



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

**Tuesday, March 17, 2015
Wednesday, March 18, 2015**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:41 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Zanolli, Board President.

Board members present: Michael Zanolli, MD
Michael Baron, MD
Pat Eller, Consumer Member
Barbara Outhier, Consumer Member
Neal Beckford, MD
Keith Lovelady, MD
Nina Yeiser, Consumer Member
Subhi Ali, MD
Dennis Higdon, MD
Reeves Johnson, MD

Board member(s) absent: C. Allen Musil, MD

Staff present: Andrea Huddleston, Chief Deputy General Counsel
Maegan Carr Martin, Executive Director, BME
Rene Saunders, MD, Medical Consultant, BME
Stacy Tarr, Administrative Manager
Angela Lawrence, BME Administrator
Jennifer Shell, MD X-Ray Operator Administrator

I. CONSIDERATION OF APPLICATIONS

MD X-Ray Applicant Interview(s):

Stephanie Bernstorf – appeared before the Board due to her arrest in 2007 for DUI and possession. Ms. Bernstorf ultimately pled guilty to DUI. After review of the materials contained in her license

file and interviewing her, Dr. Beckford made a motion to grant an unrestricted license. Ms. Yeiser seconded the motion, which passed unanimously.

Cindy Brown – appeared before the Board to address her extended absence from practice. Ms. Brown has been working as a medical assistant since 2006 and has not operated X-Ray equipment since that time. The Board was concerned about Ms. Brown's clinical competency after such an extended absence from practice. They inquired as to whether she had made any remediation efforts. After review of the materials contained in her license file and interviewing her, Dr. Johnson made a motion to table the application to allow Ms. Brown sufficient time to explore her reentry options. Before proceeding with any remediation program, Ms. Brown should submit her plans to the Medical Consultant for approval. Dr. Zanolli made a friendly amendment that the period of time permitted be no longer than six (6) months, which was accepted. Ms. Eller seconded the motion, which passed unanimously.

Erin Weber – appeared before the Board to address her extended absence from practice. Ms. Weber has been out of practice since 2006. After review of the materials contained in her license file and interviewing her, Dr. Johnson made a motion to table the application, for no more than six (6) months to give Ms. Weber time to produce a letter of competency to the Board. Ms. Weber's evaluator should be approved by the Board's Medical Consultant, Dr. Saunders, and should base his or her assessment of Ms. Weber's clinical skills on a personal observation of Ms. Weber. Ms. Eller seconded the motion, which passed unanimously.

Thomas Phegley – appeared before the Board to address his lapsed license. Mr. Phegley allowed his license to lapse in 2003 and has been mostly performing MRIs since that time. He was last operating X-Ray equipment two (2) years and three (3) months ago and served as a clinical instructor for South College as recently as 2013. Dr. Johnson recused himself. The Board was directed to a letter written in support of Mr. Phegley and speaking to his competency. After review of the materials contained in his license file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Ms. Yeiser seconded the motion. Dr. Higdon read the rule into the record which specifies that the Board may after an interview, but is not required to, impose additional requirements on licensees who have been out of practice for two (2) or more years. Dr. Baron abstained. The motion passed.

Medical Doctor Applicant Interview(s):

Vibhay Bhatnagar, MD – appeared before the Board to address prior arrests in 2001 and 2006 for simple assault. The 2001 charge was dismissed; however he was found guilty for obstructing passage and disorderly assemblage in 2006. Dr. Bhatnagar failed to disclose his criminal history on his application. Dr. Bhatnagar's explanation to the Administrative Office regarding this oversight was that he forgot; however, he stated before the Board that he was not the individual who completed and submitted his application. After review of the materials contained in his license file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Lovelady seconded the motion. Ms. Eller abstained. The motion passed.

Amir Gholami, MD – appeared before the Board because he is a graduate of an unapproved medical school. Despite having graduated from a school which is not approved, he is board-certified and he passed all steps of the USMLE on his first attempt. After review of the materials contained in his license file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Johnson seconded the motion. Dr. Baron recused. The motion passed.

Katherine Langenberg, MD – appeared before the Board to address an extended absence from medical practice. Her application revealed that she has been in active clinical practice for a total of thirty (30) months since leaving residency. The Board inquired as to what remediation efforts, if any, Dr. Langenberg has made. Dr. Langenberg has not yet taken any action. After review of the materials contained in her license file and interviewing her, Dr. Ali made a motion to table the application for no more than six (6) months, until Dr. Langenberg can identify an appropriate reentry pathway, which will be subject to approved by the Board’s Medical Consultant. Ms. Eller seconded the motion, which passed unanimously.

Mubashar Malik, MD – appeared before the Board because he is a graduate of an unapproved medical school. Despite having graduated from a school which is not approved, he is board-certified and he passed all steps of the USMLE on his first attempt. After review of the materials contained in his license file and interviewing him, Dr. Ali made a motion to grant an unrestricted license. Dr. Beckford seconded the motion, which passed unanimously.

Mary Catherine Olmsted, MD – appeared before the Board to address her extended absence from medical practice. Dr. Olmsted left practice in November 2004 to homeschool her children. She returned to practice part-time in 2013. Dr. Olmsted has at all times been a licensee of the state of Louisiana. Additionally, since 2004, she obtained a Virginia license and completed CME. After review of the materials contained in her license file and interviewing her, Dr. Baron made a motion to grant an unrestricted license. Dr. Ali seconded the motion, which passed unanimously.

