



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

**Tuesday, March 7, 2017
Wednesday, March 8, 2017**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:39 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Subhi Ali, Board Chair.

Board members present: Subhi Ali, MD
Reeves Johnson, MD
Melanie Blake, MD
Michael Zanolli, MD
Neal Beckford, MD
Deborah Christiansen, MD
C. Allen Musil, MD
Charles Handorf, MD
Julianne Cole, Consumer Member
Barbara Outhier, Consumer Member
Jennifer Claxton, Consumer Member

Board member(s) absent: Dennis Higdon, MD

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 Administrator

I. CONSIDERATION OF APPLICATIONS

Medical X-Ray Applicant Interview(s):

Joseph Beesley, AMDX – Mr. Beesley was invited to appear before the Board to address criminal history that was discovered through the application process, but not disclosed on his application. Mr. Beesley's application also failed to disclose a health-related license in another state. Mr. Beesley confirmed he was

granted a Virginia State X-Ray license in the fall of 2016. That license is unencumbered; however, he has never practiced in Virginia. Mr. Beesley stated that he believed that his criminal record had been expunged and that's why he didn't add it to his application. The Board did not have any records to support his assertion that the criminal history has been expunged. After discussing these issues at length, Dr. Zanolli motioned to approve, unrestricted, certification contingent upon the necessary changes being made to Dr. Beesley's application so that his criminal history is accurately reflected. Dr. Johnson seconded the motion, Dr. Beckford opposed, Ms. Outhier abstained and the motion carried.

Michelle Clouse, MDXL – Ms. Clouse appeared before the Board, without representation, due to her training upgrade certification not meeting the requirements set by Rule 0880-5-.05(2)(b)(4). Ms. Clouse completed the spine review through an online course offered through Radiologic Education Seminars (hereinafter “RES”). Ms. Huddleston commented that RES has courses approved by the Board but it does not technically mean that everything offered through RES is approved. Ms. Martin notes that there has not been a clear distinction, in previous course approvals, on whether the instruction is offered live or online. Additionally, Ms. Clouse only completed ten (10) classroom training hours and is missing twenty (20) hours. Ms. Clouse reported that she graduated in 2005 and at that time completed the ten (10) hours. She was unaware that she would need twenty (20) more hours to apply for this upgrade. Dr. Johnson made a motion to grant the upgraded certification with the contingency of having to complete the additional twenty (20) classroom hours. Dr. Beckford seconded this motion and it carried.

Ms. Martin stated the administrative staff will reach out to RES for further clarification on their online courses and offer the opportunity for them to appear before the Board.

Rebecca Huskey, AMDX – Ms. Huskey appeared before the Board, without representation, because her training was obtained from an online program not previously approved by the Board. Ms. Huskey reports her last X-Ray practice was in 2011. At that time, she was working towards completing the training required for graduation. Ms. Huskey stated that she has been observing a colleague taking X-Rays for the past three months. Currently, Ms. Huskey is a medical assistant and has applied for licensure because her colleague is retiring and her employer will need to fill that position. Dr. Ali stated that the brief observing period is not enough to remediate a six year absence from practice. Dr. Ali offered the applicant an opportunity to withdraw her application and if she so desires to consult with the medical consultant, Dr. Rene Saunders, to develop a remediation plan that will help her work toward becoming licensed in the future. Ms. Huskey elected to withdraw her application.

Nycorya Wilson, MDXL – Ms. Wilson appeared before the board, without representation to address a criminal history. Ms. Wilson failed to disclose her criminal history on her application. Ms. Wilson explained that she was told by someone she trusted, that any criminal history older than seven (7) years did not have to be reported. Dr. Saunders reminded the Board and the applicant that the application competency question requires an applicant to disclose if he/she has *ever* been convicted. The Board interviewed the applicant and discussed TCA § 63-6-214(b)(3) which refers to the Board's power to take action against a licensee for making false statements or representations. Ms. Outhier and Dr. Christiansen took issue with the representations made by Ms. Wilson on her application. Dr. Blake motioned to approve Ms. Wilson with an unrestricted license conditional on revising the application to attest to her criminal conviction(s). Dr. Beckford seconded the motion, Ms. Outhier and Dr. Deborah Christiansen abstained, the motion carried.

The Board discussed how the Board and staff should proceed when it appears that an applicant has made misrepresentations on the application. Ms. Huddleston informed the Board that if someone has an expunged record they are legally allowed to deny ever having a criminal conviction.

Ms. Martin said how the Board and staff should proceed really depends on the purpose of the questions on the application. Is the point to obtain information or to identify deceit? Dr. Blake suggested it is more important to obtain information. Ms. Outhier, Dr. Saunders and Dr. Beckford did not disagree, but acknowledged that a person's integrity is compromised when they make misrepresentations on the application, especially when those questions involve criminal convictions. Dr. Saunders did not think that she had a solid understanding of the Board's desires regarding criminal convictions; however, she cautiously reviews applications with disclosed convictions before approving licensure or bringing the applicant before the board. She invited the two applicants brought before the Board today because of the misrepresentations in their application and not because of their criminal conviction(s). The discussion ended with the Board agreeing that Dr. Saunders should continue to bring applicants before the Board when there appears to have been deception on the application.

