

**TENNESSEE BOARD OF MEDICAL EXAMINERS**  
**January 18-19, 2014**  
**MINUTES**

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The meeting was called to order at 8: 34 a.m. at the Health Related Board’s Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive Nashville, Tennessee 37243 by President Dr. Michael Zanolli. Other members present were: Dr. Jeff Lawrence, Dr. Keith Lovelady, Dr. C. Allen Musil, Dr. Michael Baron, Ms. Barbara Outhier, Dr. Reeves Johnson, Ms. Pat Eller, Dr. Subhi Ali, Dr. Dennis Higdon, Ms. Nina Yeiser and Dr. Neal Beckford.

Staff present included: Larry Arnold, MD Medical Director, Rosemarie Otto, Director, Andrea Huddleston, Deputy General Counsel, Marsh Arnold, Unit Manager, Angela Lawrence, Board Administrator and Scott Creel, Administrator.

Dr. Zanolli began the meeting at 8:34 a.m. with a roll call and asked for a 15 second moment of silence for the Board members to reflect on the task of the board for this January meeting.

Scott Creel made a brief presentation to the board members concerning the update he has made to the e-book tabs.

**Rulemaking Hearing**

Andrea Huddleston outlined the purpose of the Rulemaking Hearing beginning at 8:44 a.m. concerning the amendment to rules 0880-02-.01 and 0880-02-0.19, definitions and Continuing Medical Education. Dr. Ali made a motion to adopt the new rule as amended that all active licensees are required to complete two (2) hours of prescribing practice courses. Dr. Beckford seconded the motion. The motion passed unanimously. The board also accepted a motion concerning the statement of economic impact presented by Ms. Huddleston.

**Consideration of Applications**

**X-Ray operators Applications**

**Sarah Walden** – appeared before the board because she has two (2) alcohol related convictions to which she pled guilty. After review of the materials contained in her file and interviewing her, Dr. Beckford made a motion to grant an unrestricted license. Dr. Ali seconded the motion. The motion passed unanimously.

**Medical Doctor Applications**

**Nikesh Ardeshta, MD** – appeared before the board because he attended a medical school whose curriculum does not meet or exceed the requirements for the Board’s rule. After review of the materials contained in his file and interviewing him, Dr. Ali made a motion to grant an

unrestricted license. The motion was made because he had passed all steps on the USMLE on the first attempt and he is board certified. Dr. Beckford seconded the motion. The motion passed. Ms. Eller recused herself.

**Hendrik-Tobias Arkenau, MD** – appeared before the board because he is a foreign medical school graduate with no post graduate training in the United States. After review of the materials contained in his file and interviewing him, Dr. Ali made a motion to defer Dr. Arkenau’s file to a contested case hearing. Ms. Eller seconded the motion. The motion passed.

**David Burke, MD** – appeared before the board because he had prior disciplinary action taken in Alabama and Pennsylvania for issues relative to prescribing controlled substances and substance abuse. After review of the material contained in his file and interviewing him, the board allowed him to withdraw his application.

**Caroline Burton, MD** – appeared before the board because she attended a medical school whose curriculum does not meet or exceed the requirements for the Board’s rule. After review of the materials contained in her file and interviewing her, Dr. Johnson made a motion to grant an unrestricted license based on her passing all three steps of the USMLE on the first attempt. Dr. Beckford seconded the motion. The motion passed.

**Joseph Carrasco, MD** – appeared before the board because he had action taken against his license in Florida. Dr. Carrasco also attended a medical school whose curriculum does not meet or exceed the requirements for the Board’s rule. After review of the materials contained in the file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license based on him passing all three steps of the USMLE on the first attempt. Dr. Lovelady seconded the motion. The motion passed with Dr. Baron, Ms. Outhier, Ms. Eller and Ms. Yeiser opposed to granting a license.

**Roger Catlin, MD** – appeared before the board because he surrendered his Tennessee medical license in 2009 and he has not practiced medicine in any jurisdiction since that time. After review of the materials contained in his file and interviewing him, the board allowed him to withdraw his application. Dr. Catlin was represented by an attorney and Ms. Eller recused herself.

**Janet Harris-Hicks, MD** – appeared before the board because of a malpractice action in North Carolina that led to disciplinary action by that medical board. After review of the materials contained in the file and interviewing her, Dr. Higdon made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion passed.

