to obtain practice monitoring for at least two (2) years unless he surrenders his license prior to the expiration of the two (2) years and comply with all recommendations. Also, Dr. Klinner is required to have additional training in appropriate prescribing and medical record keeping, as recommended by the practice monitor. If Dr. Klinner wishes to reinstate his DEA registration he shall have no fewer than ten (10) of his patients' records, for patients seen within the prior ninety (90) days receiving controlled substances, reviewed by the practice monitor every ninety (90) days. Dr. Klinner shall request the practice monitor to issue a report to the Board's medical director every three (3) months to provide status updates outlined within the order. The order outlines how Dr. Klinner may seek reinstatement of his DEA registration in the future. Dr. Klinner must pay 6 Type A civil penalties and all reasonable costs related to this matter. Dr. Christensen motioned to approve this order. Dr. Musil seconded. The motion passed with one recusal from Dr. Blake.

#### **Consent Orders continued:**

**Natasha Harder, MD** – Dr. Harder was not present nor was she represented by counsel. Ms. Jenny Smith represented the state. Dr. Harder called in a prescription for a patient without the patient's knowledge and attempted to pick up the prescription; however, her efforts were pharmacy. Dr. Harder wrote prescriptions for herself and family members without any patient records. Dr. Harder has practiced impaired by reason of addiction to prescription medication or other drugs and the impairment has impacted her professional judgment and endangers patients. Dr. Harder's consent order requires her license be placed on suspension for not less than six (6) months. The suspension will remain in effect until she appears before the Board to demonstrate compliance with the provisions of the order. If all provisions have been met, Dr. Harder's license shall be placed on probation for five (5) years. Dr. Harder will obtain an evaluation at a pre-approved program and comply with all resulting recommendations. If those recommendations suggest follow-up or continuing treatment, Dr. Harder will obtain and maintain a monitoring agreement with TMF and submit quarterly reports to the disciplinary coordinator for the board. The length of monitoring will run concurrent with her probation or longer if TMF deems a longer period of time is warranted. Dr.

Harder will obtain practice monitoring for at least three (3) years unless her license is surrendered prior to the end of that time period. Dr. Harder will obtain recommendations on training in appropriate prescribing of controlled medication and medical record keeping from the practice monitoring program. At least ten (10) of her patients' records for patients seen within the prior ninety (90) days and which received controlled substances be reviewed by the practice monitor every ninety (90) days. Dr. Harder shall request the practice monitor to issue a report to the Board's medical director every three (3) months to provide status updates outlined within the order. She will agree to not reapply for any and all DEA registrations until completion of her probationary period under this order. She will be required to complete continuing education in medical ethics, boundaries and professionalism and an intensive course in medical documentation. Lastly, Dr. Harder agrees to pay 12 Type A civil penalties and pay all reasonable associated costs.

Dr. Baron expressed concerns about requiring the VCAP assessment and Ms. Bratton advised the board that requiring that assessment has been a precedent of this board in similar matters. Dr. Musil motioned to approve this order and Dr. Blake seconded. Dr. Baron abstained and the motion passed. Dr. Beckford, Dr. Ali, and Dr. Zanolli abstained as well due to re-joining this meeting after the discussion of this order initiated.

#### **Agreed Orders continued:**

**Andrew Sugantharaj, MD** - Dr. Musil recused himself. Dr. Sugantharaj was not present nor was he represented by counsel. Mr. Thomas Aumann represented the state. Dr. Sugantharaj, on at least twelve (12) occasions, signed or had others sign reports on his behalf and signed prescriptions for controlled substances for dates on which he was out of town and therefore did not physically see the patients in the office. On multiple occasions Dr. Sugantharaj permitted a physician assistant working on a temporary license to see and treat patients at a location where he was not physically present on-site. Also, Dr. Sugantharaj's office was found to be storing Phentermine in an unlocked cabinet. The agreed order requires that his license be placed on probation for no less than three (3) years. Upon the expiration of his probationary term, he may petition and appear before the board to lift his probation Dr. Sugantharaj shall provide proof that he has completed 22.75 CME credits in proper prescribing of controlled prescription drugs, 8 board-approved CME credits in ethics, pay 1 Type B civil penalty and pay all reasonable costs associated with this matter. Dr. Blake motioned to approve this order. Dr. Christiansen seconded the motion and it passed.

#### **Consent Orders continued:**

**Janet Brown, MD** – was not present, nor was she represented by legal counsel. Mr. Peyton Smith represented the state. Ms. Brown failed to obtain 23 continuing education hours, to include two hours of prescribing, and attested to having met the requirement at the time of her 2016 licensure renewal. In this order, Ms. Brown has agreed to a reprimand and to obtain the initial 23 CME hours, 10 additional CME hours, pay thirty-two and a quarter Type C civil penalties totaling to \$3,275 and all reasonable costs associated with this matter. The board was informed that Ms. Brown was presented with an agreed citation from the administrative office but neglected to respond and there was proof that she was receiving notices sent to her. Dr. Ali motioned to approve this order and Dr. Zanolli seconded the motion. The motion passed with one recusal from Dr. Musil.

**Kizzie Wallace, MDXL** – was not present, nor was she represented by legal counsel. Mr. Peyton Smith represented the state. Ms. Wallace practiced on a lapsed license for five (5) months prior to submitting her reinstatement application. With this order, Ms. Wallace agrees to a reprimand, to pay 3 Type C civil penalties, and pay all reasonable costs associated with this matter. Dr. Ali motioned to approve the order. Dr. Musil seconded the motion and it passed.