Anuradha Satyavolu, MD – appeared before the Board because she failed to achieve a passing score on all steps of the USMLE within seven (7) years of her first successful attempt as required by TENN. CODE ANN. § 63-6-207(b) and TENN. COMP. R. & REGS. 0880-02-.08(4)(b). After review of the materials contained in her license file and interviewing her, the Board explained to Dr. Satyayolu that the requirement that all steps of the USMLE be completed within seven (7) years of the applicant’s first successful step is a statutory requirement that cannot be waived. The Board permitted her to withdraw her application, which she elected to do.

Randolph Wykoff, MD – appeared before the Board because he inadvertently allowed his license to lapse in September 2013. Accordingly, Dr. Wykoff was asked to account for activities since the expiration of his medical license. Dr. Wykoff has at all times since 2013, been employed by the East Tennessee State University (ETSU) as the Dean of the School of Public Health and engaged in medicine to the same extent he was before his license expired. After review of the materials contained in his license file and interviewing him, Dr. Ali made a motion to grant an unrestricted license. Dr. Lovelady seconded the motion. Dr. Johnson, Ms. Yeiser, Ms. Outhier and Ms. Eller abstained. Dr. Baron, Dr. Higdon, Dr. Ali, Dr. Lovelady, Dr. Beckford and Dr. Zanolli voted aye. The motion passed.

II. APPROVAL OF MINUTES

Dr. Ali made a motion to approve the minutes from the regular January meeting. Dr. Higdon seconded the motion, which passed unanimously.

III. CONDUCT NEW BUSINESS

RATIFICATION OF LICENSES

Dr. Johnson made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for **Medical Doctors**. Dr. Ali seconded the motion which passed unanimously.

Dr. Ali made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for **MD X-ray Operators**. Dr. Lovelady seconded the motion which passed unanimously.

Dr. Ali made a motion to ratify and approve the new, reinstate, failed renew and voluntary retired licenses for **Genetic Counselors**. Dr. Higdon seconded the motion which passed unanimously.

Dr. Ali made a motion to ratify and approve the new, reinstate, failed renew and voluntary retired licenses for **Clinical Perfusionists**. Dr. Higdon seconded the motion which passed unanimously.

Dr. Johnson made a motion to ratify and approve the new, reinstate, failed renew and voluntary retired licenses for **Physician Assistants**. Dr. Higdon seconded the motion. Dr. Baron recused himself. The motion passed.

Report from Development Committee

Consideration of Fee Increase

Dr. Zanolli stated the Development Committee consists of himself, Dr. Ali, Dr. Beckford, Dr. Higdon and Ms. Eller. Ms. Tittle was also in attendance for the Development Committee meeting and had prepared and presented a financial report. After much discussion, there was a motion from the Development Committee to increase the Board's fees for initial licensure from \$400.00 to \$500.00 and its renewal fee from \$225 to \$275. As part of that motion, there was an additional recommendation that the Board implement a fee for license verification in the amount of \$25.00. These fees are not set and the Board has the option to change the amount up until the rulemaking Hearing. Ms. Martin stated the last fee change occurred in 2002. After discussion, the motion passed unanimously.

Examining Prescribing Education in Graduate Medical Education

Dr. Zanolli stated the Development Committee discussed those who are in an ACGME-approved residency or fellowship training program and whether the Board should require them to complete the two (2) hours of prescribing practices. The Committee has made the recommendation that those individuals who have a license and who are participants in an ACGME-approved program and who would otherwise receive CME credit for their participation, must obtain the two (2) hour CME credit in controlled substance prescribing to include instruction in the "Chronic Pain Guidelines." However, rather than promulgating a new rule, the Committee recommended that the Board and administrative office gather more information and input from the deans of Tennessee programs, who work with these individuals.

The Board debated this issue vigorously. Dr. Baron restated the Board's mission to protect, promote and improve the health and prosperity of the people of Tennessee and questioned whether the Board

has the authority to implement this requirement. Dr. Higdon stated that some of these individuals have a DEA number and are already prescribing. Dr. Ali made a motion to reach out to the Tennessee training programs to see what prescribing education is occurring. Dr. Beckford seconded the motion which passed unanimously.

Ms. Martin recommended the administrative staff along with OGC work on drafting correspondence to spark that dialogue with these programs. Ms. Martin suggested that the Commissioner's office may be of assistance as she believes they have reached out to these programs. Dr. Zanolli stated each board member most likely has a contact at a program within his or her area. He requested this be reconsidered by the Development Committee at its next meeting.

Lapsed License Policy

The Board considered its Lapsed License Policy which was amended to bring the document into greater consistency with the Committee on Physician Assistant's "Lapsed License" policy which was presented to the Board for ratification at its January meeting. Ms. Huddleston pointed out that the current policy conflicts with existing law which requires that licensees be allowed 60 days to renew with the payment of a late renewal fee. The recommendation of the Committee was to raise the penalty from \$100.00 to \$1,000.00 per month for each month of unauthorized practice.

Ms. Huddleston stated she was concerned with the increase of \$100.00 to \$1,000.00; she felt that the increase will cause violators to decline to agree to the citation and instead proceed to trial. Ms. Martin also spoke in opposition to the increase, stating that licensees who seem to be most affected are new licensees who are renewing for the first time and have not yet gotten on a two year renewal cycle and those who delegate the maintenance of their license to an administrative staff person. For the former, the increase will be burdensome and for the latter, it will fail to serve as a strong disincentive. Dr. Ali disagreed with these remarks and felt strongly that the \$1,000.00 was a reasonable amount. Dr. Ali made a motion to adopt the revised lapsed license policy. Dr. Lovelady seconded the motion. Dr. Zanolli and Ms. Eller opposed. The motion passed.