**David Hazra, MD** – appeared before the board because he was placed on academic probation in July 2001, during residency, due to concerns with clinical performance. After review of the materials contained in his file and interviewing him, Dr. Higdon made a motion to grant a license contingent upon receipt of a recommendation from the Tennessee Medical Foundation’s Physician Health Program. Dr. Ali seconded the motion. The motion passed.

**Donald Hopewell, MD** – appeared before the board because he was denied licensure in Colorado. After review of the materials contained in his file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Musil seconded the motion. The motion passed.

**Alfred V D Jackson Jr, MD** – appeared before the board because he was placed on probation during his residency training program in order to evaluate his prescribing practices. After review of the materials contained in his file and interviewing him, Dr Ali made a motion to grant him a license pending correction of page five (5) question two (2) of his application. Ms. Eller seconded the motion. The motion passed.

**Ayman Khafagi, MD** – appeared before the board because he is outside the statutorily mandated sever year rule. After review of the materials contained in his file and interviewing him, the board allowed him to withdraw his application.

**Hong Li, MD** – appeared before the board because she is outside the board’s one point rule but she is board certified. After review of the materials contained in her file and interviewing her, Dr. Beckford made a motion to grant an unrestricted license. Dr. Ali seconded the motion. The motion passed.

**Mahmoud Obideen, MD** – appeared before the board because he is outside the board’s one point rule but he is board certified. After review of the materials contained in his file and interviewing him, Dr. Ali made a motion to grant an unrestricted license. Dr. Higdon seconded the motion. The motion passed.

**Joseph Ossorio, MD** – appeared before the board because he was disciplined in Florida for pre-signing blank prescriptions to be used by his registered nurse when he was out of his office. After review of the materials contained in his file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Musil seconded the motion. Dr. Baron and Ms. Eller abstained. The motion passed.

**Randal Rampp, MD** – appeared before the board because he voluntarily retired his license and self-reported to Tennessee Medical Foundation (TMF). Dr. Gray from TMF spoke on Dr. Rampp’s behalf regarding his lifetime contract already in place. After review of the materials contained in his file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Higdon seconded the motion. Dr. Lovelady recused himself. The motion passed.

**Camille Sommer, MD** – appeared before the board because she is outside the board’s one point rule. After review of the materials contained in her file and interviewing her, Dr. Ali made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion passed.

**Judy Spencer, MD** – appeared before the board because she has not practiced medicine in approximately five (5) years and she is board certified. After review of the materials contained in her file and interviewing her, Ms. Yeiser made a motion to grant an unrestricted license. Dr. Baron seconded the motion. Dr. Zanolli made an amendment to the motion to grant the license contingent upon receipt in the Board’s administrative office of proof that she has completed a

board review course in internal medicine and/or endocrinology. Dr. Ali seconded the motion. The motion passed. Dr. Lawrence apposed.

**Bernard Steele, MD** – appeared before the board because he had disciplinary action taken against his medical license in Florida for issues relative to medical malpractice. After review of the materials contained in his file and interviewing him, Ms. Eller made a motion to grant an unrestricted license. Dr. Musil seconded the motion. The motion passed.

**Stacey Stephenson, MD** – appeared before the board because she is outside the board's one point rule and she is board certified. After review of the materials contained in her file and interviewing her, Dr. Lovelady made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion passed.

**Seth Yoser, MD** – appeared before the board because he surrendered his medical license in Tennessee following his federal conviction for healthcare fraud. After review of the materials contained in his file and interviewing him, the board allowed him to withdraw his application.

### **Approval of Minutes**

Dr. Musil made a motion to approve the minutes from the November 19-20, 2013 meeting. Dr. Ali seconded the motion. The motion passed unanimously.

### **Agreed Order**

**Dr. Nii Quao:** was not present but was represented by an Attorney Erin Phillips. Ms. Mary Katherine Bratton represented the state. Dr. Baron made motion to accept the order. Dr. Musil seconded the motion which passed a voice vote. Dr. Higdon voted against.