**Agreed Final Order:**

**Jessica Johnson, OPA** – was not present, nor was she represented by legal counsel today. Ms. Bratton represented the state. Ms. Johnson was issued a license after graduating from an OPA program that had not been considered by the Board or Committee. According to applicable statute and rule, licensure is only available to individuals who have graduated from an OPA program deemed “adequate” by the Board and Committee. After learning of the school and the inadvertent licensure of Ms. Johnson, the Committee considered the program and determined that it was not adequate. They promulgated the policy: “Standards to Evaluate Orthopedic Physician Assistant (OPA) Programs” to assist them in future deliberations on this issue. The Committee notified Ms. Johnson that it was going to revoke her license due to it being issued in error. Ms. Johnson and her counsel petitioned for a declaratory order. This order was approved by the PA committee at the meeting on Friday January 6<sup>th</sup>, 2017. At the time of the Committee’s consideration, they were presented with extensive evidence of Ms. Johnson’s clinical acumen and professionalism. The approval of this order will allow Ms. Johnson to maintain her full unrestricted OPA licensure. Dr. Musil motioned to approve this order and Dr. Zanolli seconded the motion. The motion carried.

The Board of Medical Examiners day 1 meeting adjourned at 5:27 pm CT.

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners  
Wednesday, January 11th, 2017**

**I. APPROVAL OF MINUTES**

Minutes from the November 2016 board meeting were circulated to members in advance of the meeting. Dr. Ali made a motion to approve the minutes. Dr. Johnson seconded the motion. The Board ratified the minutes unanimously.

**Order(s) of Compliance**

**Sidney Moragne, MD** – Dr. Moragne was not present nor was he represented by counsel. On July 24, 2013, Dr. Moragne’s license was placed on probation for a period of not less than three (3) years and until such time as he complied with certain other restrictions and requirements. Having met the terms of his prior consent order, he is entitled to having his petition granted. Dr. Beckford made a motion to approve the Order of Compliance. Dr. Musil seconded the motion. The motion passed unanimously.

Dr. Zanolli made a motion to check whether Dr. Moragne was forthcoming regarding prescribing pain medicine. Dr. Musil seconded the motion. The motion to check into whether or not Dr. Moragne was truthful regarding his controlled substance prescribing as passed unanimously.

**Sidi Noor, MD** – Dr. Noor was present and represented by Alex Fisher, Esq. Ms. Fisher presented on his behalf. He petitioned the Board to lift the restrictions placed on his license in November 2012. There was some discussion regarding whether an Order of Compliance was the proper vehicle to address this issue. Ultimately, Dr. Ali made a motion that the Order of Compliance be denied. Dr. Musil seconded the motion. The motion to deny the Order of Compliance passed unanimously.

**Agreed Order(s)**

**Gregory N. Laurence, MD** – Dr. Laurence was not present nor was he represented by counsel. In March 2015, Dr. Laurence’s license was placed on probation for a period of five years after he admitted to filing false business and personal tax returns. Following his license being placed on probation, he served as the supervising physician for Katherine Gresham, a licensed physician assistant at Germantown Aesthetics in

Germantown, TN. Per Board rules, an MD supervising a physician assistant “must possess a current, unencumbered license to practice in the State of Tennessee”. Also, in addition to his license being on probation, he was required to attend ProBE, an ethics and boundaries program. At the conclusion of the program, it was assessed that he failed the ProBE program. As a result of these offenses, his probation is extended to 7 years, he will pay \$1800 in fines, and this will be a reportable incident to the National Practitioner Databank (NPBD). Dr. Johnson made a motion to approve the Agreed Order. Dr. Christenson seconded the motion. The motion passed unanimously.

### **Consent Order(s)**

**Michelle Girouard Wall, MD** – Dr. Wall was not present nor was she represented by counsel. Dr. Zanolli and Dr. Blake recused themselves. Dr. Girouard prescribed controlled substances without performing an appropriate physical examination. The order reprimands Dr. Girouard’s license and requires that she complete some coursework in prescribing, recordkeeping and ethics. She must also pay costs and penalties. Dr. Musil made a motion to approve the consent order. Dr. Beckford seconded the motion. The motion was approved unanimously.

**Brooks G. Morelock, MD** – Dr. Morelock was not present nor was he represented by counsel. Dr. Beckford recused himself. Dr. Morelock prescribed controlled substances to multiple patients without performing an appropriate physical examination. The order places Dr. Morelock’s license on probation for a period of five years. He must also complete certain coursework in recordkeeping and prescribing and pay costs and penalties. Dr. Baron made a motion to approve the consent order. Dr. Zanolli seconded the motion. The motion passed.

**Thomas G. Bannister, MD** – Dr. Bannister was not present nor was he represented by counsel. Both Drs. Baron and Zanolli recused themselves. Dr. Bannister prescribed methadone to a patient who could not afford inpatient treatment for detoxification. He was not registered with the DEA for detoxification using Methadone and he treated the patient outside of a registered methadone clinic. The patient did not take the medication as prescribed and died from an accidental overdose. The order directs that Dr. Bannister’s license be reprimanded and that he pay costs. Dr. Beckford made a motion to approve the consent order. Dr. Christenson seconded the motion. The motion passed.

**Tony E. Yost, MD** - Dr. Yost was not present nor was he represented by counsel. Dr. Musil recused himself. Dr. Yost prescribed controlled substances to a colleague’s wife on a prescription pad that did not belong to him and without documenting an appropriate history and physical examination, developing a therapeutic plan and creating a medical record. The order directs that Dr. Yost’s license be reprimanded; that he complete certain coursework in prescribing, medical ethics and recordkeeping, and pay certain costs and penalties. Dr. Zanolli made a motion to approve the consent order. Dr. Christenson seconded the motion. The motion was approved unanimously.

The meeting was adjourned at 10:54 am.