



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

**Tuesday, July 19, 2016
Wednesday, July 20, 2016**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:42 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Michael Zanolli, Board Chair.

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

Board member(s) absent: Neal Beckford, MD
Pat Eller, Consumer Member

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

I. CONSIDERATION OF APPLICATIONS

Medical Doctor Applicant Interview(s):

Darryl S. Addington, MD – appeared before the Board requesting that his medical license be reinstated with an administrative practice restriction. Dr. Addington has been out of clinical practice for more than 20 years; however, he would like to serve as the surgeon general for the Sons of the American Revolution and is required to hold a state medical license in order to serve in this role. Accordingly, he is seeking reinstatement of his medical license. The Board acknowledged that pursuant to PC 1035, it now has the

authority to issue limited licenses for the purpose of administrative practice. However, Ms. Huddleston clarified that the PC gave the Board the authority to engage in rulemaking to establish the requirements and the particular types of licenses that will be issued. Ms. Martin added that it will be necessary to make some adjustments to the licensing system so that the license types are added. Dr. Zanolli asked that the Board begin considering this issue so that rulemaking can be initiated as soon as possible. The Board would like to issue administrative licenses rather than issuing full medical licenses with the administrative restriction, as the restrictions is reportable to the NPDB. Dr. Christiansen made a motion to grant the license with administrative restriction. Her motion was seconded by Dr. Musil and passed.

Brett Butler, MD – appeared before the Board to address prior board action, his loss of clinical hospital privileges and his participation in the Louisiana Physician’s Health program. Dr. Saunders notified the Board that she had requested that Dr. Butler release a CPEP evaluation that was performed. The Board asked Dr. Butler why he didn’t release the report. Dr. Butler responded that he didn’t think he had to release it as part of his application. Ms. Huddleston clarified that the release of the report isn’t requirement; however, based on the Board’s deliberations, it seems that they are uncomfortable issuing a license with the knowledge that this report exists and that it has not been shared with the Board. Dr. Butler said that he did not mind to release the report and would do so. Dr. Ali made a motion to table Dr. Butler’s application until the September meeting to allow Dr. Butler an opportunity to release the report and reappear before the Board. The motion was seconded by Dr. Baron. The motion passed.

Winston Clark, MD – appeared before the Board to address his malpractice history and pending claims. Dr. Clark has been practicing neurosurgery in Mississippi and has been in practice for thirty years. During his career he has been a named party in four suits. Dr. Johnson’s motion to approve Dr. Clark’s application was seconded by Dr. Higdon. The motion passed.

Kaylan Dadireddy, MD – appeared before the Board along with his attorney, Jimmy Bradshaw, who spoke on his behalf. Dr. Dadireddy is an international medical school graduate who has not completed a three year US residency program as required by applicable statute and rule. Dr. Dadireddy filed a petition for declaratory order which was considered by the Board. The Board discussed how best to resolve the issues before it and ultimately determined that it would be best to hold the application open while it considers Dr. Dadireddy’s petition for declaratory order. Dr. Ali made a motion to hold the application until the January Board meeting. Dr. Blake seconded the motion. Dr. Ali made a motion to grant the petition and set the matter for a contested case. Dr. Johnson seconded the motion which passed.

Michael Hayden, MD – appeared before the Board because his examination history violates Board rule. Existing Board rules specify that an applicant who has failed any step of the USMLE more than three times must remediate by becoming board certified. Dr. Hayden is planning to sit for his board certification in the Fall of 2017. The Board discussed whether the existing Board rule is too restrictive and whether it should consider revising the rule. Dr. Zanolli asked Ms. Huddleston whether the Board has the authority to waive its rule and Ms. Huddleston responded that there is some thought that the Board can. She cautioned the Board against waiving its rules generally and urged it instead to consider revising rules when it finds that a different result is desirable. Dr. Musil made a motion to deny the application. Dr. Higdon seconded the motion. The Board allowed Dr. Hayden an opportunity to withdraw his application. The Board also confirmed that although this denial would not have been reportable to the NPDB, should Dr. Hayden seek to become licensed in another state, he would be required to release the information to the state board. The motion passed.

