



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

**Tuesday, May 23, 2017
Wednesday, May 24 2017**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:36 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
Charles Handorf, MD
Neal Beckford, MD
Melanie Blake, MD
Deborah Christiansen, MD
Reeves Johnson, MD
Julianne Cole, Consumer Member
Barbara Outhier, Consumer Member
Jennifer Claxton, Consumer Member

Board member(s) absent: None

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

I. CONSIDERATION OF APPLICATIONS

Medical Doctor Applicant Interview(s):

Joseph Bowers, MD – appeared before the board without legal representation. Dr. Bowers' license was suspended by the Board on April 14, 2015 for engaging in the practice of medicine when mentally or physically unable to safely to do so. Dr. Bowers states that his last clinical practice was on April 14, 2015. He wishes to reinstate his license to a suspended status and has petitioned for an order of compliance which was also before the Board. Dr. Michael Baron, Medical Director, Tennessee Medical Foundation

(hereinafter “TMF”), attested to Dr. Bowers’ compliance with his TMF contract signed in October 2016. Dr. Baron also referred the Board to specific relevant recommendations from Dr. Bowers’ Florida evaluation. Dr. Christiansen motioned to approve Dr. Bowers’ reinstatement of licensure to suspended status and Dr. Zanolli seconded the motion. The motion carried.

Petition for Order of Compliance:

Joseph Bowers, MD – the Board considered Dr. Bowers’ Petition for Order of Compliance and all supporting documents. Ms. Huddleston stated the Office of General Counsel’s position that the Board had been presented with a lack of sufficient evidence that Dr. Bowers is cognitively ready to resume the practice of medicine. Specifically, it is not clear that his recent evaluation from the University of Florida was approved by TMF and that evaluation does not speak to his clinical capabilities. Dr. Bowers was encouraged to complete a CPEP evaluation and to submit the results with his next petition for compliance. Dr. Zanolli motioned to deny the order of compliance for the reasons stated above and Dr. Christiansen seconded the motion. The motion carried.

Medical Doctor Applicant Interview(s) continued:

John Collins, MD – appeared before the Board to discuss his current participation with the Alabama Physician Health Program (hereinafter “PHP”). Dr. Baron spoke on Dr. Collins’ behalf and confirmed his successful participation in the Alabama PHP. Dr. Collins stated that he doesn’t have any current plans to relocate to Tennessee permanently. The Board agreed to allow Dr. Collins to continue with Alabama as his primary state of monitoring; however, he must agree to enter into a secondary monitoring agreement with the TMF. Dr. Christiansen motioned to approve unrestricted licensure contingent on Dr. Collins’ compliance with the Alabama PHP and secondary monitoring by TMF. Dr. Beckford seconded the motion, which passed carried. Dr. Collins’ Tennessee license will not be issued unless and until he signs a monitoring contract with the TMF.

MD X-Ray Operator Applicant(s)

Pamela Hulsey, AMDX – was asked to appear before the Board because she has been out of clinical practice for thirteen (13) years. She stated that during her period of clinical inactivity she completed continuing education courses regularly and now has a potential employment opportunity in a physician’s office that would offer her training/shadowing time. The Board discussed how many hours and/or x-rays it would take an X-Ray operator to appropriately remediate given the length of time that Ms. Hulsey has spent out of practice. Ms. Anne Watson, with Radiologic Education Seminars (hereinafter “RES”), briefly spoke on the matter and confirmed that a lot of x-rays can be completed within thirty (30) hours of training, certainly sufficient to constitute retraining.

Dr. Johnson made a motion to table Ms. Hulsey’s application for a period of up to six (6) months to allow her to work with the medical consultant, Dr. Rene Saunders, to develop a reentry plan. Dr. Blake seconded the motion. The motion was then amended by Dr. Neal Beckford to add that the reentry plan could be approved by the medical consultant without further Board involvement. Dr. Subhi Ali seconded the amended motion. The amended motion carried with one abstention.

Medical Doctor Applicant Interview(s) continued:

Kimberly Freeman, MD – was asked to appear before the Board because she has been out of clinical practice for fifteen (15) years. Dr. Freeman has been participating in an internal medicine residency program for the past seventeen (17) months. The Board commended Dr. Freeman for seeking out,

obtaining, and completing a residency program and remediating appropriately. Dr. Johnson motioned to approve full, unrestricted licensure and Dr. Blake seconded the motion. The motion carried.

Yasser Khorchid, MD – appeared before the Board pursuant to his own request. The Board’s administrative staff was unable to approve his application for licensure because he has not completed a three year ACGME-approved residency nor is he board certified. Dr. Khorchid explained that he has completed a one (1) year internal medicine internship and two (2) years and ten (10) months of a three (3) year neurology residency. Board Rule 0880-02-.04(5), requires all international medical graduate to complete a three (3) year residency training program in one discipline. Dr. Khorchid is seeking a license so that he may begin his fellowship on July 1st. Dr. Zanolli made a motion to approve an unrestricted license contingent upon verification from his program director that he has completed the program. If Dr. Khorchid is able to obtain this verification, he will not need to reappear before the Board. Dr. Handorf seconded the motion which passed.

Ellen Ovson, MD – appeared before the Board to discuss her current participation with the Alabama Physician Health Program (hereinafter “PHP”). Dr. Ovson reports that she is required by her insurance carrier to maintain lifetime participation with her PHP. Dr. Ovson stated that in the early 2000s, the major malpractice carrier in Alabama declined to insure physicians in recovery. The medical director of the PHP at the time negotiated coverage for these physicians by stipulating that they would all agree to a senior monitoring contract. She was disciplined by the Alabama Medical Board in 2000, but has been in recovery for over nineteen (19) years. Dr. Ovson stated that she has never relapsed, nor had a positive urine drug screen. She further explained that long ago the major malpractice insurer in Alabama did not want to cover recovering physicians. Dr. Baron spoke on Dr. Ovson’s behalf and referenced her role in the recovery community. The Board considered the length of Dr. Ovson’s sobriety and compliance with the Alabama PHP monitoring program. Dr. Johnson motioned to approve full, unrestricted licensure and Dr. Christiansen seconded the motion. The motion carried.

Jignesh Shah, MD – appeared before the Board because he is an international medical graduate that has not completed a three-year U.S. residency and is not board certified as required by Rule 0880-02-.04(5). Dr. Shah informed the Board that the American Board of Pediatrics offers a pathway to certification for international medical graduates who have completed a three-year foreign residency training and a four-year U.S. fellowship. According to Dr. Shah, eligible physicians may use this fellowship training as an equivalent to the required four years of residency otherwise required to become board-eligible. Dr. Shah stated he has completed three years and ten months of this four year commitment and will become board-eligible in Pediatric Radiology on August 1, 2017. Dr. Shah intends to take the ABP exam in October 2017. Dr. Beckford made a motion to issue Dr. Shah a one (1) year, non-renewable temporary license. During the next year, Dr. Shah should complete the ABP examination. Once he is board-certified, he should qualify for licensure and will be eligible to upgrade his temporary license to a full and unrestricted license. Dr. Johnson seconded the motion and the motion carried.