### **Ratification of Licenses**

Dr. Ali made a motion to ratify and approve the new, reinstated, failed to renew and voluntary retired licenses for the Medical Doctors. Ms. Yeiser seconded the motion. The motion passed. Dr. Ali made a motion to ratify and approve the new, reinstated, failed to renew and voluntary retired licenses for the Physician Assistants. Dr. Musil seconded the motion. The motion passed. Dr. Ali made a motion to ratify and approve the new, reinstated, failed to renew and voluntary retired Special Training licenses. Dr. Johnson seconded the motion. The motion passed. Dr. Higdon made a motion to ratify and approve the new, reinstated, failed to renew and voluntary retired license for MD X-Ray Operators. Dr. Ali seconded the motion. The motion passed. Dr. Ali made a motion to ratify and approve the new, reinstated, failed to renew and voluntary retired Genetic Counselors licenses. Dr. Beckford seconded the motion. The motion passed

### **Reports**

**Report from Administrative Office:** Ms. Marsha Arnold reported on the activities in the administrative office from November 1, 2013 through December 31, 2013 concerning Medical Doctors. The report reads as follows: 193 new applicants, 146 new licenses issued, 77 retired

licenses, 12 reinstatements and the average for online renewals is sixty-nine percent (69%). The number of active licenses as of December 31, 2013 is 21,284 and the total number of active licenses with a Tennessee mailing address is 16,095.

**Investigation Report:** Mr. Michael Sobowale was present to discuss the report of the Office of Investigations. He reported there are currently 302 open complaints in the Office of Investigation relative to Medical Doctors as of December 31, 2013. There are currently 18 random audits of Pain Clinics of those 18, 4 closed with no violations, 7 were sent letters of concern, 3 were sent letters of warning, 1 was referred to the Office of General Council, 1 required further investigation and 2 clinics closed. Mr. Sobowale also gave a disciplinary report as of December 31, 2013 and it reads as follows for Medical Doctors: 28 suspended, 53 on probation, 112 Board Orders and 99 revoked/surrendered. MD X-ray Technicians have 3, suspended, 4 Board Order and 1 revocation.

**OGC Report:** Ms. Huddleston informed the board that as of January 7, 2014 there were one hundred seventy three (173) disciplinary complaints against one hundred thirteen (113) respondents pending in the Office of General Counsel. There are two (2) pending appeals from Board action, involving two (2) physicians. The most recent action is the decision of the Tennessee Court of Appeals in the *Rawdon* matter. The most recent actions are the Chancery Court upheld in part, but the civil penalties reserved. Notice of appeal was filed in Court of Appeals and briefs filed and oral argument conducted awaiting decision. There is one (1) civil suit pending which was filed against the board and/or board members of staff. *Gurshell Dhillon v. State of Tennessee et al*, was filed in the U.S. Middle District of Tennessee. The court granted the Motion to Dismiss filed by the Attorney General's office. Dr. Dhillon has appealed to the Sixth Circuit Court of Appeals, where this matter is still pending. Ms. Huddleston also gave a report on the total number of open cases since 2011-2014. There were one hundred fifty (150) cases closed by case in 2013 and ninety three (93) cases closed by respondent in 2013. There were also one hundred four (104) new cases received in 2013. Ms. Huddleston also brought to the boards attention two (2) bills currently in legislation, HB1385 – The Koozer-Kuhn Medical Cannabis Act- Prohibits prosecution or penalty for possession of marijuana against qualifying patients for qualifying patients enrolled in the Safe Access Program, and HB1833- Amends the Intractable Pain Treatment Act to provide that a physician refusing to prescribe opiates for pain management to a patient may, but is not required to, inform the patient that there are other specialists available who specialize in pain management using opiates.

**Controlled Substance Database Monitoring Committee:** Ms. Rosemarie Otto reported the committee chaired by Ms. Eller and Dr. Baron phoned had authorized an annual report to go to the General Assembly and that there is a push for notification.

**Development Committee:** Dr. Ali updated the board members on topics discussed at the Development Committee meeting, one of which was the need for more input with regard to mandating one (1) hour CME for physicians serving as EMS directors. Dr. Higdon has agreed to chair a taskforce to gather more information and report back to the board. The committee also considered on re-authorization of the grant of funds to the Tennessee Medical Foundation Physician Health Program at the same rate as before \$250,000. Dr. Johnson presented an in depth presentation regarding the One Point Rule and requested that the board establish a rule

making hearing regarding Rule 0880-02-.08 (2) (a) The action is suggested because of the changes that have already been implemented through the Federation eliminating the two-digit score and limiting the number of attempts allowed for each step. According to the USMLE, Tennessee is the only state that requires a higher passing score for repeat testers. Dr. Ali also reported the Development Committee discussed the limitations of the seven year rule but decided to leave the rule alone, however, Dr. Ali made a motion to send to Rule Making Hearing a rule stating if an applicant takes any step over three times and if they are board certified that they would be eligible for licensure. Dr. Higdon seconded the motion. There was also discussion about international medical graduates whose school does not fulfill the boards' rules, that board certification and passing all three steps of the USMLE on the first attempt would fulfill the qualification. No action was taken. Dr. Ali invited all members to attend the Development Committee Meetings on Monday nights.