Medical Doctor Applicant Interview(s):

Mohammad Hossain, MD – appeared before the Board, without representation, as an applicant for reinstatement of an expired license. Dr. Hossain was previously disciplined by the California Medical Board but recently had his probation lifted. Dr. Hossain expressed that he currently works two (2) days a week in his CA clinic. Also, he performs locums work, also in CA. He stated he is interested in doing locums work in Tennessee. Dr. Hossain attested that he is not currently being investigated by any state. He further explained that his probation was lifted in CA but there was an undercover investigator that visited his office and asked to review charts in August of 2016. Dr. Hossain states he did not hear anything back from the CA Medical Board after they reviewed charts in August of 2016. However, those charts are still with the CA Medical Board. Dr. Hossain informed the Board that as of 2007 he began requiring a female chaperone while seeing female patients and would require the stamp and signature of the chaperone in the chart.

Dr. Handorf questioned how practicing monitoring would be carried out with a locum tenens position. Dr. Saunders suggested it may be difficult but not impossible and the specifics would just be worked out in the monitoring agreement.

Dr. Zanolli motioned to deny the application of Dr. Hossain and Dr. Blake seconded the motion. Before the Board voted on this motion Dr. Hossain requested to withdraw his application for licensure in Tennessee. The request to withdraw his application was granted.

I. APPROVAL OF MINUTES

Minutes from the January 2017 board meeting were circulated to members in advance of the meeting. Dr. Charles Handorf made a motion to approve the minutes. Dr. Beckford seconded the motion. The Board ratified the minutes with one abstention from Ms. Jennifer Claxton.

Minutes from the January 2017 Office Based Surgery meeting were circulated to members in advance of the meeting. Dr. Ali motioned to approve these minutes and Dr. Zanolli seconded the motion. The motion carried with one abstention from Ms. Claxton.

II. 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:

The supervision document, which has, since its reconsideration, been renamed the delegation document, has been considered by the Board or a taskforce of it, on several recent occasions. The document was

initially approved in 2002. The Board has struggled with striking the right balance between guidance and oversight with this document, as the Board recognizes that supervisees are utilized very differently depending on the practice setting. The revised policy was disseminated to the board members at the meeting. Dr. Zanolli did not favor strict policy guidelines in this area and spoke out specifically against requiring protocols.

The remainder of the Development Committee's discussion was tabled until later in the day due to a scheduled conference call with the Board's intern.

III. **BOARD OF MEDICAL EXAMINERS PHYSICIAN CENSUS REPORT**

Ms. Martin provided the Board with a physician census report created by the Board's intern. The intern presented her report by teleconference. Her report included demographic information of all physicians licensed within the past ten (10) years in Tennessee. One key element of the report is the focus on disciplinary data over the last three (3) years. This data identified physicians that have been disciplined for improper prescribing, how long they have been out of training, where they trained, where they practice, etc.

Dr. Johnson requested a breakdown of the different degrees of discipline for different counties in Tennessee. Also, to provide the numbers in per capita to highlight the variation of population per county compared to the report currently showing number of licensed physicians in each area.

Dr. Blake requested a stronger focus on outlining prescribing habits per area by looking into where the overprescribing is occurring and the MME burden in those areas. Ms. Martin added we could use the CSMD reports and our census report to compare the discipline on physicians with the numbers of MME's per area.

Dr. Michael Baron, Tennessee Medical Foundation (hereinafter "TMF") Director, questioned why there is such a decline in the age of applicants for licensure in over the past ten (10) years. No one was able to identify a compelling rationale for that observation.

A significant limitation of the report is that several licensed physicians do not have a practice address available to the board. Ms. Martin suggested the Board could decide if this is problematic and worth following up with licensees to require they submit or update their practice address with the Board. Dr. Beckford spoke in favor of the importance of having a current practice address within our records.

Dr. Beckford suggested pulling data to outline the percentage of physicians that are sixty (60) years and older per area. He stated this would assist in understanding where potential man power issues may arise within the next 10-15 years.

Dr. C. Allen Musil, Dr. Blake, Dr. Johnson and Dr. Christiansen exited. There was still a quorum of the Board with seven (7) members present.

IV. **CONDUCT NEW BUSINESS**

The Board reviewed a list of newly licensed medical doctors, medical x-ray operators, genetic counselors, polysomnographic technologists and acupuncturists. Dr. Charles Handorf motioned to approve ratification of all those newly licensed and Dr. Beckford seconded. The motion passed.

Ms. Martin presented the Unlicensed Practice Policy of Acupuncture or Auricular Detoxification and requested ratification by the Board. The Advisory Committee on Acupuncture, which reports to the BME,

adopted this policy in February. Dr. Zanolli motioned to ratify this policy as written and it was seconded by Dr. Ali. The motion carried.

Ms. Huddleston provided a quick review of the rulemaking hearing that the Acupuncture Committee held at their last meeting. The hearing provided minimal rule changes to Rule 0880-12-.05, "ADS Certification Process." Dr. Handorf motioned to approve and Dr. Beckford seconded. The motion carried by seven (7) members of the board through a roll call vote.