Gregory James, MD – appeared before the Board because he has been out of practice since 2010. Dr. Baron and Dr. Zanolli recused themselves from consideration of this application. Dr. James currently serves as chief clinical officer for the St. Thomas Health system. He holds a current and unrestricted license in Alabama. The Board explained to Dr. James that when an applicant has been out of clinical

practice for two or more years, the Board requires proof of clinical competency or some type of remediation before the application is approved. Dr. Higdon initially made a motion to issue a full license with administrative restriction. The motion was seconded by Dr. Musil. However, after further conversation with Dr. James, Dr. James suggested that he would like the opportunity to remediate. Dr. Higdon withdrew his motion and Dr. Christiansen made a motion to table the application for a period of up to six months to allow Dr. James to work with the Board's medical consultant to remediate. Dr. Higdon seconded the motion which passed.

Christiana Lietze, MD – appeared before the Board to address her extensive disciplinary history, her criminal history and her wellness. Dr. Lietze spoke about the anxiety issues she experiences relative to concerns about illness resulting from the introduction of non-native species into a particular population. She reported that she has responded to her anxiety by speeding excessively. Twice she has been arrested for driving in excess of 100 mph. She has been seeing a counselor to address these and other issues. Dr. Zanolli made a motion to deny Dr. Lietze's application. The motion was seconded by Dr. Musil. Dr. Zanolli explained to Dr. Lietze that she was being given the opportunity to withdraw her application or to allow the Board to proceed to a vote. She responded that she understood quite clearly what options she had and that she would like to withdraw her application.

Vance Raham, MD – appeared before the Board to address his extensive medical malpractice/settlement history, his loss of clinical privileges, his history of substance abuse and participation in the Indiana PHP. Dr. Raham stated that many of his issues resulted from his substance abuse and that he has been in recovery since 2004. He pointed to his work in obstetrics and gynecology and also in the prison system as contributing to the high number of malpractice claims against him as it is his belief that both of those environments tend to result in more malpractice claims. The Board considered how many of these claims were settled and how many were dismissed without an admission or finding of liability by Dr. Raham.

Dr. Raham became board certified in addiction medicine in 2014 and has been practicing in that specialty. Dr. Roland Gray, TMF, addressed the Board and said that he would be comfortable with the status of Dr. Raham's recovery upon receipt of correspondence from the Indiana PHP confirming that Dr. Raham's participation has been satisfactory. Dr. Baron made a motion to grant Dr. Raham's license contingent upon receipt of a letter from Indiana's PHP confirming satisfactory participation in the PHP and endorsing his recovery. The motion was seconded by Dr. Musil. Ms. Outhier spoke in opposition to the motion. Dr. Ali made a friendly amendment to the motion which was accepted by Drs. Baron and Musil. The revised motion was to refer Dr. Raham to TMF for an evaluation. The evaluation will include a review of his file and a request that the Indiana PHP provide a letter of endorsement. Should TMF report that Dr. Raham is safe to return to practice, his license may be granted by the administrative office without further action by the Board. If the TMF recommends monitoring or other remediation, Dr. Raham will need to appear before the Board at its September meeting. Ms. Outhier opposed the motion. The motion passed.

Gregg Willis, MD – appeared before the Board to address his history of substance abuse. Dr. Willis has been participating in the Mississippi Professionals Health Program since completing an inpatient rehabilitation program in 2013. He has, at all time, remained compliant with the terms of his advocacy agreement. Dr. Willis described his addiction and recovery as well as his practice plans in Tennessee. Dr. Baron made a motion to grant an unrestricted license contingent upon lifetime TMF advocacy. Dr. Ali seconded the motion. After further discussion by the Board, Dr. Ali made a friendly amendment to the motion to specify that the advocacy should be for a period of at least five years. At the conclusion of that five year period, TMF will be asked whether additional advocacy should be required. The amendment was accepted and the motion passed.