**Pain Management Guidelines:** Dr. Mutter, Director of Special Projects, gave an in depth power point presentation outlining the monitoring process of the pain clinics. The report revealed the progress being made.

**Telemedicine Rulemaking hearing:** Ms. Huddleston informed the board that a hearing may be held at the March meeting if the notice is approved by the end of the week. Dr. Zanolli suggested the hearing be scheduled on the Monday before the scheduled board meeting date during the afternoon hours if board members could come in a day earlier.

There was discussion concerning board members attending the FSMB annual meeting in Denver, Colorado April 24-26, 2014 and Drs. Baron and Beckford expressed interest in attending.

## **Adjourn 5:32**

### **January 29, 2014**

Board members absent from the meeting are as follows: Ms. Nina Yeiser.

Dr. Zanolli called the meeting to order at 8:37 a.m.

### **Consent Orders**

**Lisa Adams, PA:** was not present nor represented by an attorney. Ms. Molly Gass represented the state. Dr. Ali made a motion to accept the order. Dr. Beckford seconded the motion which passed a voice vote.

**Dr. Mark Blumenthal:** was not present but was represented by Attorney Robert Kramer. Mary Katherine Bratton represented the state. Dr. Beckford made a motion to accept the order. Dr. Musil seconded the motion which passed a voice vote. Drs. Baron and Ali expressed a concern about practitioners (PA's and Nurse Practitioners) that doctors are supervising, being disciplined as well.

**Dr. AK Fakhruddin:** was not present nor represented by an attorney. Ms. Jennifer Putnam represented the state. Dr. Musil made a motion to accept the order. Dr. Beckford seconded the motion which passed a voice vote.

**Dr. Pedro Salcedo:** was not present nor represented by an attorney. Jennifer Putnam represented the state. Dr. Beckford made a motion to accept the order. Dr. Ali seconded the motion which passed a voice vote.

**Dr. James Desantis:** was not present nor represented by an attorney. Jennifer Putnam represented the state. Dr. Lovelady made a motion to accept the order. Dr. Musil seconded the motion which passed a voice vote. Dr. Barron opposed.

**Dr. Anthony Trent:** was not present nor represented by an attorney. Jennifer Putnam represented the state. Dr. Johnson made a motion to accept the order. Ms. Eller seconded the motion which passed a show of hands vote with Drs. Lawrence, Johnson and Ms. Eller and Ms. Outhier voting for while Drs. Higdon, Beckford and Lovelady voted against. Drs. Zanolli, Barron and Musil abstained.

**Dr. Yuchun Han:** was not present nor represented by an attorney. Mr. Alex Munderloh represented the state. Dr. Lovelady made a motion to accept the order. Dr. Musil seconded the motion which passed a voice vote. Drs. Johnson and Beckford were recused.

**Dr. Yusuf Mosuro:** was not present nor represented by an attorney. Mr. Alex Munderloh represented the state. Dr. Ali made a motion to accept the order. Dr. Beckford seconded the motion which passed a voice vote.

### **Agreed Orders**

**Dr. Frederick Yarid:** was not present nor represented by an attorney. Mr. Bruce Shanks represented the state. Dr. Musil made a motion to accept the order. Dr. Lovelady seconded the motion which passed a voice vote. Ms. Eller and Drs. Baron and Johnson recused themselves.

**Dr. Michael Benne:** was not present nor represented by an attorney. Ms. Mary Katherine Bratton represented the state. Dr. Lovelady made a motion to accept the order. Dr. Beckford seconded the motion which passed a show of hands vote. Drs. Musil, Baron and Johnson opposed.

**Dr. Christopher Duntsch:** was not present nor represented by an attorney. Mr. Alex Munderloh represented the state. Dr. Lovelady made a motion to accept the order. Dr. Musil seconded the motion which passed a voice vote. Dr. Higdon was recused.

### **Agreed Citations**

A set of Agreed Citations was presented for ratification and all were related to non-compliance of continuing education hours: After review Dr. Higdon made a motion to accept the set which included the following medical doctors; John Acker, Joseph Autry, III, Gideon Ewing, Ahmed

Farooque, Judit Martin, Roger Miller, Howard Mize, Deborah Poteet-Johnson and Kim Scott. Dr. Beckford seconded the motion which passed a voice vote. Ms. Eller and Drs. Johnson, Baron and Ali recused themselves.