William Sullivan, MD – was asked to appear before the Board because he is a current participant in the TMF monitoring program and the Vanderbilt Employee Assistance Program (“Vanderbilt EAP” hereinafter). Dr. Sullivan addressed the Board and explained that his Vanderbilt EAP contract only applies at Vanderbilt, not other work places. The contract prohibits him from prescribing and ordering controlled substances for one year. He has complied with this requirement and it is currently under consideration to be removed from his Vanderbilt EAP contract. Dr. Sullivan stated that as of July 2018 he will be a chief resident in the Vanderbilt Internal Medicine program and has been offered a faculty position to begin in October of 2017. Dr. Sullivan said that he self-reported in December of 2015 and prior to self-reporting had no disciplinary or investigative issues in his academic record. Dr. Zanolli motioned to grant an unrestricted license and Dr. Johnson seconded the motion. Dr. Baron spoke on Dr.

Sullivan's behalf, confirming his full compliance with his TMF and Vanderbilt EAP contracts. The motion was restated, to approve an unrestricted license, and the motion carried.

II. REPORT FROM THE OFFICE OF INVESTIGATIONS

Ms. Antoinette Welch, JD, Director of the Office of Investigations, presented to the Board. She reported there have been three-hundred and sixty-three (363) complaints against medical doctors since January 1, 2017, fifty-eight (58) complaints came in April, forty-two (42) complaints came in May and there are two-hundred and thirty-seven (237) open cases against medical doctors. The most common complaint against medical doctors is malpractice/negligence. There have been thirteen (13) complaints against medical x-ray operators since January 1, 2017, two (2) complaints came in April, and zero (0) complaints came in May. There are currently six (6) open complaints against medical X-Ray operators.

III. APPROVAL OF MINUTES

Minutes from the March Board meeting were circulated to members in advance of the meeting. Dr. Johnson moved to approve the minutes and Dr. Zanolli seconded the motion. Dr. Zanolli requested that future minutes not identify which board member(s) opposed a motion. The motion carried.

IV. 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:

1. **Policy Review – “Prescribing for Oneself and One’s Family”:**

Ms. Huddleston passed out a revised draft policy for the Board members to review. In the draft policy the following changes and additions had been made:

- i. Included the definition of immediate family, matching the Ohio Medical Board's definition
- ii. Simplified self-prescribing by allowing a physician to treat oneself in an emergency situation
- iii. Used the language prescribed, dispensed, and administered to highlight their differences
- iv. Prohibits prescribing scheduled II's, III's and IV's
- v. Added the language “self-limited” to specify that a minor illness is not an ongoing or chronic situation
- vi. Records have been listed as “will be kept” without a distinction to whether the physician administered, prescribed, etc.

Dr. Blake requested an amendment to the draft policy to move the requirement of records so that it applies to prescribing for one-self and one's immediate family. With a motion to approve the revised draft policy coming from the Development Committee, the motion passed with the one amendment.

2. **Continue strategic planning discussion:**

The Development Committee discussed having a couple of screening panels comprised of non-board members. Board staff would identify panelists from a pool of prior board members in order to ensure

continuity and knowledge regarding how the process works. The Board has used panels made up of non-board members in the past, but not in a while. This would offer flexibility for the Office of General Counsel (hereinafter “OGC”). Ms. Huddleston informed the Board that there are a couple of screening panels coming up that will be lengthy and could take one (1) full day. The Board approved this proposal which was recommended by the Development Committee.

3. Application Review Committee:

The Development Committee considered having a committee of physician Board members to review applications prior to the applicant being brought before the full Board. Ms. Martin noted that this proposal was not being suggested because there is a concern with the current process but rather as a possible way to free up time during the Board meetings. Pursuant to this proposal, the full board would be ratifying a recommendation made from the application review committee (ARC). Ms. Martin also suggested that referring some matters might minimize the disclosure of sensitive health information.

Dr. Zanolli commented that the process has vastly improved with a significant decrease in the number of applicant interviews each meeting. He pointed out that Dr. Saunders can already contact each Board member individually if she needs any input regarding their area of medical expertise and that he finds value in the full Board interviewing the applicants Dr. Saunders selects for an interview. Dr. Saunders and Ms. Martin emphasized that they do not have a preference as to whether this committee is formed. Ms. Martin added that this idea was being presented as one possible way to meet one of the Board’s goals in having maximum efficiency at each meeting. No action was taken. The discussion ended without action. A board member can attend the pre-board meeting during which applicants are discussed.

Dr. Ali briefly recognized Ms. Outhier for her dedication and contribution with the Board and noted that this is her last meeting.

The Board recessed for lunch and the Board reconvened.

V. RECOGNITION BY THE BOARD

Dr. Ali presented a plaque to Dr. Michael Baron, on behalf of the full Board and staff, for his exemplary contributions and service to the Board and citizens of Tennessee for seven years.

Dr. Ali presented a plaque to Dr. Dennis Higdon, on behalf of the full Board and staff, for his exemplary contributions and service to the Board and citizens of Tennessee for ten years.

Dr. Ali presented a plaque to Dr. Michael Zanolli, on behalf of the full Board and staff, for his exemplary contributions and service to the Board and citizens of Tennessee for thirteen years.

REPORT FROM THE DEVELOPMENT COMMITTEE (CONTINUED)

4. Form a committee to review outdated policies:

One of the strategic goals for the Board is to periodically and reliably review all of the Board’s policies and to make revisions as needed. The Development Committee requested the Board’s input regarding whether these policies should be reviewed by the Development Committee or if subcommittees or taskforces, should be created comprised of Board members who hold special interest in a particular policy. The Development Committee recommended that policies be reviewed in order from oldest to

newest. It was decided that the Development Committee should review each policy and either 1) take on revisions itself, or bring the policy to the Board to appoint a taskforce to tackle a specific topic/policy.

5. Policy on Committees:

The Development Committee considered a draft policy that outlines the Development Committee and other special subcommittees or taskforces approved by the Board. The revised draft was not available for the Board to review and Dr. Zanolli suggested a few edits for Dr. Johnson, as Chair of the Development Committee, to review. This policy will be revised and reviewed by the Board at a later date.

With Ms. Outhier's appointment ending, Dr. Ali appointed Ms. Jennifer Claxton to the Development Committee and she accepted.

VI. CONDUCT NEW BUSINESS

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

VII. LEGISLATIVE UPDATE

Jeremy Davis, Assistant Commissioner, Legislative Affairs, provided an update on pending legislation:

1. Public Chapter 138 – authorizes a physician to provide peripartum analgesia and peripartum care to a minor who is at least 14 years of age without the knowledge or consent of a parent, effective July 1, 2017.
2. Public Chapter 353 – would prohibit abortion past the 20th week of gestational age unless the fetus was not viable, would require testing for viability prior to abortion if the woman is at least 20 weeks pregnant, would establish a reputable assumption that a child at 24 weeks is viable and sets forth requirements that must be met before performing an abortion after 20 weeks, effective July 1, 2017.
3. Senate Bill 298 – this maintenance of certification bill prohibits the Board of Medical Examiners and the Board of Osteopathic Examination from issuing adverse actions against a physician on the basis of the physician's failure to maintain specialty board certification or maintenance of licensure under a framework established by the FSMB. This bill also creates a taskforce to study issues created by the maintenance of certification process for physicians in Tennessee. The members of this taskforce will be appointed by the Speakers of the House and the Senate.
4. Public Chapter 329 – the "Visiting Sports Team Act" would allow a physician that is licensed in another state to come and practice in Tennessee without a Tennessee license. So long as, the physician limits their care to team members and coaching staff at a specific sporting event or limiting their care to provide services to athletes and coaching staff at a specified event or a training center. The licensure exemption may not exceed ten (10) days in duration unless specifically granted by the Board of Medical Examiners or the Board of Osteopathic Examination and the physician cannot receive exemption for more than thirty (30) days in one calendar year. The visiting physician cannot prescribe, dispense, or administer controlled substances to an athlete or coaching staff under the age of eighteen (18) and any dispensed or

administered controlled substances must be reported to their home state prescription monitoring program.