Dr. Zanolli requested the Development Committee look into the methods of notification to licensees that their license is expired or will be expired.

Dr. Zanolli stated the Development Committee also discussed the consequences (e.g. being dropped from an insurance panel) resulting to individuals who have been disciplined by the Board. There was no action on this item by the Development Committee. Ms. Huddleston reminded the Board that they have to review every case with the protection of the public in mind.

The Board recognized Dr. Dreyzehner

Dr. Dreyzehner recognized Dr. Roland Gray, Tennessee Medical Foundation, for his outstanding service to population health in Tennessee and his contribution to efforts to curb the prescription drug epidemic plaguing the state. Dr. Gray was presented with a plaque and offered an opportunity to address the Board.

Report from the Collaborative Pharmacy Practice Taskforce

Dr. Higdon stated the taskforce met on February 3, 2015 and made some progress with the help of Dr. Reagan who acted as a facilitator and had a positive impact on the meeting and its participants.

The group began defining terms, discussed the qualifications of a pharmacist who may be participating in these types of agreements, liabilities and what the limitations, if any, on the types of drugs which can be prescribed in these agreements. A revised draft rule is going to be presented at our next meeting which has been not rescheduled at this time.

Ms. Martin, Dr. Dillard, Dr. Reagan, Ms. Huddleston met recently to synthesize the suggestions and relevant points from all stakeholders and constituents so that another draft can be produced. Ms. Martin is hopeful a meeting will be scheduled in April.

Discuss Board Vacancy

Dr. Zanolli addressed the vacancy created by Dr. Lawrence's resignation. Ms. Huddleston directed the Board to TENN. CODE ANN. § 63-6-102(4)(b) which states that all vacancies occurring on the Board by reason of death or resignation shall be filled by the Board itself for the expired term. Dr. Ali questioned whether the Board should ask the Governor's office to make the appointment in keeping with precedent. Ms. Martin stated that Ms. Otto was told by the Governor's Office that they were planning to defer to the Board. Dr. Beckford stated that he believes it would be more expedient to fill the vacancy as a Board. Dr. Zanolli requested members to be on a panel to review potential candidates for the vacancy. Dr. Beckford, Dr. Ali, Dr. Johnson and Ms. Yeiser volunteered to be on the panel.

Update from Medical Consultant on PICC Line Placement by Respiratory Care Therapists

Dr. Saunders stated that she met with the Board of Respiratory Care Therapists and relayed the Board's concerns regarding the placement of PICC lines by respiratory therapists. Specifically, the Board is concerned that respiratory care therapists do not have the requisite training to perform this therapy and there is no demonstrated patient need for the service which would warrant an expansion of respiratory therapists' scope of practice. Dr. Saunders agreed to keep the Board apprised of developments as they are made available.

IV. DEPARTMENT REPORTS

Office of Investigations Report

Ms. Moran stated that 111 pain management clinics were audited in 2014. The Office of Investigations has a new report format that which will be used moving forward. Dr. Saunders will be assisting Dr. Mutter in reviewing pain management cases.

There are 265 licensees currently being monitored by the Office of Investigations. All monitoring is conducted by Ms. Dorroh.

Report from BME's Administrative Office

Ms. Martin reported on the Administrative Office's licensing activities from December 31, 2014 thru February 28, 2015. The statistics are as follows: there were 240 new applications for full medical doctor licenses, 4 for locum tenens, 9 for telemedicine, 1 for special training, 1 for single purpose, and 0 for St. Jude received. 130 new licenses were issued, 1,589 renewals (1,188 online renewals) were processed, 89 licensees failed to renew, 99 licensees retired their license, and there were 36

reinstatements. The number of active licenses as of February 28, 2015 is 20,700. The total number of active licensees as of February 28, 2015 with a Tennessee mailing address is 16,241. The total number of telemedicine licenses is 451. There have been two TSAC suspensions since the Board's last meeting, both of which were medical X-Ray operators.

OGC/Disciplinary Business

Declaratory Order(s):

Ms. Huddleston presented Dr. Krishna Reddy's Petition for Declaratory Order. Dr. Reddy is represented by Ms. Kimberly Silvas. Dr. Reddy graduated from an approved medical school and completed an orthopedics residency in India. He is currently completing an orthopedic oncology residency at Vanderbilt. Dr. Reddy has not completed an US residency as required by Board rule. Dr. Reddy has not filed an application with the Department.

Dr. Ali asked if it is within the Board's authority to ask that we request an application before such matter is taken before the Board. Ms. Silvas addressed the Board and stated that Dr. Reddy cannot apply for full licensure because he does not have the requisite residency training. Accordingly, his Petition seeks to have the Board answer the question of whether her training in India and the United Kingdom satisfy the intent and purpose of the three (3) year US residency training program requirement. Ms Silvas stated that at this time, Dr. Reddy is asking the Board to allow a contested hearing in May so Dr. Reddy can answer any questions the Board may have with respect to his training. He has received his ECFMG certification as well as satisfied the USMLE requirements.

Dr. Zanolli made a motion to deny Dr. Reddy's Petition. Dr. Ali seconded the motion. Ms. Outhier opposed. The motion passed.

Order(s) of Compliance:

John Wickman, MD, was present, and was represented by counsel, Mr. Bob Kramer. Ms. Andrea Huddleston represented the state. Dr. Wickman was disciplined related to inappropriate sexual contact with patients. He was suspended for 180 days, placed on probation for a period of five (5) years, which was effective January 26, 2010. He was required to maintain monitoring with Affiliated Monitors and pay civil penalties and costs. He is in compliance with the requirements and is requesting the Board waive the final year of his Affiliated Monitors contract. Dr. Baron made a motion to accept the order. Dr. Higdon seconded the motion. Dr. Beckford recused. Dr. Ali abstained. The motion carried.