Ms. Tracy Alcock presented the Polysomnography Committee's rule packet which covered the rulemaking hearing that occurred at the last Committee meeting. The hearing provided a rule change on the definition of the consultant in Rule 0880-14-.08, "Officers, Consultants, Records, Advisory Rulings, and Screening Panels." Also, the hearing provided a rule change, which expands the program options a polysomnographer may choose from in order to complete continuing education, to Rule 0880-14-.09, "Continuing Education." Dr. Ali made a motion to approve, Dr. Handorf seconded the motion and it passed with a roll call vote.

The Board recessed for lunch and the board reconvened at 1:01pm CT.

COMMENDATION FROM THE COMMISSIONER OF HEALTH, DR. JOHN DREYZEHNER

Dr. Dreyzehner was present and commended the contributions of Dr. Michael Baron, who recently resigned from the Board in order to take on the role of medical director for the Tennessee Medical Foundation; and Dr Michael Zanolli, who served as the chair for the Board for nearly a decade. The contributions and service of these board members were acknowledged by Dr. Dreyzehner, who presented this with an award for exceptional service to population health in Tennessee and outstanding leadership.

REPORT FROM THE DEVELOPMENT COMMITTEE (CONTINUED)

1. Review and discuss proposed edits to the delegation policy:

Ms. Huddleston reminded the Board that the delegation policy is intended to replace a supervision policy that has been active since at least 2002. She explained that the old policy is confusing because it does not clearly encompass all health professionals a medical doctor may supervise. There are other areas of concerns as well. She encouraged the Board to clarify what is required for licensees, citizens, and for staff when dealing with disciplinary matters.

Dr. Zanolli referenced a couple of paragraphs within the proposed delegation policy that he would like to omit and again stated this draft policy is too stringent. After some discussion on possible changes, and the reasons for why changes should be made from the old policy, the Board decided it would be best to form a taskforce to further research and create another policy proposal. Dr. Ali appointed Dr. Beckford, Dr. Christiansen and Dr. Blake to form the delegation policy taskforce and to bring their report to the full board.

2. Dr. Blake outlined the discussion held by the Development Committee on Strategic Planning:

- a. Resources needed for the Board and administrative office:
 - i. An administrative director for the board
 - ii. An additional administrator for the board
 - iii. Full-time staffed administrator to complete continuing education audits
- b. Develop long-term goals in regards to the following areas:
 1. Customer service towards physicians
 2. Efficiency of licensing and correspondence with licensees

3. Regulation and discipline
4. Education of licensees on prescribing
5. Communication to licensees regarding updates
6. Public protection improvement
7. Board parity

Ms. Martin proposed the Development Committee add the task of reviewing, discussing and possibly updating the boards' policies that are ten (10) years or older. Ms. Martin suggested the committee begin with the policy on prescribing for oneself and ones family at the next meeting. Dr. Ali tasked Dr. Johnson, as chair of the development committee, and Ms. Martin to begin reviewing the boards' policies and bring to the development committee any and all policies that they deem should be reviewed.

V. CSMD UPDATE BY DR. MITCHELL MUTTER

Dr. Mutter provided a general overview of events and other developments that have transpired since the Board's last meeting.

- The CDC has released a webtool/calculator that can calculate MMEs.
- Chronic Pain Guidelines Core Committee will be on March 31st
- Rulemaking hearing coming up on the pain clinic rule

VI. ADMINISTRATIVE OFFICE REPORT

Ms. Stacy Tarr reported the statistical licensing report, from January 1, 2017 through February 28, 2017, to the Board. There are 21,979 physicians with a full and unrestricted medical license. Of those 21k+, 16,601 have a Tennessee mailing address. The administrative office received 447 new applications and issued 262 new licenses issued.

Ms. Martin reported the following administrative office updates to the board:

- A PowerPoint presentation to medical schools in Tennessee is in the works.
- The pending legislation of interest to the Board is being tracked.
- The unit has hired a long term temp who is now managing continuing medical education (hereinafter "CME") audits for each profession under the Medical Board unit.
- If any member of the Board is interested in writing an article for the BME Newsletter to contact Ms. Martin. There will be an aim to publish two (2) Newsletters in 2017.
- This month, going into next, staff will be testing the new live application system which will launch in a couple of months.
- New Member Orientation has been revised and will continue to be improved in anticipation of several new member appointments within the next year or so.

Dr. Christiansen commented on the number of licensees in regards to the past ten (10) years. Based on the numbers presented today, 61.47% of licensees are new to Tennessee within the last ten (10) years. Ms. Martin explained that the total numbers of newly licensed physicians in that time frame does include all types of licensure offered and does not account for individuals who may have since expired, inactivated, or retired their license. Therefore, it is difficult to say that roughly 61% of licensed Tennessee physicians have only been practicing for the last ten (10) years in Tennessee. However, it should be noted that there have been sharper increases in the number of licenses issued within the last few years compared to past years.