5. Public chapter 112 – would require the creation of non-residential buprenorphine guidelines by the Department of Mental Health and Substance Abuse Services in consultation with the Department of Health. After reviewing the guidelines, it would require each prescribing Board to make the guidelines available on their website.
6. Senate Bill 789 – would provide for registration of “registered surgical assistants” under the Board of Medical Examiners. This would not prohibit anyone from performing such duties they may already have but would prohibit individuals from referring to themselves as a “registered surgical assistant” unless they register with the Board.
7. Senate Bill 1170 – would create a statewide palliative and quality of care taskforce, effective May 18, 2017.
8. Public Chapter 266 – permits Nurse Practitioners, Nurse Midwives and Physician Assistants whom have a supervising physician, to treat minors for Sexually Transmitted Diseases without parental consent, effective July 1, 2017.
9. Public Chapter 334 – modifies the terminology, not the relationship, in describing the relationship between an advanced practiced registered nurse and a physician, to “supervise/supervision/supervisory” to “collaborate/collaboration/collaborative”.
10. Senate Bill 639 – would allow health care providers to satisfy one (1) hour of continuing medical education credit hours through one (1) hour of voluntary provisions healthcare services act. The maximum amount of credit a provider can get out of this is 8 CMEs or 20% of the annual required continuing medical education hours (the lesser of those two); effective May 12, 2017.
11. Senate Bill 806 – allows the Department of Health to designate certain non-governmental entities to establish and operate syringe and needle exchange programs within the state of Tennessee; effective May 18, 2017.
12. Senate Bill 1041 – would require the Department of Health to identify high risk prescribers based on clinical outcomes, including patient overdose information. If a prescriber is identified as a high risk prescriber then notification would go to the prescribers licensing board. From there, the licensing board would notify the prescribing, and if applicable the supervising physician. The high risk prescriber would have requirements to meet, such as participate in continuing education about opioid addiction, make opioid addiction literature available in their waiting room, and obtain written consent for certain long term opioid patients to offer on-going treatment.
13. Public Chapter 215 – would require any state governmental entity that establishes or adopts guides to practice to do so through rules rather than policies. Any changes to the guides to practice shall be made through rule promulgation rather than through policy. Guides to practice include codes of ethics and other quality standards, and do not include tests, examinations, building codes, safety codes or drug standards.

14. Public Chapter 240 – as introduced authorizes entities that regulate health professionals to issue limited licenses; makes various changes related to reporting of disciplinary matters to licensure entities. This will make examination questions, answer sheets, score keys and other examination data confidential. It would allow the issuance of limited licenses to applicants for all of Health Related Boards. The limited licenses may be of restricted scope, restricted duration and have additional conditions placed upon them. It would clarify that documents prepared by or on the behalf of the Department in regards to Investigations are confidential until there are formal disciplinary charges are filed against the provider. It eliminates the locality rule. It requires health care facility officials to report to the respective licensing board within sixty (60) days any disciplinary action they take against an employee for matters related to ethics, incompetence, negligence, moral turpitude, or substance abuse. This became effective May 2, 2017.

15. Senate Bill 1309 – created a new violation of any health care practitioners’ practice act for a practitioner who refuses to submit to or tests positive for any drug, the practitioner does not have a lawful prescription for or a valid medical reason for using. It is the duty of the practitioner’s employer to report any violation to the Department of Health. If there is a refusal or positive test the practitioner has three (3) business days to produce the valid prescription or voluntarily report to a board approved peer assistance program. So long as the practitioner is in compliance with the peer assistance program the board cannot take action for solely failing a drug screening. Also, the Department of Health is no longer required to seek prior approval from the Attorney General’s office for any emergency action. This becomes effective July 1, 2017.

16. Public Chapter 230 – as introduced authorizes commissioners and chief executive officers of administrative departments under which regulatory boards operate to review and either approve or veto rules that may constitute unreasonable restraints of trade. This became effective April 24, 2017.

17. Senate Bill 595 – as introduced enacts the “Interstate Medical Licensure Compact”, effective January 1, 2019. After some discussion, Jeremy stated it could be researched to confirm whether or not there is a statute prohibiting the sharing of the FBI criminal background check results. Dr. Zanolli suggested there have been discussions at the Commission level regarding sharing the information by the state of principle licensure, but then deletion rather than retention of the background check by the state of principle licensure.

VIII. PRESENTATION FROM THE DIRECTOR OF SPECIAL PROJECTS, DR. MITCHELL MUTTER

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

- Projected HIV/Hepatitis C outbreak has been modeled in many small Tennessee counties
- 44% of all overdose deaths in 2015 had no data keyed in the CSMD in the preceding 60 days
 - Chronic Pain Guidelines Core Committee met on March 31, 2017 and decided to schedule Gabapentin as a Schedule V drug
 - Mobile pharmaceutical plants concern: fentanyl is currently on the streets in disguise as Xanax and Percocet

IX. CONDUCT NEW BUSINESS (CONTINUED)

TMF funding update – Dr. Zanolli reported that the workgroup met in person on April 6th and by phone on May 4th and their discussions yielded the following action items and recommendations:

- The internal group has requested information from the TMF regarding its current processes and capacity. Once this information has been provided, the group will have a better idea of whether amendments to the current contract are appropriate and needed. Some changes the group would like to see
 1. Improved and increased interactions between licensees with TMF,
 2. A shift to a more proactive, rather than reactive program; and
 3. An increase in the educational efforts of the TMF.

The internal group working on this topic will continue to provide updates to the Board as they are available.

Policy on Prescribing for Oneself and One’s Family (continued)

Ms. Huddleston suggested edits to the document based on the schedule of drugs listed. A discussion was held on which schedule of drugs should be permitted to prescribe to oneself regularly or in an emergency. The consensus of the Board was that a physician should not be able to prescribe to oneself except in an emergency and controlled substances should never be prescribed to oneself. A proposal was made to add the language “prescribing, providing, or administering of any scheduled substance to oneself is prohibited”. The language under immediate family prescribing was proposed to be changed to “no scheduled substances should be dispensed or prescribed except in emergency situations”.

Dr. Ali stated the Board has agreed that there should be no scheduled substances, except in emergency situations for family, and requested Ms. Huddleston to edit the policy as proposed and to present to the Board tomorrow.

Dr. Baron suggested the Board could follow the Drug Enforcement Agency’s’ (DEA) prescribers manual. The manual addresses the issues of prescribing to family members and in emergencies. Dr. Baron stated, the manual says it is illegal to prescribe to a family member except in a life-threatening emergency. Throughout the manual the words dispensing and prescribing are used. After some discussion the Board settled on not adding the language “life threatening” and leaving it as an “emergency”.