Parul Zaveri, MD – appeared before the Board because her application suggested that she had not completed a three year US residency training program and she is not currently board certified. During Dr. Zaveri’s interview, the Board learned that she had completed her three year residency at Saint Louis University School of Medicine in two years and is eligible to sit for her board certification examination. Dr. Ali made a motion to approve Dr. Zaveri’s license. The motion was seconded by Dr. Higdon. The motion passed. Ms. Huddleston asked the Board to clarify that it was not taking the position that a residency program and fellowship program were interchangeable. The Board confirmed that that was not its position and that it expects that applicants like these will be examined on a case-by-case basis.

Dr. Baron announced that he has agreed to accept the position of medical director for the Tennessee Medical Foundation and expects to begin sometime in early 2017. As a result of this new role, he will no longer be able to serve on the Board and expects that he will be turning in his resignation in January 2017. The Board congratulated Dr. Baron on this exciting opportunity.

RULEMAKING HEARING, 1:00 PM CST

Ms. Huddleston described the procedural steps that have been taken in preparation for the rulemaking hearing and established that all formalities were met. Ms. Martin took a roll call vote and the following members were present for voting: Dr. Michael Zanolli, Dr. Subhi Ali; Dr. Michael Baron, Dr. Reeves Johnson, Dr. Debbie Christiansen, Dr. Melanie Blake, Ms. Julianne Cole, Dr. C. Allen Musil, Dr. Dennis Higdon, and Ms. Barbara Outhier. Dr. Neal Beckford and Ms. Pat Eller were not present.

With respect to Rule 0880-02-.08 “Examination,” the Board voted by roll call vote to delete subparagraph (4)(e) in its entirety and replace it as follows:

- (4)(e) Extensions - The amount of time an applicant has actively served while in continuous training and practice in the armed forces of the United States shall not be counted in calculating the ten (10) year limitation for the USMLE contained in subparagraph (4)(b) of this rule. Further, the ten (10) year limitation for the USMLE will not apply to applicants who:
1. Are board certified at the time of application by a board recognized by the American Board of Medical Specialties; or
 2. Have been and are at the time of application currently in active clinical practice in a single state or territory for a period of at least one year and have held a full, unencumbered license in that state for at least one year since successfully completing the USMLE; or
 3. Present satisfactory evidence of extraordinary circumstances as determined by the Board which prevented the applicant from timely completing the steps.

Additionally, the Board eliminated all other references to the seven (7) year limitation. Pursuant to PC 1035, applicants for medical licensure now have ten (10) years from date of the first successfully completed step of the USMLE to successfully complete all steps. The Board elected to extend this limitation for the FLEX and NBME as well.

With respect to Rule 0880-02-.11 “Officers, Records, Meeting Requests, Certificates of Fitness, Advisory Rulings, Declaratory Orders and Screening Panels” the Board voted by roll call vote to delete paragraph (1), including its subparagraphs, in its entirety and substitute the following language, so that as amended, the new paragraph shall read:

- (1) Officers - The Board shall elect every second year from its members the following officers who shall hold office for two years or until the election of a successor (who shall serve until the expiration of the term):

- (a) President - who shall preside at all Board meetings.
- (b) Vice President - who shall preside at Board meetings in the absence of the President.
- (c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board.

The Board elected to delay taking a vote on the proposed definition of addiction specialist until its September meeting to allow a representative from Mental Health and Substance Abuse to review and offer comments on the definition.

II. REPORT FROM THE TASKFORCE ON RE-ENTRY

Dr. Johnson and Ms. Martin presented a report on the Taskforce's progress. The taskforce met before the Board meeting this morning to continue discussing the reentry policy and the group's plans for completing this important project. Ms. Martin has proposed that a written report be produced that will be summarized as a policy document at a later date. She provided the taskforce with a rough draft of the report and all members agreed that they will work with Ms. Martin to finalize their assigned sections before the September meeting. The taskforce further agreed that the report should include recommendations. The taskforce members also discussed the possibility of developing additional resources such as a FAQ, a reentry section of the website, a resources table, and maybe even develop a webinar. The taskforce believes it is reasonable to expect that the report will be ready for Board review by September and thanked the Board for its patience.

III. APPROVAL OF MINUTES

The Board reviewed the minutes from the May 2016 Board of Medical Examiners meeting. Ms. Martin acknowledged that there was an omission on page 3 that has been corrected. Dr. Johnson asked that "day" be added in front of "two" on page 7 and also that the entry on Venkatchalam be revised to identify who made and seconded the motion. Dr. Baron made a motion to accept the minutes as amended and Dr. Johnson seconded. The motion passed.