VII. TMF FUNDING PRESENTATION

Dr. Michael Baron's gave a presentation to the Board. He focused on historical events which gave rise to the Physician Health Program (hereinafter "PHP"), which was first developed in the mid-seventies.

In April 2011, the FSMB examined the purpose of PHPs and how they could assist the Boards. The guide that was developed discussed how to rehabilitate a physician and the need to intervene before functional impairment resulted. Once impairment occurs it becomes a board disciplinary matter. The guide discussed helping physicians prior to impairment, early identification, and the need to be sensitive regarding disclosures regarding advocacy and impairment.

The FSMB's position states that a PHP should include wellness programs that address physician health and stress management, burnout, and early detection.

Mike Todd, Executive Director, TMF, also presented to the Board. Mr. Todd informed the Board that the average revenue of TMF is about one million and two thousand dollars with an average expense of nine hundred and ninety-six thousand dollars. Mr. Todd requested that the Board consider a way to fund TMF at a rate of about \$24.00 per licensed physician. With a current estimate of about 22,000 licensed physicians this would equate to \$528,000.00. He acknowledged that this is a significant increase in funding compared to what the board provides the TMF with currently but outlined the following goals that would be met with the additional funds:

- The elimination of participant fees currently charged to voluntary TMF participants;
- The development of new programs, including a physician wellness program.

Dr. Reagan, Chief Medical Officer, State of Tennessee Department of Health, spoke in support of the TMF and they have done in the state. Providing adequate support for the TMF is especially important in the midst of the current opioid epidemic.

Dr. Ali spoke in favor of the Board considering the adequacy of its current financial support to TMF. He felt that there should be further discussion regarding how best to move forward.

Ms. Huddleston informed the Board that the current contract expires in 2019 and this type of contract does not need to go before the fiscal committee review for approval. It may be beneficial for the Board to revise the deliverables to be congruent with all that TMF offers, which is more than what the current contract lists, and to request a monetary change based on that revision. She explained this process will require a Request for Proposal. She and Dr. Ali suggested one board member to work with the Office of General Counsel (hereinafter "OGC"), TMF, and Dr. Reagan to communicate privately on the matter in order to make recommendations and bring them back to the full board. Dr. Ali volunteered himself as an advisor and Dr. Zanolli volunteered to work with OGC, TMF and Dr. Reagan on this contract and later present to the full Board. Dr. Beckford motioned for this plan to take action and Dr. Christiansen seconded. The motion carried.

VIII. OFFICE OF INVESTIGATIONS

Ms. Nichelle Dorroh, Disciplinary Coordinator with the Office of Investigations, presented information on currently monitored practitioners and complaints. There are currently two hundred and fifty (250) pending medical doctor complaints and three (3) complaint cases for MD X-ray Operators. There are currently one hundred and seventy-seven (177) individuals being monitored.

IX. UPCOMING CONFERENCES

Dr. Ali stated that Dr. Johnson was previously approved to represent the board at the upcoming FSMB meeting. Ms. Martin stated that Dr. Saunders, herself and a member from OGC were previously approved to be in attendance to the FSMB meeting. Dr. Zanolli will be present at the FSMB meeting but not through funding of the Board. There were no other upcoming conferences that need attendance approval.

X. OFFICE OF GENERAL COUNSEL

Petition(s) for Declaratory Order

Miklos Kertai, MD – Dr. Kertai, represented by Michele Marsicano, submitted a petition for declaratory order which was disseminated to the Board for review prior to the meeting. Ms. Huddleston reminded the Board of their options in considering this order. Dr. Ali motioned to approve this order and Dr. Beckford seconded. This motion carried and this matter will be set for a contested case hearing.

Hugh Winters, MD – Dr. Blake recused herself. Ms. Huddleston reminded the board that Dr. Winters appeared before the board at the last meeting and was granted a single purpose license. The board reviewed the petition which was disseminated prior to the meeting. Dr. Beckford motioned approve the order and Dr. Zanolli seconded. This motion carried and this matter will be set for a contested case hearing.

Report from the Office of General Counsel

Ms. Huddleston passed out draft rules regarding proposed changes to the CME rule. She directed the Board to review overnight for discussion on day two. Dr. Johnson pointed out that there was an error regarding the number of months to obtain CMEs and Ms. Huddleston confirmed where it says 48 months it should read 24 months.

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

The ten year examination limit exception rules and election of officer's rules will become effective on May 2, 2017. The addiction specialists' rules will become effective on May 1, 2017. Due to the aforementioned rules soon to be effective, they will be going to Government Operations Committee review within the next month and Dr. Ali volunteered to be the board member present. He expressed his availability would not allow him to be present on a Monday or Tuesday so if the review is scheduled for one of those days that another board member would need to attend. Given that Dr. Baron was heavily involved in the addiction specialists' rule changes it was suggested that he attend the review if Dr. Ali is unavailable.

The medical spa registry rules and intractable pain repeal rules are awaiting internal review and approval.

There are no appeals currently pending. Both prior pending appeals have been resolved favorably.

As of March 1, there were one-hundred and thirty-five (135) disciplinary complaints against eighty-nine (89) respondents pending in OGC.