Ms. Huddleston will present the Board with an edited policy at tomorrow’s meeting.

Supervision – Ms. Huddleston proposed the Board remove the language in paragraph 12 within Rule 0880-02-.18. There was no motion to remove paragraph 12 but there was unanimous consensus to have it removed.

X. ADMINISTRATIVE OFFICE REPORT

Ms. Stacy Tarr reported the statistical licensing report, from March 1, 2017 through April 30, 2017, to the Board. There are 22,100 physicians with a full and unrestricted medical license. Of those 22k+, 16,491 have a Tennessee mailing address. The administrative office received 413 new applications and issued 284 new licenses.

The Board tabled the other administrative items for Ms. Maegan Martin to report on day 2 of the meeting.

CSMD Board Member Appointment – Due to the expiration of Dr. Clinton Musil’s Board term, there was a need to appoint a new member to the CSMD. Dr. Blake volunteered and was subsequently

appointed. Ms. Cole reported that due to work constraints, she will need to resign from the CSMD Committee. Ms. Huddleston reminded the Board that it has a new consumer member coming on-board and perhaps he could be appointed to serve in that role.

XI. REPORT FROM THE FSMB ANNUAL MEETING ATTENDEES

Dr. Zanolli and Dr. Johnson outlined the following items that were addressed at the FSMB annual meeting:

1. Dr. Zanolli was elected to the Executive Committee of the Board of the Federation and the Finance Committee
2. Dr. Johnson was elected to the Bylaws Committee of the Federation of State Medical Boards
3. FCVS 3.0 was introduced which is hopeful to add the National Practitioner Databank to this report in six (6) months
4. There is continued work on the uniform application (UA)
5. Have an online query where the applicant can see what is missing from their application and to receive help if anything is missing
6. Working with the Boards of Pharmacy with their duty to report
7. Interstate medical licensure compact is active and has already issued the first license with a turnover time of 9 days for application processing
8. Wellness and burnout of physicians was addressed with 60% of physicians choosing to not seek help due to fear of disciplinary action on their medical license
9. Adopted the Federation's Guidelines on Chronic Use of Opioids
10. Next meeting will be in Charlotte in April 2018

The Financial and Expenditures Report will be presented tomorrow morning during the Board's day 2 meeting.

Ms. Huddleston requested approval for sponsorship for two attorneys to attend the Federation of Associations of Regulatory Boards (also known as "FARB") annual meeting. FARB will provide a regulatory law seminar October 2017 in Savannah, GA. Dr. Zanolli motioned to approve the request for two attorneys to attend the FARB meeting. Dr. Ali seconded the motion and the motion carried.

XII. OFFICE OF GENERAL COUNSEL

Petition for Declaratory Order

Sidi Y. Noor, MD – was present and represented by legal counsel, Mr. Mark Freeman. Ms. Huddleston advised the Board that if they grant the petition the matter will be brought before a contested case hearing for further evidence and decisionmaking, or they could deny the petition and the petitioner could bring the matter to Chancery Court if they wish to seek relief. Dr. Noor was previously disciplined and later issued a new license with restrictions. This petition asked for those restrictions to be lifted. He last filed for a petition of declaratory order in 2014. The petition was granted and the matter was brought to a contested case hearing but the restrictions were not removed due to the limited length of time he had been back in practice. Dr. Noor last appeared in January 2017 requesting the restrictions be lifted through an order of compliance. Mr. Freeman addressed the board and Ms. Huddleston addressed the board. It was Ms. Huddleston's understanding that the restrictions on Dr. Noor's license are permanent and there is no evidence to support the contention that these restrictions should be lifted. The Board's deliberations concluded with Dr. Blake making a motion to deny the petition and Ms. Outhier seconding the motion. The motion passed, with Ms. Claxton and Dr. Christensen abstaining.

Office of General Counsel Report

Ms. Huddleston provided a status update on the following:

1. Ten year examination limit exception rules effective on May 1, 2017
2. Election of officers rules effective on May 1, 2017
3. The examination and continuing education rule amendments are in the drafting process.
4. Medical spa registry rules, the intractable pain repeal rules, and the fee increase rules are in the internal review process.

Ms. Huddleston announced that she will no longer serve as the Board's advisory attorney. Ms. Mary Katherine Bratton will be the new advisory attorney for the BME and will be assuming the role of chief deputy.

Consent Order(s)

Charles Jordan, MD – was not present nor did a legal representative appear on his behalf. Ms. Jennifer Putnam represented the state. Dr. Jordan was found to have performed surgery on the wrong patient in December 2015. He did have the consent of the person he intended to perform surgery on. This order shall reprimand Dr. Jordan's license, require him to pay one (1) Type "B" Civil Penalty in the amount of five hundred dollars (\$500), and to pay all reasonable costs of this case. Dr. Johnson motioned to approve this order and Dr. Zanolli seconded the motion. The motion carried.

Clifton Lavenhouse, MD – was not present nor did a legal representative appear on his behalf. Ms. Putnam represented the state. Dr. Lavenhouses' license was indefinitely suspended by the North Carolina Medical Board and he failed to report this discipline to the Tennessee Board of Medical Examiners. This order would suspend Dr. Lavenhouses' license indefinitely until the removal of suspension issued by the North Carolina Medical Board. Upon removal of that suspension he may request for a petition of compliance to have his Tennessee license suspension lifted and he will pay all reasonable costs of presenting this order today. Dr. Beckford motioned to approve this order, Dr. Handorf seconded and the motion carried.

Dr. Ali made a request that future orders no longer use the language "the people of Tennessee" and use the Department of Health's adopted language of "the citizens of Tennessee".

Jeff McCoy Jr, MD - was not present nor did a legal representative appear on his behalf. Ms. Putnam represented the state. Dr. McCoy pled guilty to one count of income tax fraud on March 3, 2017 and he notified the Tennessee Board of Medical Examiners regarding this plea on March 9th. This order shall reprimand Dr. McCoy's license, require him to pay one (1) Type "C" Civil Penalty in the amount of one hundred dollars (\$100), and to pay all reasonable costs of this case. Dr. Christiansen motioned to approve this order and Dr. Handorf seconded the motion. The motion carried.

Agreed Order(s)

Karen Paul, MD - was not present nor did a legal representative appear on her behalf. Ms. Putnam represented the state. Dr. Paul appeared before the Board in July 2014. At that time, the Board granted Dr. Paul licensure with a probationary restriction that mirrored the probationary restriction placed on her Louisiana medical license. Dr. Paul was to transfer her advocacy program from Louisiana to Tennessee, she was to submit to an evaluation by the Tennessee Medical Foundation (TMF) and maintain a contract with TMF for a specific period of time up to August 2015 or longer if TMF deemed necessary. On May 11, 2016 the Boards' disciplinary coordinator notified Dr. Paul that the office had not received notice of her compliance with the recommendations. In September 2016, TMF notified the Board of Medical

Examiners that Dr. Paul had not submitted for an evaluation with them. This order shall require Dr. Paul to voluntarily surrender her medical license and that she be assessed all reasonable costs of this case. Dr. Handorf motioned to approve this order and Dr. Zanolli seconded the motion, which passed.

The Board of Medical Examiners day 1 meeting adjourned at 4:53pm CT.