### **Contested Case Iris Room**

Panel: Dr. Michael Baron, Dr. Subhi Ali and Dr. Dennis Higdon

Judge: Judge Summers

Hearing for Dr. William Wytttenbach

Attorney for the State: Molly Gass

Dr. Wytttenbach's motion to strike was denied and Dr. Baron made a motion to proceed in default. Dr. Higdon seconded the motion which passed unanimously. Ms. Gass presented evidence that Dr. Wytttenbach had received notice of the hearing and evidence of the proof of service of the notice of charges where Dr. Wytttenbach failed to develop or implement practice protocols and clinical guidelines, leaving the nurse practitioners he was supervising no guidance on the standard of care and without limitations or direction in diagnosing and prescribing to patients at the medical center he served as the Director. Dr. Higdon made a motion to proceed with the contested case. Dr. Baron seconded the motion which passed unanimously. Dr. Wytttenbach was held in default. Ms. Gass presented a suggested final order to revoke Dr. Wytttenbach Tennessee medical license and recognized it as being in retired status. After discussion Dr. Baron made a motion to accept the order as amended. Dr. Higdon seconded the motion which passed unanimously.

Hearing for Dr. James Evans

Attorney for Dr. Evan: Mr. Robert Kramer

Attorney for the State: Mr. Chris Smith

Dr. Evans was present and as well as his attorney and after the opening statements Mr. Smith introduced a video of the state's witness Dr. Warren, who reviewed 26 patient charts that were treated by Dr. Evans. The panel began to hear Dr. Warren's testimony of the first of 20 patients he found to be outside the standard of care, where Dr. Evans was over prescribing. This hearing was continued because of the length of testimony to be presented.

### **Poplar Room**

**January 29, 2014**

Panel: Chairman Michael Zanolli, MD; Pat Eller, consumer member and Allen Musil, MD

Judge: Anne Johnson

Petition for Declaratory Order by **Hendrik Tobias Arkenau, MD**

Attorney for Dr. Arkenau: Kim Looney

Attorney for the State: Andrea Huddleston



Dr. Arkenau is applying for a license in the state of Tennessee because he works for Sarah Cannon Research Institute in London, England and they are requesting he be Chief Medical Officer for their global operations headquartered in Nashville, Tennessee. The panel was presented with documentation where Dr. Arkenau had graduated from Hannover School of Medicine in Germany and has been formerly licensed in Germany, the United Kingdom and Australia. He is board certified in the area of internal medicine and hematology/medical oncology. Dr. Arkenau has received an O-1 Visa for “aliens of extraordinary ability in the sciences... which has been demonstrated by sustained national or international acclaim and who is coming temporarily to the US to continue work in the area of extraordinary ability.” Dr. Arkenau had completed in 2007 the ASCO/ESMO certification and regularly publishes his clinical research and reviews the work of his peers in top medical journals for oncology. Dr. Musil made the motion to grant the petition for Declaratory Order and allow Dr. Arkenau a license to practice medicine in Tennessee and Ms. Eller seconded the motion. The motion passed unanimously with the explanation that the panel is not saying that they accept the German exam or training in England to supersede the Tennessee rules and requirements for licensure.

Petition for Declaratory Order by **Sidi Y. Noor, MD**

Attorney for Dr. Noor: Benjamin C. Mezer

Attorney for the State: Andrea Huddleston

Dr. Noor currently has a restricted license in the State of Tennessee. After arguments were heard from the state’s attorney, Ms. Huddleston, and Dr. Noor’s attorney, Mr. Mezer, the panel found that Dr. Noor had not shown any support for the lifting of the restriction on his license. Ms. Eller made the motion to deny the Petition for a Declaratory Order to lift the restriction and Dr. Musil seconded the motion. The motion passed unanimously.

Consent Order for **Basit Aziz, MD**

No attorney for Dr. Aziz

Attorney for the State: Alex Munderloh

The panel voted to proceed in default after proof of notification of the licensee was provided. Dr. Musil made the motion and Ms. Eller seconded the motion which passed unanimously. Dr. Aziz failed to fulfill the request from the Department to provide copies of patient files for an investigation being made by the Department. Mr. Ken Jones, investigator for the Department, provided proof of his many attempts to request the files from Dr. Aziz to no avail. Dr. Musil made a motion to revoke Dr. Aziz’s license and Ms. Eller seconded the motion. The motion carried unanimously.

**These minutes were ratified by the Medical Board March 18, 2014**