The board held discussions on the following pending legislation:

SB1204/HB0315: Would allow all professions licensed under Title 63 to issue limited licenses.

SB 313/HB 0387: Would allow chiropractors to perform primary care services to include differential diagnosis, the collection of bodily fluids and specimens for analysis, etc. Ms. Outhier expressed a concern that there seems to be steady encroachment into the medical profession. She believes any provider handling medical issues should have the appropriate training. Ms. Huddleston indicated she believes Tennessee Medical Association is aware of this pending legislation.

SB 850: Would develop a pathway for physician assistants to complete training, an educational program and exam, through Lincoln Memorial University, to earn the degree of Doctor of Medical Science. From there the individual would be able to practice autonomously. This bill allows the board to designate a committee to oversee that licensee population.

SB 1217: This is an administration bill dealing with issues related to the NC Dental Board case.

Ms. Huddleston informed the board that there are bills related to cannabis, the right to die and bills to repeal or phase out the privilege tax law.

SB 910: Would increase the state's burden of proof in contested licensure cases to a clear and convincing standard. Right now the standard is by preponderance of the evidence.

Agreed Order(s)

Charles Morgan, MD – Dr. Morgan was not present, nor was his counsel. Ms. Huddleston represented the state. Dr. Morgan was previously disciplined by this board and placed on probation for a period of five (5) years after he entered into a romantic relationship with a patient and prescribed controlled substances to her without maintaining a patient record. That probation was lifted in 2009. An investigation of Dr. Morgan revealed that he continued prescribing controlled substances to his girlfriend, now wife, and stepson and extended family. Dr. Morgan operated a pain clinic that was not certified, and engaged in a pattern of prescribing narcotics and other controlled substances in amounts and/or for durations that may not be medically necessary and without an appropriate examination. For the purposes of this order, Dr. Morgan did not admit to engaging in the behavior but agrees to the state's proof and therefore agrees to a permanent surrender of his license. Dr. Musil motioned to approve and Dr. Blake seconded the motion. The motion carried.

Anna Ealy, PSGP – Ms. Ealy was not present, nor was she represented by counsel. Ms. Tracy Alcock represented the state. This agreed order was approved by the Polysomnography Committee at their last meeting. Ms. Ealy, a licensed Tennessee polysomnographic technologist, remotely scored sleep studies that temporary polysomnographic trainees performed, and in so doing, provided indirect supervision. Respondent inadvertently misrepresented her role related to the supervision of the polysomnographic trainees in letters of recommendation and in supervisor notification forms when the trainees later applied for Tennessee polysomnographic technician licenses.

As of ratification of the order her license will be suspended for three (3) months and after this time period her license would immediately be placed on probation for one (1) year. She will be required to pay twenty-two (22) civil penalties at a total of eleven hundred dollars (\$1,100) and to pay the costs of this case up to four thousand dollars (\$4,000). Dr. Christiansen motioned to approve this order and Dr. Zanolli seconded this motion. Dr. Handorf opposed, Dr. Beckford recused and the motion passed.

Consent Order(s)

Roseanna Foster, AMDX – Ms. Foster was not present, nor was she represented by counsel. Mr. Peyton Smith represented the state. Ms. Foster practiced on a lapsed license for twelve (12) months. She has agreed to pay ten (10) Type C civil penalties in the amount of one hundred dollars (\$100) each for a total

of one thousand dollars (\$1,000). She has also agreed to a reprimand and to pay costs. Dr. Beckford motioned to approve the order and Dr. Ali seconded the motion. The motion passed.

Natasha Holton, AMDX – Ms. Holton was not present, nor was she represented by counsel. Mr. Smith represented the state. Ms. Holton practiced on a lapsed license for eleven (11) months. She has agreed to pay nine (9) Type C civil penalties in the amount of one hundred dollars (\$100) each for a total of nine hundred dollars (\$900). She has also agreed to a reprimand and to pay costs. Dr. Beckford motioned to approve the order and Dr. Handorf seconded the motion. The motion passed.

Catherine Hughes, AMDX – Ms. Hughes was not present, nor was she represented by counsel. Mr. Smith represented the state. Ms. Hughes practiced on a lapsed license for twelve (12) months. She has agreed to pay ten (10) Type C civil penalties in the amount of one hundred dollars (\$100) each for a total of one thousand dollars (\$1,000.00). She has also agreed to a reprimand and to pay costs. Dr. Beckford motioned to approve the order and Dr. Blake seconded the motion. The motion passed.

Jennifer Donnelly, MD – Dr. Zanolli recused himself. Dr. Donnelly was not present, nor was she represented by legal counsel. Ms. Jennifer Putnam represented the state. Dr. Donnelly admits to writing thirty (30) prescriptions to four (4) adult acquaintances that were not patients and not pursuant to an emergency situation. A full medical record to include a physical examination and medical history were not maintained. With this order Dr. Donnelly's license will be placed on probation for two (2) years, she will be required to pay thirty (30) Type C civil penalties for a total of three thousand dollars (\$3,000.00) and the costs of this case. Dr. Christiansen motioned to approve the order and Dr. Musil seconded. The motion passed with one recusal by Dr. Zanolli.