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners
Wednesday, May 24th, 2017**

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:40 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 Neal Beckford, MD Melanie Blake, MD Deborah Christiansen, MD Reeves Johnson, MD Julianne Cole, Consumer Member Barbara Outhier, Consumer Member Charles Handorf, MD Jennifer Claxton, Consumer Member
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Staff present:	Andrea Huddleston, JD, Office of General Counsel Rene Saunders, MD, Medical Consultant, BME Maegan Martin, JD, Executive Director Stacy Tarr, Administrative Manager Candyce Waszmer, BME Administrator Tammy Davis, Board Administrator Mary Katherine Bratton, JD, Office of General Counsel
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Financial Report

Noranda French, Division of Licensure and Regulation, appeared before the Board to discuss the 2017 mid-year financial report. At the mid-year point, total expenditures are \$1,545,579.70 and total revenue is \$1,723,774.79 with a cumulative carryover of \$3,111,179.33. Dr. Ali asked about grants and subsidies, specifically what grants we have. Ms. French said that we currently have a grant from TMF. Dr. Zanolli asked why, since we are at the mid-year point, the amount paid out of the grant is not at the halfway (\$125K) point. Ms. French stated that it is based on what has been paid out to date. She stated that there are more than likely bills that have not been paid yet and that the number is based on usage.

Ms. French stated that all of the Boards have a higher than usual LARS (licensing and regulation software system) expenditure due to the recent and ongoing upgrades of the system. She also reviewed the projections for how the Board will close at the end of the year. Currently, the cumulative carryover is projected to be \$3,272,627.71. Dr. Handorf asked for clarification of why the LARS expenditure more than doubled and if all medical boards are doubling their expenditures. Ms. French reminded the Board that it was announced at the year-end close meetings that LARS expenditures were expected to more than double. They also have permission to take LARS directly from the carryover and it will not count as a yearly expenditure. The expenditure is based on the number of licensees for each board and it is typical

to see each Board double. Ms. Martin stated that it is her hope that we will be allowed to spend some additional dollars on enhancements that have been identified as necessary/beneficial.

Dr. Beckford asked what the total capital outlay for LARS was. Ms. French said that she is not sure of the exact amount, but will report it to the Board at the next meeting. She stated that it is a contract amount and expenditures will not exceed that amount.

Ms. Martin asked the Board's help in disseminating the information that an online licensure application system is available.

Dr. Ali asked how often the financial reports are shared with the Executive Director. They are currently shared twice a year, but Ms. French runs the reports monthly. She stated that if anything is concerning, she will contact the Executive Director. Dr. Ali requested that the reports be shared with the Board on a quarterly basis and Ms. French stated that, moving forward, she is happy to report on a quarterly basis.

Dr. Johnson asked Ms. Martin to share some "selling" points on the new application system. Ms. Martin stated that the online system does not require notarization and that it saves time because once it arrives in the office, it's already keyed into the system. Dr. Handorf asked if there will ever be a time when online applications are mandatory and paper applications not allowed. She responded that we are doing everything we can to minimize paper, but that we will probably never do away with it entirely.

Ms. French asked if there is anything additional that the Board would like to see on the quarterly reports. Dr. Ali stated that the current format is adequate. Dr. Zanolli stated that he is also pleased with the current reporting system.

Revised Policy for Prescribing for Oneself and One's Family Members

The revised policy for prescribing for oneself and one's family members was presented to the Board. Dr. Ali made a motion to accept the revised policy as written. Dr. Zanolli seconded the motion. The motion passed unanimously with no abstentions.

Update on DOH/Collaboration with TTU

Ms. Martin directed the Board to a website, "Tennessee Victory". The website has been developed as part of Department of Health and Tennessee Technology University (TTU)'s public policy collaboration which aims to curb controlled substance experimentation and abuse in Tennessee. Ms. Martin reminded the Board that she has reported on this topic in previous meetings. This is the first concrete product that can be demoed before the Board, and while it does not contain accurate data at this time, the format isn't expected to change. The website emphasizes the Department's belief that the solution to the opioid epidemic is local. Accordingly, the website seeks to make information which is specific to a community available to that community. Dr. Handorf spoke about his tenure as the Managing Director of the West Tennessee Forensic Center. In 2012, Shelby County experienced 12 opioid deaths. When he left in 2016, there were over 100 opioid deaths. He saw the bodies every day. There were 16 year olds and there were 70 year olds. He stated that there is nothing more important that we can do and thanked Ms. Martin for her efforts and collaboration on this project. Dr. Zanolli asked who owns the website and Ms. Martin said that DOH will own it.

Improper Prescribing Disciplinary Report

Ms. Martin referred the Board to the Improper Prescribing Disciplinary Report, which was the last project taken on by the Board's intern. She offered the report for **information only** and invited the Board to send any questions they may have about the report to her. She is still reviewing the information for accuracy.

Newsletter

Ms. Martin referred the Board very briefly to the newsletter which is in progress. She stated that Dr. Christiansen has authored an article on reentry, there will be a legislative summary, information on Tennessee becoming the 21st state to join the interstate medical licensure compact, the Board's recent revision of the Board's policy "Prescribing for Oneself and One's Family", etc. She asked Board members to send her any additional content they'd like to see in the newsletter.

Tri-Regulator Symposium

Ms. Martin requested to attend the meeting scheduled for July in Chicago. It is collaboration between the FSMB, NCSBN, and NABP. It is a meeting to foster collaboration between those three professions. Dr. Ali made a motion to allow Ms. Martin to attend the meeting. Dr. Johnson seconded the motion. The motion passed unanimously.

Grace Period for X-Ray Operator CEUs

Currently, X-Ray operators are still under the Board of Medical Examiners. A new X-Ray board has been created legislatively; however, no appointments have been made to the body. At a recent meeting, the Board adopted a grace period for medical doctors. X-Ray Operators have a 2-hour ethics course much like the prescribing course for MDs. Ms. Martin proposed that the Board adopt a 30 day grace period for medical x-ray operators. Dr. Handorf made a motion to adopt a 30-day grace period. Dr. Beckford seconded the motion. The motion passed unanimously.

Definition of "Remote Site"

The question has arisen regarding where the remote site is in a telemedicine encounter. The supervision rules require that a supervising physician visit "the remote-site" at least once every thirty (30) days. That has historically meant that the physician visit the location where the supervisee was working and seeing patients; however, in a telemedicine encounter there could be two remote sites, where the supervisee is located and where the patient is located. Dr. Blake said that she thinks that the telemedicine encounter always takes place where the patient is located.

Ms. Huddleston said that there will be some mixed situations, nurses and physician's assistants, and asked the Board to think about the reason for the remote site visit. Dr. Christensen said that she is fine with discussing this right now, but that she'd like to have time to think about this. Dr. Saunders said she'd like to give an example for the Board to think about. There is a PA who is licensed in Tennessee but has a California mailing address. They are going to be practicing telemedicine on a TN patient. In order to practice on a Tennessee patient, they must have a TN supervising MD. So, for example, Dr. Saunders is the supervising MD for the CA physician assistant. She asked that the Board think about that situation. Dr. Zanolli asked that Ms. Martin bring the specific question to the Board for an advisory ruling. He said that he agrees with what Dr. Saunders said. He said it's a tricky situation and that an advisory ruling will be the best way to handle it. Dr. Ali said that it's obvious that this will not be resolved this morning. It was decided that Ms. Martin will gather information to be considered at the next meeting.