IV. CONDUCT NEW BUSINESS

Ratification of COPA's Telemedicine Policy

Ms. Mary Katherine Bratton, counsel for the Committee on Physician Assistants, presented the Committee's revised telemedicine policy to the Board for ratification. Dr. Baron asked why the practice site and the practice of medicine seem to be in conflict. Ms. Bratton explained that the rules make reference to the practice site and specify that the practice site must be visited by the supervising physician and the protocols must be maintained there. Because the supervising physician, physician assistant and patient could all be in different locations—even different states—in a telemedicine encounter, it is important to specify that the practice site is where the providers are located. For this same reason, it's important to specify that the patient determines where the care is provided and where state licensure must be maintained. Dr. Ali made a motion to approve. Dr. Higdon seconded the motion which passed.

Ratification of Initial Approval of Daymar College's Limited X-Ray Program

Dr. Saunders has initially approved Daymar College's application to become a Board-approved Limited X-Ray Program. The Board was presented with the rules governing approval as well as Daymar College's application file. Dr. Johnson asked whether the programs were required to submit information regarding changes to their program, for example, number of students. Ms. Martin stated that the programs are supposed to essentially reapply to the Board every two years; however, within fifteen days

of certain changes to their program, they are supposed to notify the Board. Dr. Baron made a motion to approve which was seconded by Dr. Johnson and passed.

The Board was sent the list of licensee approvals to be ratified for the following professions in advance of the meeting: all medical doctors, all x-ray operators in medical doctors' offices, genetic counselors, polysomnographers, and physician assistants. Dr. Ali made a motion to approve all. The motion was seconded by Dr. Christiansen and passed.

Consider Proposed Response to TMA Resolution

Dr. Zanolli directed the Board to draft correspondence that was prepared by the administrative office in response to TMA Resolution 09-16: Medical Spa Registry Transparency. The resolution includes the request that the following changes be made to the medical spa application and registry:

- A field for the applicant to report 1) the average number of hours of supervision provided per week at each spa; 2) the average number of hours the medical director spends on-site each week; and 3) a field for the applicant to report percentage of ownership of the registering medical spa held by the medical director or supervising physician.
- An added function so that the average number of hours of supervision provided per week at each spa and the average number of hours per week that the medical director or supervising physician is on-site at the medical spa is searchable.

Mr. Yarnell Beatty, Vice President of Advocacy for the TMA, was present at the meeting to discuss the Resolution and stated that it was proposed to address concerns regarding the medical qualifications of individuals who provide cosmetic medical services in medical spas. Dr. Johnson asked whether this is a big problem and Mr. Beatty believes that it is.

Dr. Zanolli responded that the Board does not currently collect this information from physicians and supervising physicians in other practice settings. Additionally, it is difficult to ensure that the information the TMA is requesting will be averaged reliably such that the data is meaningful. Ms. Martin added that Public Chapter 494 did not give the Board enforcement powers. The Board doesn't have the authority to fine spas that are out of compliance with the registry requirements, nor can the administrative office decline to register an entity that submits an application. New legislation granting the Board broader enforcement powers would be a better solution to the problem Mr. Beatty has described. The letter was approved.

Consider Possible Revisions to Board's CME Enforcement Policy

Ms. Martin directed the Board to the CME Enforcement Proposal circulated to Board members in advance of the meeting. The Board's administrative staff is seeking assistance from the Board in modernizing its CME enforcement policy. Ms. Martin suggested that the Board consider allowing a licensee who is selected for audit report their participation in MOC as proof of completion of the 38 general CME hours which are required as a condition of renewal. Staff would verify the MOC status of such individuals and accept a satisfactory status as proof of completion of all required CME requirements.

The Board was concerned that this would give the appearance that MOC was a licensure requirement. Ms. Martin explained that this was a supplement to our existing process and would not be a requirement. Other board members noted that the CME requirements for the boards vary and that they wouldn't necessarily match up with what was currently being required as a condition of renewal. Ms. Martin acknowledged that but felt that it would be possible to review each board's MOC requirements to see if they should all be accepted, or just certain boards. Ms. Martin believes this change would simplify the

process for licensees in addition to the administrative staff because it gives them one less date to keep track of: CME earned toward MOC would count toward their CME in Tennessee.