Evelyn Sevilla, MD – Dr. Christiansen and Dr. Johnson recused themselves. Dr. Sevilla was not present, nor was she represented by legal counsel. Ms. Putnam represented the state. Ms. Sevilla ordered four (4) parcels, including thirteen (13) foreign and unapproved Botox vials, to be shipped to her practice address. Before the packages could be delivered they were intercepted by the FDA. Dr. Sevilla admits she was unaware the Botox was not FDA approved and believed it to be authentic. Dr. Sevilla agreed to a reprimand of her license, to pay twenty six (26) Type B civil penalties to total two thousand six hundred dollars (\$2,600.00) and the costs of this case. Dr. Handorf motioned to approve this order and Dr. Zanolli seconded the motion. This motion carried with two recusals from Dr. Christiansen and Dr. Johnson

Myron Stokes, MD – Dr. Beckford and Dr. Handorf recused themselves. Mr. Stokes was not present, nor was he represented by legal counsel. Ms. Putnam represented the state. In September 2014, the Mississippi medical board requested that Dr. Stokes undergo a behavioral evaluation after seeing evidence of professional boundary issues involving female co-workers. Acumen Institute recommended he not perform inpatient surgery due to a mild intention tremor. In March 2015, Dr. Stokes entered a monitoring agreement with the Mississippi PHP. In January 2016, the Mississippi licensure board prohibited him from practicing medicine until he complied with all terms of his PHP agreement and is deemed able to safely practice. With this order, Dr. Stokes license will be indefinitely suspended and remain suspended until the Mississippi licensure board removes its suspension. At that time Dr. Stokes may request an order of compliance and must appear before the board to request lifting of suspension. Lastly, Dr. Stokes agrees to pay costs of this case. Dr. Christiansen motioned to approve this order and Dr. Johnson seconded the motion. The motion carried with Dr. Zanolli opposed, Dr. Ali opposed, Dr. Handorf recused and Dr. Beckford recused.

Agreed Citations (CME)

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

Gordon Meador, Jr., MD – was not present nor did a legal representative appear on his behalf. Dr. Meador has agreed to pay two hundred dollars (\$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. Handorf motioned to approve this citation and Dr. Christiansen seconded the motion. The motion carried.

Grady Bazzell, MD – was not present nor did a legal representative appear on his behalf. Dr. Bazzell has agreed to pay two hundred dollars (\$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. Beckford motioned to approve this citation and Dr. Handorf seconded the motion. The motion carried.

James Hudson, MD – was not present nor did a legal representative appear on his behalf. Dr. Hudson has agreed to pay two hundred dollars (\$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. Blake motioned to approve this citation and Dr. Beckford seconded the motion. The motion carried.

Kimberly Crenshaw, MD – was not present nor did a legal representative appear on her behalf. Dr. Crenshaw has agreed to pay two hundred dollars (\$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. Beckford motioned to approve this citation and Dr. Handorf seconded the motion. The motion carried.

Richard Peek, MD – was not present nor did a legal representative appear on his behalf. Dr. Peek has agreed to pay two hundred dollars (\$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. Beckford motioned to approve this citation and Dr. Handorf seconded the motion. The motion carried.

Stephanie Alford, MD – was not present nor did a legal representative appear on her behalf. Dr. Alford has agreed to pay two hundred dollars (\$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. Handorf motioned to approve this citation and Dr. Johnson seconded the motion. The motion carried.

Timothy J. Dambro, MD – was not present nor did a legal representative appear on his behalf. Dr. Dambro has agreed to pay two hundred dollars (\$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. Musil motioned to approve this citation and Dr. Blake seconded the motion. The motion carried.

Van Helms, MD – was not present nor did a legal representative appear on his behalf. Dr. Helms has agreed to pay two hundred dollars (\$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. Blake motioned to approve this citation and Dr. Beckford seconded the motion. The motion carried with one recusal from Dr. Handorf.

Yunna Jiang, MD – was not present nor did a legal representative appear on her behalf. Dr. Jiang has agreed to pay two hundred dollars (\$200.00) in civil penalties for failure to obtain two (2) hours of prescribing practices with instruction on the Department’s “Chronic Pain Guidelines”. The board motioned to approve this citation and it carried with one recusal from Dr. Handorf.

Dr. Beckford motioned to approve the following citations (Russell, Endsley and Cleator) and Dr. Zanolli seconded the motion. The motion carried.

Paul Russell, MD – was not present nor did a legal representative appear on his behalf. Dr. Russell has agreed to pay two hundred dollars (\$200.00) in civil penalties for failure to obtain two (2) hours of prescribing practices with instruction on the Department’s “Chronic Pain Guidelines”.

John Endsley, MD – was not present nor did a legal representative appear on his behalf. Dr. Endsley has agreed to pay two hundred dollars (\$200.00) in civil penalties for failure to obtain two (2) hours of prescribing practices with instruction on the Department’s “Chronic Pain Guidelines”.