Regional Judicial Opioid Initiative Taskforce

Judge Duane Slone has requested that a representative of the Board of Medical Examiners attend the next regional meeting of the RJOI Taskforce. Dr. Mutter has a conflict and Ms. Martin will plan to attend. The meeting will be held in Indianapolis, IN.

Agreed Citations

Thomas Chu, MD – Dr. Chu admitted to the failure to obtain two and a half hours of required continuing education credits. He was fined two hundred fifty dollars (\$250.00), which represents a one hundred dollar (\$100) per hour civil penalty for each deficient hour. Ms. Martin explained that Dr. Chu signed the agreed citation in October before the Board’s grace period policy had been adopted and implemented. Accordingly, Dr. Blake motioned to deny the agreed citation. The motion was seconded by Ms. Claxton. The motion passed.

James Hart, MD – Dr. Hart admitted to the failure to obtain forty hours of required continuing education credits. He was fined four thousand dollars (\$4,000.00), which represents a one hundred dollar (\$100) per hour civil penalty for each deficient hour. Dr. Blake made a motion to approve the agreed citation, which was seconded by Ms. Claxton. The motion passed.

Ben Barton, MD – Dr. Barton admitted to the failure to obtain the two hour controlled substance prescribing course which must include instruction in Department’s Chronic Pain Guidelines. Dr. Barton was fined two hundred dollars (\$200), which represents a one hundred dollar (\$100) per hour civil penalty for each deficient hour. Ms. Martin explained that Dr. Barton, like Dr. Chu, signed the agreed citation in October before the Board’s grace period policy had been adopted and implemented. She added that the Board now has a person devoted to the CME audits full-time and that person located these files. Ms. Martin does not expect that there are any old agreed citations that have not yet been ratified by the Board. Dr. Blake made a motion to deny the agreed citation. Ms. Claxton seconded the motion which passed.

Laura Easton, AMDX – Ms. Easton admitted to the failure to obtain twenty hours of required continuing education credits. Ms. Easton was fined four hundred dollars (\$400), which represents a per hour civil penalty of twenty dollars (\$20) per deficient hour. Dr. Blake made a motion to approve the agreed citation, which was seconded by Ms. Claxton. The motion passed.

Edwin Fisher, PA – Mr. Fisher admitted to practicing as a physician assistant in Tennessee on an expired physician assistant license for a period of four months. Mr. Fisher was fined nine hundred dollars (\$900), which represents a civil penalty of three hundred dollars (\$300) per month for every month of unauthorized practice after the first thirty days. Dr. Blake made a motion to accept the agreed citation, which was seconded by Ms. Claxton. The motion passed.

Orders of Compliance

James M. DeSantis, MD – was not present nor did a legal representative appear on his behalf. Dr. DeSantis’ presence was excused. Dr. DeSantis’ license was placed on probation in 2014 related to discipline in Georgia. The discipline was related to his mental health and fitness to practice. He was placed on probation for a period of three years. Dr. DeSantis is requesting an Order of Compliance lifting the probation and that his license be placed in an unencumbered status based on the petition and the statements of counsel. Dr. Blake made a motion to grant the order of compliance. Ms. Claxton seconded the motion. The motion passed unanimously.

Consent Orders

Douglas Ligon, MD – Dr. Ligon was not present. He was represented by counsel. Ms. Putnam represented the state. Respondent is the medical director at Skin Logics located in Dickson, Tennessee. Skin Logics provides numerous services such as weight loss, laser procedures, facial fillers, permanent cosmetics, and teeth whitening. Dr. Ligon allowed the owner of Skin Logics, in an administrative capacity, to order Phentermine using his DEA number for use at the Skin Logics site. Upon learning that the owner of Skin Logics had, on one occasion, ordered a non-FDA approved injectable dermal filler, the

purchase and use of the substance was stopped. The order proposed that Dr. Ligon's license be reprimanded and the respondent pay one Type B civil penalty, representing the purchase by Skin Logics of a non-FDA approved drug in violation of Tenn. Code Ann. § 63-6-101 et seq. Dr. Blake moved for approval of the Consent Order. Ms. Claxton seconded the motion. The motion was passed unanimously.

Marc E. Eichler, MD – Dr. Eichler was represented by Ms. Alex Fisher. Dr. Eichler entered a guilty plea in the US District Court for the District of North Dakota Western Division for one count of viewing visual depictions involving the use of minors engaged in sexually explicit conduct, as defined in Title 18, USC § 2256(2), and which visual depictions were of such conduct, in violation of Title 18, USC §§ 2252(a)(4)(B) and 2252(b)(2). Respondent avers that six (6) images were sent to him via Snapchat by one individual during this time-period. These facts constitute a violation of Tenn. Code Ann. § 63-6-214(b)(10). The Consent Order orders Dr. Eichler's license to be voluntarily surrendered, that he pay costs not to exceed one thousand dollars (\$1,000.00). Dr. Blake motioned for approval. Ms. Claxton seconded. The motion passed.

Kathleen McConnell, MD – Dr. McConnell was not present nor was she represented by counsel. Peyton Smith represented the State. Dr. McConnell was licensed in Tennessee in 2015 contingent upon TMF advocacy. She lost TMF advocacy on September 13, 2016 due to non-compliance the program after a drug screen revealed a positive result for alcohol and amphetamines. Dr. McConnell is also licensed in Virginia and is currently being primarily monitored by the Virginia PHP. In late 2016, Respondent attended a nine-week partial inpatient hospitalization at the Positive Sobriety Institute in Chicago. She has received a letter of compliance from Virginia PHP and has regained TMF advocacy. After consideration by the panel, Dr. McConnell's license is placed on probation for the duration of her TMF contract. She must maintain 100% compliance with all provisions of the monitoring/advocacy contract, pay one Type B civil penalty in the amount of three hundred dollars (\$300) representing the violation of the Board Order, and pay the actual and reasonable costs of prosecuting this case to the extent allowed by law not to exceed two thousand dollars (\$2000.00). At the end of the probation and compliance with the terms of this Order, she can appear before the Board and petition for Order of Compliance to have the probation lifted. Dr. Beckford motioned for approval. Dr. Ali seconded. The motion passed.

Vijil K. Rahulan, MD – Dr. Rahulan was not present nor was he represented by counsel. Peyton Smith represented the State. Dr. Rahulan was licensed in Tennessee in 2014. In March, 2017, Respondent entered into a Consent Order with the Michigan Board of Medicine. The discipline against Respondent's Michigan medical license stemmed from the Respondent authorizing prescriptions from the state of Texas while in Michigan working for an internet-based healthcare provider. He failed to obtain and maintain medical records that would meet the applicable standards of practice. Respondent failed to report the Michigan discipline to the Tennessee Board of Medical Examiners. After panel consideration, the Respondent's medical license is reprimanded; Respondent must pay two Type B civil penalties in the amount of five hundred dollars (\$500) each representing failure to obtain and maintain adequate records and the failure to report to another State. Respondent shall pay the actual and reasonable costs of prosecuting the case to the extent allowed by law not to exceed two thousand dollars (\$2000.00). Dr. Ali motioned for approval. Ms. Cole seconded. The motion passed unanimously.