Andrew Coleman, MD, was present, but was not represented by counsel. Ms. Andrea Huddleston represented the state. Dr. Coleman was disciplined for habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances or other drugs or stimulants in such manner as to adversely affect his ability to practice medicine. He was placed on probation for a period of five (5) years, which was effective January 2010. He was required to have ongoing monitoring with Affiliated Monitors and pay civil penalties and costs. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Beckford made a motion to accept the order. Dr. Johnson seconded the motion which passed unanimously.

John Windland, MD, was present, but was not represented by counsel. Ms. Andrea Huddleston represented the state. Dr. Windland was disciplined for inappropriate prescribing. He was placed on

probation for a period of four (4) years, effective January 11, 2011. He was required to complete certain coursework and pay civil penalties and costs. He is in compliance with the requirements of his order and is entitled to have his petition granted. Dr. Beckford made a motion to accept the order. Dr. Ali seconded the motion which passed unanimously.

Marcus Min, MD, was not present. Ms. Andrea Huddleston represented the state. Dr. Min was disciplined for inappropriate prescribing. He was placed on probation for a period of three (3) years, effective January 24, 2012. He was required to complete certain course work and pay civil penalties and costs. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Beckford made a motion to accept the order. Dr. Higdon seconded the motion which passed unanimously.

Discussion on North Carolina Dental Board Supreme Court decision

Ms. Huddleston provided an overview of a recently issued Supreme Court decision which is of interest to and may impact the Board. The North Carolina Dental Board issued forty-seven (47) cease and desist letters to non-dentists in their state for performing teeth whitening. There were no health and safety issues raised by the Board in the letters nor were they addressed in the Supreme Court opinion. Additionally, the North Carolina Dental Practice Act did not specify that teeth-whitening is the practice of dentistry. As a result, the Federal Trade Commission (FTC) filed an administrative complaint alleging anticompetitive and unfair method of competition under the Federal Trade Commission Act. An Administrative Law Judge (ALJ) denied the Board's motion to dismiss on the ground of state-action immunity. The FTC sustained that ruling, reasoning that even if the Board had acted pursuant to a clearly articulated state policy to displace competition, the Board must be actively supervised by the State to claim immunity, which it was not. After a hearing on the merits, the ALJ determined that the Board had unreasonably restrained trade in violation of antitrust law. The FTC again sustained the ALJ, and the Fourth Circuit affirmed the FTC in all respects. The case was ultimately appealed to the Supreme Court which held that when there is a controlling number of the decision makers on a state licensing board which are active participants in the occupation the Board regulates, the Board can invoke state-action immunity only if it is subject to active supervision by the state.

Dr. Zanolli asked whether, in light of the opinion, the Board needs to change any of its current procedures. Ms. Huddleston stated she wouldn't recommend any changes at this time but that the Office of General Counsel is analyzing this decision and will report back to the Board as appropriate. Ms. Jane Young was present and stated that the Department of Health will be discussing this case with other agencies who house regulatory boards and the Attorney General's office to see what institutional changes need to take place. The Board was advised to keep the Board's mission to promote and protect the public in mind when making decisions.

OGC Report

Ms. Huddleston provided the Office of General Counsel report. The one-point rule is scheduled to go before Government Operations Committee next week. The Rule has been assigned an effective date of April 26, 2015. In the Sammy Long appeal, the Board received a favorable decision.

Ms. Huddleston distributed a summary of pending and successful legislation to all Board members. She summarized many of the bills contained therein: a pending bill on dry needling, a bill related to

supervision of CRNAs, and a telemedicine bill which is pending with several amendments. Ms. Huddleston stated that should the telemedicine bill pass, it will affect the rule the Board has been working on. Ms. Huddleston directed that members contact their representatives about any bills they are concerned about. She asked whether the Board wanted to take a formal opinion on any of the bills. The Board did not express a desire to take formal action.

Adjourn 5:15

Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners Wednesday, March 18, 2015

The second day of the regular board meeting was called to order at 8:50 a.m. at the Health Related Board's Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee, by Board of Medical Examiners' Vice President, Dr. Subhi Ali. Members present included: Dr. Michael Baron, Ms. Pat Eller, Ms. Barbara Outhier, Dr. Neal Beckford, Dr. Keith Lovelady, Dr. Dennis Higdon, and Dr. Reeves Johnson.

Update from the CSMD Committee

Dr. Baron stated that the CSMD Committee met on January 26, 2015 and is set to meet again in March. The Board of Medical Examiners does contribute funding to the CSMD, as do all Boards with licensees who prescribe. Accordingly, it is important that the Board remains apprised of the CSMD Committee's activities. At the last meeting it was announced that CSMD executive director, Andy Holt, resigned and Dr. Todd Bess has taken his position. The CSMD, supported by its staff, continue to make impressive strides in curbing the prescription drug abuse and misuse epidemic. In 2014, a significant decrease in morphine equivalents was reported. The number of doctor shoppers has decreased as well. The prescribing by the state's top 50 prescribers has dropped by 12%.

Ms. Eller stated she asked the staff to prepare a map to plot out where the disciplinary actions have taken place and it is very interesting to see.

1. OGC/Disciplinary Business (cont.)

Agreed Citation(s):

Ms. Martin distributed the continuing education policy to the Board and reviewed the department's procedures in regards to licensees who are deficient in continuing education.