John Cleator, MD – was not present nor did a legal representative appear on his behalf. Dr. Cleator has agreed to pay two hundred dollars (\$200.00) in civil penalties for failure to obtain two (2) hours of prescribing practices with instruction on the Department’s “Chronic Pain Guidelines”.

The Board of Medical Examiners day 1 meeting adjourned.

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners
Wednesday, March 8th, 2017**

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:48 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Subhi Ali, Board Chair.

Board members present:	Michael Zanolli, MD Subhi Ali, MD Michael Baron, MD Neal Beckford, MD Melanie Blake, MD Deborah Christiansen, MD Reeves Johnson, MD C. Allen Musil, MD Julianne Cole, Consumer Member Barbara Outhier, Consumer Member Charles Handorf, MD Jennifer Claxton, Consumer Member
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Board member(s) absent:	Dennis Higdon, MD
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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
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Moment of Silence

Dr. Ali, Board Chair paid tribute to Nina Yeiser, Consumer Member who passed away in February, 2017. He asked that a moment of silence be observed in her honor. Dr. Ali said that several of the Board members attended the service and paid their respects.

Discussion of Proposed Changes to the CME Rule

Ms. Huddleston stated that the version put before the board changes the deadline for when CEs are due. The existing rule requires that all CME be earned in the two calendar years preceding the year the licensee is required to renew his or her license. This proposal would change the deadline to the expiration date of the license.

There is a request is to amend the rule to exclude those who are not currently practicing in TN. The statute only requires that coursework for those who hold a DEA. She stated that it might be difficult to identify those who are not currently practicing in Tennessee. Further, the course is readily available online for everyone regardless of their location. Dr. Ali asked if each state has a specific requirement or if completing the TN coursework would satisfy other state requirements. Several board members stated that generally each state has a specific requirement. Dr. Christensen said that trying to police those who do/do not practice in Tennessee will be cumbersome. Additionally, just because you hold a license currently but do not practice doesn't mean that you can't practice here at any given time. There was discussion of other states' requirements. Dr. Handorf stated that he is strongly opposed to changing this requirement to exclude out-of-state practitioners. Dr. Zanolli was also opposed to changing the requirement. Dr. Ali asked for other comments. Dr. Johnson stated that he holds multiple state licenses and expressed concern that, with the implementation of allowing audited physicians an opportunity to complete the course within 30 days of the audit, many physicians may not do the required course until and unless they are audited. Dr. Ali stated that he holds multiple state licenses as well. He does not favor changing this requirement. Dr. Zanolli made a motion to accept the revised CE rule as presented. Dr. Johnson seconded the motion. The motion passed unanimously.

Agreed Citation(s)

Ms. Martin stated that these are the disciplinary orders issued by the administrative office for unlicensed practice and practice on a lapsed license:

Caitlyn Benson – Ms. Benson was not present nor was she represented by counsel. Ms. Benson is licensed by the Polysomnography Professional Standards Committee and engaged in unlicensed practice of polysomnography for four months. She is paying a civil penalty of \$400 which represents a \$100/mo penalty. Dr. Johnson made a motion to approve the agreed citation. Dr. Handorf seconded the motion. The motion was approved unanimously.

Kevin Leddy – Mr. Leddy was not present nor was he represented by counsel. Mr. Leddy is also licensed by the Polysomnography Professional Standards Committee. Mr. Leddy engaged in unlicensed practice for four months. He is paying a civil penalty of \$400 which represents a \$100/mo penalty. Dr. Musil made a motion to approve the agreed citation. Dr. Beckford seconded the motion. The motion was approved unanimously.

Amanda Nicole Sauls – Ms. Sauls was not present nor was she represented by counsel. Ms. Sauls engaged in the unlicensed practice of X-Ray for a period of two months. She is being assessed a \$200 penalty which represents a penalty of \$100 per month of unlicensed practice. Dr. Christiansen made a motion to approve the agreed citation. Dr. Zanolli seconded the motion. The motion was approved unanimously.

Michelle Trotter – Ms. Trotter was not present nor was she represented by counsel. Ms. Trotter is licensed by the Polysomnography Professional Standards Committee and engaged in practice on a lapsed license for a period of five months. The penalty for practicing on a lapsed license is \$50 per mo. She is

paying a civil penalty of \$250. Dr. Handorf made a motion to approve the agreed citation. Dr. Christensen seconded the motion. The motion was approved unanimously.

William Mixon, MD – Dr. Mixon was not present nor was he represented by counsel Dr. Mixon practiced on a lapsed license for a period of more than five months. He is being assessed a \$5,000 civil penalty which represents a \$1,000 for each month of unlicensed practice (sixty days after his expiration). Dr. Blake made a motion to approve the agreed citation. Dr. Handorf seconded the motion. Dr. Johnson recused himself. The motion was approved unanimously.

Dr. Zanolli asked if Dr. Mixon's license has been renewed and is in good standing and whether or not this will be reported to the NPDB. Ms. Martin replied that his license is current and that it will be reported to the NPDB.

Dr. Handorf asked if there is a chart of penalties for what the standard fines are for each particular infraction. Ms. Martin explained that each of the Boards has adopted a policy that addresses unlicensed practice and practice on a lapsed license. The administrative office is charged with enforcing each of these policies.