Paul Randolph, MD – Dr. Randolph was not present nor was he represented by counsel. Peyton Smith represented the State. Dr. Randolph was licensed in Tennessee in 1991. He failed to obtain 28.5 continuing education hours, including one hour related to controlled substance prescribing in 2012-2013. When his license was renewed in following years, he falsely indicated that he had completed all required continuing education. After consideration by the Panel, Dr. Randolph's license was reprimanded, he agrees to obtain 28.5 hours continuing education hours within 180 days of the ratification of this order (one of those hours must be related to controlled substance prescribing). He will obtain 10 additional hours of Board approved continuing education. He will pay 28.5 Type C civil penalties in the amount of

one hundred dollars (\$100.00) each. All civil penalties must be paid within 90 days of the effective date of this Order. Respondent will pay the actual and reasonable costs assessed with prosecuting this case not to exceed two thousand dollars (\$2000.00). Dr. Ali motioned for approval. Dr. Beckford seconded the motion. The motion passed unanimously.

Louis Koella, MD – Dr. Koella was not present nor was he represented by counsel. Peyton Smith represented the State. Dr. Koella was licensed in Tennessee in 2001 and placed on probation for a period of no less than 5 years in 2016. This probation was the result of Dr. Koella regularly prescribing controlled substances, including opioids, without records showing adequate medical justification and discussion of the risks and benefits of long-term opioid treatment. While Respondent’s license was on probation, he supervised an Advanced Practice Nurse at the Scenic City Family Practice. He has since ceased supervision of the APN. After consideration by the Board, the probationary status on Dr. Koella’s license is extended for a period of seven (7) months following the expiration of the initial period of probation, he must pay seven (7) type C civil penalties in the amount of one hundred dollars (\$100) each representing one civil penalty for each month the Respondent served as a supervising physician. Respondent will pay the actual and reasonable costs assessed with prosecuting this case not to exceed two thousand dollars (\$2000.00). Dr. Ali made a motion to approve the order. Dr. Beckford seconded the motion. The motion passed unanimously.

Katie Johnson, MD – Dr. Johnson was not present nor was she represented by counsel. Peyton Smith represented the State. Dr. Johnson was licensed in Tennessee in 2009. She also holds an Indiana medical license. In 2015, she underwent a multidisciplinary evaluation at Positive Sobriety Institute in Chicago. She signed a five year contract with the Indiana State Medical Association Physician Assistance Program. After multiple relapses, she entered and completed a treatment program in January 2016 and continued an additional program until May, 2016. In September, 2016, she entered into a Final Order which placed her medical license on indefinite probation. The Order required that she not practice medicine while on probationary status and that she maintain compliance with her monitoring contract. The discipline against her medical license in Indiana stemmed from her “engagement in a pattern of conduct that demonstrated an inability to exercise reasonable care and diligence,” as well as becoming “unfit to practice due to an addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public.”

Dr. Johnson failed to report her Indiana discipline to the Tennessee Board of Medical Examiners. After consideration by the Panel, her Tennessee medical license was indefinitely suspended effective the date of entry of this order and will remain suspended until she successfully petitions the Indiana Medical Board to resume active practice. At that time, she may petition and appear before the Board for an Order of Compliance to have the suspension of her Tennessee license lifted. Prior to the lifting of the suspension, Dr. Johnson must enter into a contract with Tennessee Medical Foundation (TMF) for a period of five (5) years and maintain advocacy with TMF. She must pay costs of this case not to exceed two thousand dollars (\$2000.00). Dr. Beckford motioned for approval. Dr. Ali seconded the motion. The motion passed unanimously.

Dallas A. Smith, MD – Dr. Smith was not present nor was he represented by counsel. Dr. Smith was licensed in Tennessee in 2002. In October, 2015, the Virginia Board of Medicine entered an Amended Order that issued a reprimand against his Virginia medical license. Dr. Smith did not report his Virginia discipline to the Board within thirty days as required by Tennessee law. When he renewed his license in September, 2016, he indicated on his renewal application that he had not previously notified the Board that his license had been disciplined in another state. After consideration of the Board, the Tennessee medical license of Dallas A. Smith, Jr., MD is reprimanded. There was a motion, a second, and the motion passed unanimously.

Kenneth Poag, MD - Dr. Poag was not present nor was he represented by counsel. Dr. Poag was licensed in Tennessee in 1973. Dr. Poag is being disciplined for unprofessional, dishonorable, or unethical conduct as prohibited in Tenn. Code Ann. § 63-6-214(b)(1). As a result of this behavior, and after careful review of the stipulations of fact, the Board moved to reprimand the Tennessee medical license of Kenneth Poag, MD. He will pay one “Type A” civil penalty in the amount of one thousand dollars (\$1,000.00). He will also pay costs of this case not to exceed two thousand dollars (\$2,000.00). There was a motion, a second, and the motion passed unanimously.

John L. Hochberg, MD – Dr. Hochberg was not present nor was he represented by counsel. His medical license was suspended pursuant to a Consent Order ratified by the Board on January 10, 2017 for at least two (2) years and until such time as the suspension of Respondent’s New Jersey medical license is lifted. Subsequent to the allegations contained in the New Jersey Board of Medical Examiners decision, he was the subject of a Medical Malpractice Payment Report evidencing a four hundred fifty thousand (\$450,000.00) settlement on behalf of a twenty-one (21) year old patient. After careful consideration of the stipulations of fact, the Tennessee medical license of John L. Hochberg, MD is revoked. Dr. Hochberg may not apply for a new medical license for at least two (2) years from the date of this Order and not until his New Jersey medical license is reinstated. There was a motion, a second, and the motion passed unanimously.

John Jones, MD – Dr. Jones was not present nor was he represented by counsel. Peyton Smith represented the State. Dr. Jones was licensed in Tennessee in 1995. He failed to obtain 16 continuing education hours, including one hour related to controlled substance prescribing in 2014-2015. When his license was renewed following the calendar years listed, he falsely indicated that he had completed all required continuing education. After consideration by the Panel, Dr. Jones’ license was reprimanded, he agrees to obtain 16 hours continuing education hours within 180 days of the ratification of this order (one of those hours must be related to controlled substance prescribing). He will obtain 10 additional hours of Board approved continuing education. He will pay sixteen (16) Type C civil penalties in the amount of one hundred dollars (\$100.00) each. All civil penalties must be paid within 90 days of the effective date of this Order. Respondent will pay costs not to exceed (\$2000.00). Dr. Ali motioned for approval. Dr. Beckford seconded the motion. The motion passed unanimously.

Aubrey Cawthon, PA – Mr. Cawthon did not appear, nor did his legal counsel. The proposed consent order specifies that Mr. Cawthon wrote a prescription for a person who was not his patient for two (2) controlled substances. Prior to prescribing the controlled substances, Mr. Cawthon failed to conduct a physical examination or make a diagnosis. The person had previously been prescribed the substances by a physician and a psychiatrist. Mr. Cawthon avers that he interacted with the patient on a daily basis and had knowledge of his condition. Mr. Cawthon failed to create or maintain sufficient medical records for the prescribing and failed to document a written treatment plan with a regard to the use of the controlled substances. Mr. Cawthon continued to prescribe the person the controlled substances for the following ten (10) months without creating or maintaining sufficient medical records. Over the next twenty-one (21) months, Mr. Cawthon prescribed additional controlled substances despite knowledge that the person had a substance use disorder and was abusing illegal drugs.