Robert Horn, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Horn failed to timely complete forty (40) hours of continuing education hours. As part of the Agreed Citation, Dr. Horn will pay a civil penalty of \$4,000.00.

T. George Stoev, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Horn failed to timely complete two (2) hours of continuing education hours. As part of the Agreed Citation, Dr. Stoev will pay a civil penalty of \$200.00

Shawn Jones, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Jones failed to timely complete five (5) hours of continuing education hours. As part of the Agreed Citation, Dr. Jones will pay a civil penalty of \$500.00.

Vitaly Nasarov, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Horn failed to timely complete ten (10) hours of continuing education hours. As part of the Agreed Citation, Dr. Nasarov will pay a civil penalty of \$1,000.00.

Joseph Crane, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Horn failed to timely complete fourteen and one half (14.5) hours of continuing education hours. As part of the Agreed Citation, Dr. Crane will pay a civil penalty of \$1,450.00.

Debra Lane, MD – was not present nor did a legal representative appear on her behalf. Ms. Martin presented the Agreed Citation. Dr. Lane failed to timely complete twenty-eight (28) hours of continuing education hours. As part of the Agreed Citation, Dr. Lane will pay a civil penalty of \$2,800.00.

Amy Spears Hix, MD – was not present nor did a legal representative appear on her behalf. Ms. Martin presented the Agreed Citation. Dr. Hix failed to timely complete seven (7) hours of continuing education hours. As part of the Agreed Citation, Dr. Hix will pay a civil penalty of \$700.00.

Willie Tsiu, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Tsiu failed to timely complete twenty-seven (27) hours of continuing education hours. As part of the Agreed Citation, Dr. Tsiu will pay a civil penalty of \$2,700.00.

Patricia Corry, MD – was not present nor did a legal representative appear on her behalf. Ms. Martin presented the Agreed Citation. Dr. Corry failed to timely complete sixteen and one quarter (16.25) hours of continuing education hours. As part of the Agreed Citation, Dr. Corry will pay a civil penalty of \$1,625.00.

David Chambers, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Chambers failed to timely complete fourteen and one half (14.5) hours of continuing education hours. As part of the Agreed Citation, Dr. Horn will pay a civil penalty of \$1,450.00.

Travis Pardue, MD – was not present nor did a legal representative appear on his behalf. Ms. Martin presented the Agreed Citation. Dr. Pardue failed to timely complete forty (40) hours of continuing education hours. As part of the Agreed Citation, Dr. Pardue will pay a civil penalty of \$4,000.00.

Ms. Martin stated this discipline is not reported to the National Practitioner Databank (NPDB); however, it is reported on the Department's monthly Disciplinary Action Report.

Upon review, Dr. Beckford made a motion to accept all agreed citations en masse. Dr. Lovelady seconded the motion which passed unanimously.

Consent Order(s):

Brad Blankenship, MD, was not present; however, his counsel, Mr. Bob Kramer, appeared on his behalf. Mr. Marc Guilford represented the state. Dr. Blankenship was serving as the primary care physician for a patient and her husband when he began a sexual relationship with the patient. Dr. Blankenship asked that the Board be made aware that the treatment provided to the patient never changed during the relationship. He completed an inpatient evaluation in July 2014 and ultimately underwent inpatient treatment in Pine Grove in Hattiesburg, MS, from October 2014 – January 2015. Dr. Blankenship was previously disciplined by this Board in 2009; however, he is in complete compliance with that order.

The Consent Order now presented to the Board orders revocation of Dr. Blankenship’s license plus costs not to exceed \$5,000.00. Should Dr. Blankenship ever chose to apply for a new license, in addition to all customary requirements, Dr. Blankenship must provide a copy of the behavioral evaluation from a Board-approved provider and proof of completion of any recommended inpatient treatment, he would also have to prove he completed and complied with all aftercare recommendations from the aforementioned Board-approved programs and providers and either present the Board with a recommendation that he is fit to return to practice without further monitoring or proof that he has not yet completed and complied with all aforementioned outpatient and aftercare recommendations but is under a monitoring contract with a Board-approved program monitoring continued treatment and compliance such as TMF. Dr. Blankenship must complete the “Maintaining Proper Boundaries” course which is offered at the Vanderbilt University Center for Professional Health in Nashville, Tennessee, or an equivalent course approved by the Board’s Medical Consultant. Finally Dr. Blankenship must submit proof of current clinical competency commensurate with the amount of time is away from practice as required by Board rule.

Dr. Ali stated these conditions should in no way prohibit the Board to ask for more documentation should Dr. Blankenship apply for a new license in the State of Tennessee. Dr. Baron made a motion to accept the Consent Order. Dr. Beckford seconded the motion. Dr. Lovelady recused. The motion passed.

Agreed Order(s):

Susan Hayes, MD – was not present, nor did legal representative appear on her behalf. Mr. Marc Guilford represented the state. Dr. Hayes is a board certified pediatrician who is being disciplined for improperly prescribing controlled substances. The Agreed Order presented to the Board ordered that Dr. Hayes’ medical license be reprimanded. Dr. Hayes is required to complete certain coursework plus costs not to exceed \$3,000.00, as well as civil penalties in the amount of \$50.00 for each inappropriately written prescription, which totals an additional \$3,400.00.

Upon discussion, the Board felt the discipline on Dr. Hayes’ license should be more stringent. The Agreed Order was denied. Dr. Baron and Ms. Eller recused from discussion.