Orders of Compliance

Todd Whitaker, MD – Dr. Whitaker was disciplined in 2012 due to working while impaired. His license was placed on probation for five years. He was ordered to pay penalties and costs and maintain compliance with his TMF monitoring contract. The disciplinary coordinator has affirmed by attestation that he has complied with the terms of the order. The TMF has also confirmed their continued advocacy. Dr. Whitaker was required by the order to appear before the board and was present for the meeting. Dr. Ali asked if Dr. Whitaker had any statement regarding the experience. Dr. Whitaker had a very positive experience and is appreciative to get his life back. Dr. Zanolli asked if Dr. Whitaker was continuing with meetings. Dr. Whitaker reported that he was. Dr. Ali made a motion to approve the order of compliance. Dr. Johnson seconded the motion. The motion passed unanimously.

Mark Green, MD – Dr. Green was not present nor was he represented by counsel. He did want to appear before the board and came for the meeting yesterday; however, he was not able to return meeting due to practice obligations. Dr. Green was disciplined in 2011 for treating family members including prescribing controlled substances. His license was suspended for a period of time and then placed on probation for five years. He was required to take certain coursework and pay costs. There is a copy of an affidavit from the disciplinary coordinator affirming that he has complied with the terms of the order, confirmation of the coursework, as well as a petition to lift the probation. Dr. Handorf asked if he was required to have TMF advocacy and whether there were personal drug or alcohol abuse. There was prescribing of testosterone for personal use. Ms. Huddleston reported that he did not have an impairment issue, he was simply prescribing to family members. The prescribing of the testosterone was not believed to have warranted TMF advocacy. Dr. Beckford made a motion to approve the order of compliance. Dr. Blake seconded the motion. The motion passed unanimously.

Dominic Canonico, MD - Dr. Zanolli and Ms. Outhier recused themselves. Dr. Canonico is represented by counsel, Mr. Dan Warlick who was present at the meeting. Dr. Canonico asked his supervisee, a PA, to write prescriptions for him instead of going to his treating physician. A medical record was maintained at the clinic where the PA worked. Copies of the prescriptions were maintained in the medical record also. From 2013-2015, there were 15 prescriptions for Ritalin and 3 prescriptions for Hydrocodone. In October, 2016, the respondent voluntarily entered into a monitoring agreement with TMF and was referred to Vanderbilt Comprehensive Assessment Program to obtain an evaluation to determine his fitness to practice. Respondent completed that evaluation on December 8, 2016 and was deemed fit to

practice medicine. It was recommended that he engage in psychotherapy. The respondent is currently under a monitoring agreement with TMF and has been in compliance with that contract since he entered into it in October, 2016. The proposed discipline is a reprimand of Dr. Canonico's license, the assessment of 18 civil penalties at \$100/ea for a total of \$1,800 (18 being the number of prescriptions that he asked the PA to write) and that he also comply with all recommendations of the December, 2016 VCAP evaluation and that he comply with all recommendations underneath his TMF contract. His failure to comply with any of the recommendations would result in an automatic violation of this order. It is also stated that he would be assessed the costs for the investigation and presentation of this order not to exceed \$2,000.

Dr. Beckford asked if the respondent was previously seen by a medical professional and diagnosed with ADD and prescribed Ritalin. Ms. Putnam stated that he was seen and diagnosed prior to this occurrence. Dr. Johnson asked if this started with him self-reporting. Ms. Putnam stated that he voluntarily entered into a monitoring agreement with TMF.

Dr. Blake made a motion to approve the order. Dr. Blake seconded the motion. Ms. Outhier and Dr. Zanolli recused themselves. The motion passed unanimously.

There being no further business, the meeting adjourned at 9:26am.

Contested Case

State of Tennessee v. Erica Lunsford, MXRT

Poplar Room

Administrative Law Judge: Rachel Waterhouse

Panelists: Charles Handorf, MD; Subhi D. Ali, MD; Barbara Outhier

Counsel for State: Jennifer Putnam

Counsel for Respondent: None

The Department submitted proof showing that the Respondent was publically reprimanded by the ARRT, the national certifying body for her profession, in February 2016 due to a positive drug screen administered while Ms. Lunsford was at work. The ARRT conducted a complete investigation prior to disciplinary action. The State made multiple attempts to communicate with the Respondent and Respondent did not respond to the State's attempts. After consideration by the panel, the Respondent's Medical X-Ray License was revoked and Respondent must pay the actual and reasonable costs in connections with prosecuting this matter not to exceed \$2,000.

Contested Case

State of Tennessee v. Frederick Hodges, MD

Iris Room

Administrative Law Judge: Mary Collier

Panelists: Debbie Christiansen, MD; W. Reeves Johnson, MD; Michael Zanolli, MD

Counsel for State: Marc Guilford

Counsel for Respondent: Frank Scanlon, Esq.

Opening arguments were presented and witnesses were called. This matter was not concluded and will be continued to a later date. Judge Collier will not be available in May and Dr. Zanolli will not be available in July.