The proposed consent order seeks to place Mr. Cawthon’s license on probation for a period of one year. Before the end of the probationary period, Mr. Cawthon must enroll in and complete the course entitled, “*Medical Ethics, Boundaries and Professionalism,*” or an equivalent course pre-approved by the Board’s Consultant. Within thirty (30) days after completion of the course, Mr. Cawthon must mail or deliver proof of compliance with this course requirement to the Disciplinary Coordinator. Mr. Cawthon will also be assessed costs. Dr. Beckford motioned for approval. Dr. Ali seconded the motion. The motion passed unanimously.

Ashley Wallace, PA – Ms. Wallace did not appear, nor did her legal counsel. While Ms. Wallace was licensed and working in Pennsylvania, she called in an unauthorized prescription for a person who was not a patient in order to obtain a controlled substances for herself. On two different occasions, the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Narcotics Investigation and Drug Control received allegations from a hospital that Ms. Wallace, a former employee, had filled unauthorized or altered prescriptions. As a result, the Pennsylvania Board of Medicine entered an Order of Immediate Temporary Suspension of Ms. Wallace’s practice as a physician assistant. Ms. Wallace did not report this discipline to the Department within 30 days as required by Tennessee law. Ms. Wallace entered a plea of guilty in Pennsylvania. Ms. Wallace did not report this judgement to the Department within 30 days. On May 23, 2016, Ms. Wallace, signed a Consent Agreement and Order before the Commonwealth of Pennsylvania Board of Medicine suspending Ms. Wallace’s license to practice as a physician assistant for 5 years and staying such suspension in favor of five years of probation on Ms. Wallace’s license to practice, among other discipline, requirements, and provisions. Ms. Wallace did not report this discipline to the Department within 30 days.

The Pennsylvania Board of Medicine’s Consent Agreement and Order required Ms. Wallace to undergo evaluation and treatment for substance use disorder. Ms. Wallace has executed a 5 year monitoring agreement with the Tennessee Professional Assistance Program (TnPAP) which includes treatment and monitoring; however, she has not been fully compliant with her TnPAP monitoring agreement. The proposed consent order orders her license to be suspended for a period of time to run concurrently with Pennsylvania’s order, but for not less than five (5) years. Ms. Wallace has agreed to surrender her DEA registration for all schedules and agrees that she will not seek reinstatement of her privileges until her Pennsylvania and Tennessee licenses are unencumbered. She must maintain compliance with her TnPAP monitoring agreement at all times and she is prohibited from working for or at a Pain Management Clinic, or any clinic, office, or facility where a majority of patients receive controlled substances. Ms. Wallace must pay the costs of this case not to exceed two thousand dollars (\$2000.00). A motion to accept the proposed consent order was made by Dr. Ali. Dr. Beckford seconded and the motion passed unanimously.

Agreed Orders

Marsha Percy – Ms. Percy did not appear, nor did her counsel. Ms. Percy pled guilty to a charge of reckless endangerment arising from an incident wherein she participated in the discharge of a firearm. Ms. Percy has also pled guilty to Driving u\$nder the Influence. Ms. Percy recently underwent an evaluation and completed an outpatient program designed to address alcohol and substance abuse. She subsequently participated in 97 hours of treatment and provided seven (7) random drug screens – each negative.

The proposed consent order places Ms. Percy on probation for a period of one year. During the probationary period, Ms. Percy shall continue to be monitored through random drug screens. After the probationary period, Ms. Percy will become eligible to petition the Committee for an Order of Compliance. Ms. Percy must pay the actual and reasonable costs of prosecuting this case. Dr. Beckford made a motion to approve the order. Dr. Ali seconded the motion. The motion passed unanimously.

Contested Case (Iris Room)

State of Tennessee v. Jennifer St. Croix, MD

Administrative Law Judge:	Thomas G. Stovall
Respondent:	Jennifer St. Croix, MD
Petitioner’s counsel:	Dan Warlick, Esq.
State’s counsel:	Jennifer Putnam, Assistant General Counsel

Panelists: Melanie Blake, MD; Michael Zanolli, MD; Jennifer Claxton (Consumer Member)

The state and opposing counsel presented opening arguments. Witnesses were called. After on consideration by the panel, the Respondent's Medical License was reprimanded, Respondent must enroll in the next available three (3) day medical course entitled "*Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*" offered by Vanderbilt University Medical Center and provide proof of compliance, enroll in the next available three day course entitled "*Intensive Course in Medical Record Keeping*" offered at The Case Western Reserve Continuing Medical Education Program in Cleveland, Ohio and provide proof of compliance, pay three Type A Civil Penalties in the amount of one thousand dollars (\$1,000.00) each, for a total of three thousand (\$3,000.00), maintain good and lawful conduct and any violation of law will be a violation of terms of the Order, and pay the actual and reasonable costs of investigating and prosecuting this case to the extent allowed by law, not to exceed five thousand dollars (\$5,000.00).

Contested Case(s) (Poplar Room)

State of Tennessee v. Gary Hayes, MD

Administrative Law Judge: Rachel Waterhouse
Respondent: Gary Hayes, MD
Petitioner's counsel: E. Kirk Wood (withdrew)
State's counsel: Andrea Huddleston, Deputy General Counsel
Panelists: Julianne Cole (Consumer Member); Neal Beckford, MD, Subhi Ali, MD

Dr. Hayes was not present. His counsel participated electronically but withdrew as counsel. The panel granted the state's motion to proceed in default.

On September 20, 2011, Dr. Hayes was disciplined for improper prescribing. As a condition of his discipline, he was required to submit to quarterly monitoring for a period of at least two years and at least annual reviews thereafter. In October 2015, the monitor alerted the Department to some cases in which Dr. Hayes was prescribing medications in a manner that raised concerns about patient safety. A subsequent audit confirmed that Dr. Hayes was prescribing weight loss medications improperly. Although his license was on probation, he was also supervising an APRN and doing so inadequately. In June 2016, Dr. Hayes' Alabama Medical License was suspended.

After presentation of all facts and evidence, the panel voted to revoke Dr. Hayes' Tennessee medical license. He must also pay all costs of this case not to exceed five thousand (\$5000) dollars.

State of Tennessee v. Miklos Kertai, MD

Administrative Law Judge: Rachel Waterhouse
Respondent: Miklos David Kertai, MD
Petitioner's counsel: Tom Wiseman and Michele Marsicano
State's counsel: Andrea Huddleston,
Panelists: Julianne Cole (Consumer Member); Neal Beckford, MD, Subhi Ali, MD

Miklos Kertai, MD petitioned the Board for a Declaratory Order allowing the issuance of an unencumbered Tennessee medical license based on his expertise, exceptional skills, research, and teaching abilities that meet a need at Vanderbilt and in the State of Tennessee. Dr. Kertai did not complete a three year residency in the United States as required and did not complete the USMLE. After consideration of all facts presented during the hearing, the Board, Dr. Ali made a motion to grant the

Declaratory Order. Dr.Beckford seconded the motion. The motion passed unanimously. A roll call vote was held.