Consent Order(s):

Jennifer Ray, MD – was not present, nor did a legal representative appear on her behalf. Mr. Marc Guilford represented the state. Dr. Ray is a board certified pediatrician who is being disciplined for improperly prescribing controlled substances in violation of TENN. CODE ANN. § 63-6-214(b)(1) and

(12). The Consent Order presented to the Board ordered that Dr. Ray's medical license be reprimanded. Dr. Ray is required to complete certain coursework, plus costs not to exceed \$3,000.00 as well as civil penalties in the amount of \$50.00 for each inappropriately written prescription, which totals an additional \$4,100.00.

Upon discussion, the Board felt the discipline on Dr. Ray's license should be more stringent. The Consent Order was denied.

Richard Poehlein, MD – was not present, nor did a legal representative appear on his behalf. Ms. Mary Katherine Bratton represented the state. The Department conducted an investigation that included seventeen (17) of the patient records prepared and kept by Dr. Poehlein. The treatment provided to some of the patients included prescribing buprenorphine and benzodiazepines, a combination that is contraindicated when treating addiction with opioids. Dr. Poehlein's records reflected little documentation appropriate for the prescribing of benzodiazepines. He allowed his patients to fail many urine drug screens before he determined discharge was appropriate. He failed to make personal review and/or failed to consistently certify that he had made a personal review of the historical, physical and therapeutic data in the charts of his advanced practice nurse or physician assistant extenders. Dr. Poehlein is being disciplined related to improperly prescribing controlled substances in violation of TENN. CODE ANN. § 63-6-214(b)(1) and (12). The Consent Order presented to the Board ordered that Dr. Poehlein's license be reprimanded. Dr. Poehlein is required to complete certain coursework, plus costs not to exceed \$2,000.00 as well as 17 Type C Civil Penalties totaling \$1,700.00.

Upon discussion, Dr. Baron made a motion to accept the Consent Order. Dr. Beckford seconded the motion. Ms. Eller recused. Dr. Ali and Ms. Outhier abstained. The motion passed.

Arthur Hamilton Small, MD – was present and represented by legal counsel. Mr. Chris Smith represented the State. Dr. Small provided psychiatric care and other medical services to a patient whom he prescribed high doses of controlled opioids and benzodiazepines, such as oxycodone, morphine and Xanax without proper history of the patient's pain. He failed to perform a physical; order diagnostic tests; create a treatment plan justifying the types, amounts, combinations and continued prescribing of controlled substances; and monitor the patient. It was later discovered this patient received several prescriptions from multiple providers. Mr. Smith stated this seemed to be an isolated incident. Dr. Small is being disciplined related for improperly prescribing controlled substances in violation of TENN. CODE ANN. § 63-6-214(b)(1) and (12). The Consent Order presented to the Board ordered that Dr. Small's license be reprimanded. Dr. Small is required to complete certain coursework plus costs not to exceed \$2,500.00 as well as 6 Type A Civil Penalties totaling \$6,000.00.

Upon discussion, Dr. Beckford made a motion to accept the Consent Order. Ms. Eller seconded the motion. Dr. Baron and Ms. Eller recused. The motion carried.

Board Members in Iris Room:

Dr. Baron, Dr. Higdon, Ms. Eller, Ms. Outhier and Dr. Lovelady

Melinda Waldrop, MD – was not present, nor did a legal representative appear on her behalf. Ms. Jennifer Putnam represented the state. Dr. Waldrop disclosed on her renewal application that she pled guilty in 2013 to driving under the influence, a Class A misdemeanor. She was placed on probation for 11 months and 29 days and assessed a \$350.00 fine. The Consent Order presented to the Board

ordered that Dr. Waldrop's license be reprimanded. Dr. Waldrop is required to pay one Type A civil penalty in the amount of \$1,000.00.

Upon discussion, Ms. Eller made a motion to accept the Consent Order. Ms. Outhier seconded the motion which passed unanimously.

Linda Foster, MD – was not present, nor did a legal representative appear on her behalf. Ms. Jennifer Putnam represented the state. Dr. Foster prescribed Vicodin to six (6) family members and Adderall to her son in 2012 not pursuant to an emergency. Dr. Foster also self-prescribed testosterone in 2013. She has not self-prescribed since and now receives medical care from a practitioner. These acts are in violation of TENN. CODE ANN. § 63-6-214 (b)(12). The Consent Order presented to the Board orders that Dr. Foster's license be put on probation for five (5) years. Dr. Foster is required to complete certain coursework and pay costs of \$1,000.00. Upon five (5) years of probation, Dr. Foster can request an Order of Compliance to have the probation lifted or extended to include additional conditions at the discretion of the Board.

Upon discussion, Ms. Outhier made a motion to accept the Consent Order. Dr. Lovelady seconded the motion. Ms. Eller abstained. The motion passed.

Linda Moor, MD – was not present, nor did a legal representative appear on her behalf. Ms. Jennifer Putnam represented the state. In 2011, Dr. Moor's nursing staff performed hormone replacement while she was not in the office and also called in progesterone refills without her approval. Dr. Moor also treated a patient without maintaining a medical record for that patient. Dr. Moor is in violation of TENN. COMP. R. AND REGS. 0880-06-.02 and 0880-02-.15 (4)(a). The Consent Order presented to the Board ordered Dr. Moor's license to be placed on probation for two (2) years. Dr. Moor is required to complete certain course work and will be monitored through Affiliated Monitors, Inc., for a period of two (2) years during which time the practice monitor will review 10% of all records and send quarterly reports to the Medical Consultant. Upon two (2) years of probation, Dr. Moor can Petition for an Order of Compliance to have the probation lifted.

Upon discussion, Dr. Lovelady made a motion to accept the Consent Order. Ms. Outhier seconded the motion. Dr. Baron and Ms. Eller recused. The motion passed.

Edgar Alan Ongtengco, MD – was not present, nor did a legal representative appear on his behalf. Mr. Chris Smith represented the state. Dr. Ongtengco operates as a physician for a Tennessee Suboxone Clinic in Johnson City. Dr. Ongtengco routinely prescribes high doses of benzodiazepines, primarily Xanax, to patients on suboxone treatment. Dr. Ongtengco did not fully document histories, physicals, diagnoses, and treatment plans to justify the chronic prescribing of suboxone with benzodiazepines. Dr. Ongtengco is in violation of TENN. CODE ANN. §63-6-214 (b)(1)(4)(12) and TENN. COMP. R. AND REGS 0880-02-14 (6)(e)(3). The Consent Order presented to the Board ordered Dr. Ongtengco's license be reprimanded. Dr. Ongtengco must complete certain course work plus pay costs not to exceed \$5,000.00.

Upon discussion, Dr. Baron made a motion to accept the Consent Order. Ms. Eller seconded the motion. Dr. Higdon Opposed. Ms. Outhier abstained. The motion passed.

Agreed Order(s):

Robert Gaston Jr., MD – was not present, nor did a legal representative appear on his behalf. Mr. Chris Smith represented the state. A review of nine (9) patient records revealed that Dr. Gaston prescribed opioids and benzodiazepines for six (6) out of nine (9) patients and inadequately documented the rationale for prescribing narcotics, failed to document a meaningful treatment plan, and failed to document the patients' responses to long term continued prescriptions of narcotics. Dr. Gaston no longer prescribes opioids (or other narcotics) or benzodiazepines for chronic conditions. He limits his prescribing of the substances to acute conditions, inpatient and outpatient, and only as a bridge until care can be provided by another healthcare provider. Dr. Gaston has successfully completed the Vanderbilt University's School of Medicine's three-day "Prescribing Controlled Drugs" course. Dr. Gaston violated TENN. COMP. R. AND REGS. 0880-2-.14(7)(a). The Agreed Order presented to the Board ordered Dr. Gaston's license be reprimanded. Additionally, Dr. Gaston must complete certain coursework pre-approved by the Medical Consultant and pay costs not to exceed \$6,000.00.

Upon discussion, Dr. Baron made a motion to accept the Consent Order. Ms. Outhier seconded the motion. Ms. Eller abstained. The motion passed.

Robert Alan Coles Jr., MD – was not present, nor did legal representative appear on his behalf. Mr. Chris Smith represented the state. From February 2007 until 2014, Dr. Coles wrote fraudulent controlled substance prescriptions, primarily Adderall, for his wife and her family members. Some of the prescriptions written, primarily Adderall, were for Dr. Coles' personal use. Dr. Coles was under contract with the Tennessee Medical Foundation from 1990-2005 for self-prescribing pain medication; however, he is not currently under contract. Dr. Coles acted as his wife's doctor since approximately 2007 and prescribed controlled substances that were intended for his wife and his personal use.

Between April 2010 and March 2014, Dr. Coles prescribed controlled substances to patients in Tennessee under the direction of Central Medical Consultants (CMC), a Texas-based business owned and operated by layperson, Jeff Hall, who found patients via the internet, took their information and referred patients to Dr. Coles for an initial visit. Mr. Hall, who has no medical education, checked on the patients' progress, inquired about their medications, and electronically forwarded the information to Dr. Coles. Dr. Coles engaged in a pattern of writing refills of controlled substances for the CMC patients without seeing them in person or communicating directly with them. Dr. Coles allowed Mr. Hall to access the Tennessee Controlled Substance Monitoring Database (CSMD) using Dr. Coles' log in information. Mr. Hall has never been authorized by the State of Tennessee to access the CSMD as a healthcare provider. Dr. Coles pre-signed controlled substance prescriptions for CMC patients he had not seen and mailed said prescriptions to Mr. Hall, who then mailed them to Tennessee patients. Eventually Dr. Coles provided Mr. Hall with a stamp of his signature so that Mr. Hall could write and sign prescriptions.

Dr. Coles' Georgia license expired while under an investigation for operating an unlicensed pain clinic and inappropriately prescribing in Georgia. Dr. Coles surrendered his DEA controlled substance prescribing privileges in Georgia in March 2014 and later surrendered his Tennessee DEA registration number. Dr. Coles violated TENN. CODE ANN. § 63-6-101 and the law governing Pain Management Clinics for which disciplinary action by the Board is authorized. The Agreed Order presented to the Board ordered Dr. Coles' license be voluntarily surrendered. Dr. Coles will pay fees not to exceed \$25,000.00 and will be assessed a civil penalty of \$31,000.00 representing one Type A \$1,000.00 civil penalty for each of the 31 patients identified.

After discussion, Dr. Baron made a motion to accept the Agreed Order. Dr. Lovelady seconded. The motion passed.

Consent Order:

Ronald Hall, MD – was not present nor did a legal representative appear on his behalf. Mr. Keith Hodge represented the state. Around March 2013 the Continuing Education Unit (“Unit”) conducted an audit of Dr. Hall’s continuing education hours. Dr. Hall failed to provide proof of compliance. On April 2013, the Unit notified Dr. Hall of his apparent deficiency and requested documentation showing completion of forty (40) hours to be sent to the Unit within ten (10) days of receipt. In June 2013, the Department sent a second notice requesting the same information. In August 2013, an Agreed Citation was sent to Dr. Hall in which the Department received USPS certified mail receipt indicating the Agreed Citation had been delivered and signed for. To date, Dr. Hall has not agreed to the terms of the Agreed Citation nor provided documentation to the Unit showing he has obtained the required continuing education hours. Dr. Hall violated TENN. COMP RULES AND REGS. 0880-02-.19 (1)(a) regarding continuing education medical courses. The Consent Order presented to the Board ordered Dr. Hall to make up the forty (40) continuing medical education hours plus an additional ten (10) hours within 180 days of this signed order. Dr. Hall is also assessed to pay forty (40) Type C civil penalties in the amount of \$100.00 for each hour Dr. Hall was found deficient, for a total of \$4,000.00.

Upon discussion, Ms. Eller made a motion to accept the Consent Order. Ms. Outhier seconded the motion. The motion passed.

Agreed Order:

Gregory Laurence, MD – was not present nor did a legal representative appear on his behalf. Ms. Francine Baca-Chavez represented the state. Between June 2002 and 2007, Dr. Laurence used services associated with a group known as Financial Fortress Associates, to disguise his true income from the Internal Revenue Service and to support the false business and personal tax returns he filed during the relevant period. In February 2014, Dr. Laurence pled guilty to a violation of 26 U.S.C. § 7212(a), “Corruptly Endeavoring to Impede the Due Administration of the Internal Revenue Laws,” and 18 U.S.C. § 2, “Aiding and Abetting as charged in Count 5 of the Indictment.” In September 2014, Dr. Laurence was sentenced to probation for a period of five (5) years. As a special condition of probation, Dr. Laurence was placed on monitoring for a period of six (6) months commencing on October 4, 2014. Dr. Laurence was also ordered to pay \$180,850.93 in restitution and \$100.00 assessment.

The Agreed Order before the Board ordered that Dr. Laurence’s license be put on probation for a period of five (5) years. To have his probation lifted, Dr. Laurence must first petition for an Order of Compliance and personally appear before the Board. Dr. Laurence is also ordered to complete twenty (20) hours of professional ethics pre-approved by the Board’s consultant. Dr. Laurence is assessed five (5) Type A civil penalties, for a total of \$5,000.00, representing each year of filing false business and personal tax returns, plus costs not to exceed \$1,000.00. Upon discussion, Dr. Lovelady made a motion to accept the Agreed Order. Dr. Baron seconded the motion. Ms. Outhier abstained. Ms. Eller recused. The motion passed.

Dr. Gursheel Dhillon requested to speak to the Board. The Board declined hearing from Dr. Dillon who was not on the agenda.

Panel Adjourned 11:28

Contested Case(s) Poplar Room

Panelists: Dr. Beckford, Dr. Ali, Dr. Johnson

Judge: J. Richard Collier

Hearing for Dr. Abdullah Mohamed

Attorney for the State: Mr. Marc Guilford

Dr. Abdullah Mohamed was not present nor did a legal representative appear on his behalf. Mr. Marc Guilford represented the state. Mr. Guilford presented an affidavit of notice of charges that was filed in February 2015 and sent to the address the State has on file for Dr. Mohamed. Mr. Guilford stated he also tried to reach Dr. Mohamed at the e-mail address the State has on file but did not receive a response. The State never received a change of address from Dr. Mohamed. Mr. Marc Guilford stated the state moves to proceed in default.

Dr. Beckford made a motion to proceed in default. Dr. Johnson seconded the motion. A voice vote was conducted. The motion passed unanimously.

Mr. Marc Guilford began with opening statements stating there is no law in Tennessee that prohibits a Mental Health Professional or any physician from having sexual contact with a patient; however in Michigan it is considered criminal sexual conduct. Pursuant to Michigan law, the potential punishment for committing that crime is up to two (2) years in jail and a fine of up to \$500.00. Dr. Mohamed was convicted of three counts of Criminal Sexual Conduct – Fourth Degree (Mental Health Professional). The conviction came on March 21, 2013. Dr. Mohamed was sentenced to 365 days in jail and sentenced to 5 years of probation. In addition, he was required to register as a sex offender in Michigan and he is prohibited to practicing medicine. In May 2013 the Michigan Board summarily suspended Dr. Mohamed's license. In September 2013 the Michigan Board of Medicine ratified a consent order dissolving the summary suspension and ordered Dr. Mohamed's license be suspended for a period of at least three (3) years.

Dr. Mohamed failed to report his convictions and discipline which he is required to do by law. Dr. Mohamed's license expired December 31, 2013. Mr. Guilford stated that the State now seeks to revoke Dr. Mohamed's license. The State is not seeking civil penalties or court costs as Dr. Mohamed has filed bankruptcy in the State of Michigan.

After the state presented all evidence, the Board deliberated. Dr. Beckford made a motion to accept the Findings of Fact 1-6 in the proposed final order without amendments. Dr. Johnson seconded the motion. A voice vote was conducted. The motion passed unanimously.

Dr. Johnson made a motion to accept the Conclusions of Law 7-10 without amendments. Dr. Beckford seconded the motion. A voice vote was conducted. The motion passed unanimously.

Dr. Johnson requested the record reflect there were efforts made to collect fees; however, the state is choosing not to access any penalty fees.

Dr. Beckford made a motion to accept the Policy Statement, with an amendment to strike the word “felony” and replace it with “misdemeanor.” Dr. Johnson seconded the motion. A voice vote was conducted. The motion passed unanimously. Dr. Mohamed’s license was revoked.

Having adopted all provisions of the proposed final order, the panel adjourned.

Panel Adjourned 11:33