Dr. Johnson made a motion to refer this matter to the development committee for further review. Dr. Blake seconded the motion which passed. Ms. Martin was asked to determine how many Tennessee physicians are board certified.

Investigative Report

Antoinette Welch, JD, Director of the Office of Investigations gave the investigative report. To date there have been 452 new complaints opened against medical doctors; six against medical x-ray operators, and ten against pain clinics this year. There are 195 medical doctors and medical x-ray operators under monitoring by the Office of Investigations.

Consider Possible Revisions to the Board's 2002 Supervision Policy

Ms. Huddleston referred the Board to its 2002 Supervision Policy and suggested that the document is out of date and in need of revision. Ms. Huddleston named some of the issues with the current document. For example, the document states that the supervising physician must not have an encumbrance or restriction on his or her license; however, because the document applies to the supervision of providers who are not APNs or PAs, this would mean that a physician should not supervise and employ a nurse if he or she is on probation. Other provisions are vague, such as the mandate that "the supervising physician must be on-site at least four (4) hours per week." Dr. Johnson has brought some of the issues with the document to Ms. Huddleston's attention and agrees that it should be revisited. Dr. Zanolli agreed that these are good points and spoke in favor of revising the document. Dr. Ali asked that the policy document be added to the Development Committee Agenda in September.

Advisory Ruling

The board was asked to adopt a proposed advisory ruling answering the question of whether a board certified internal medicine physician who currently serves as medical director of a med-psych unit and chief medical officer for a psychiatric hospital, who has experience treating psychiatric patients, may supervise a psychiatric nurse practitioner although he is not board certified in psychiatry.

The board adopted the following response:

Licensed physicians may supervise healthcare workers in their provision of services which fall within the physician's area of expertise. Specialty board certification in psychiatry is not required in order to supervise a psychiatric nurse practitioner in the performance of his or her duties, as board certification is not the only way to demonstrate one's expertise in psychiatry. A physician's area of expertise can be said to encompass the range of services routinely provided in the course of his or her medical practice. It may also include services not routinely provided, but regarding which the physician has specific, up-to-date, reliable knowledge acquired during his or her medical training.

In order for you to lawfully supervise the provision of a psychiatric nurse practitioner's services, the Board's position is that the services provided must be within your existing area of expertise. That is to say, you must currently provide these services in the course of your medical practice, or you must have received some specific medical training resulting in current knowledge which is sufficient to safely provide these services.

NPDB Reporting Requirements

Dr. Baron had asked that this item be added to the agenda; however, he asked that it be reconsidered in September when he has more time to pull some information together.

Consider Taking Position on US S. 2943

The board was briefed on federal legislation currently pending in the US Senate which would redefine, for the purposes of reimbursement, licensure, and professional liability, the practice of medicine. According to Section 705(d) of the National Defense Authorization Act, the practice of medicine would occur where the provider, rather than the patient is located.

The board considered the implications of this bill and its contrast with the longstanding understanding that the practice of medicine occurs where the patient is located. The board considered an advocacy letter to Reps. Roe and Cooper urging them to oppose section 705(d) and Dr. Johnson made a motion to approve the letter. Dr. Ali seconded the motion, which passed.

PC 1033 Pain Clinic Rules Representative

The board was asked to appoint a representative to serve it in future discussions related to the PC 1033. This representative will, if needed, be working with the commissioner to promulgate rules related to the regulation of pain clinics. Dr. Musil volunteered to work on this issue.

Administrative Office Report

Ms. Martin announced that the administrative office has filled both vacancies in the unit. One position was filled by an external candidate and one position was filled by an internal candidate. The internal candidate's promotion of the internal candidate will require that an additional vacancy be filled, but the administrative office hopes to fill that vacancy before the next meeting. Ms. Martin also updated the Board on the x-ray operator bill which passed this session. The bill requires that x-ray operators in essentially all settings for human subjects become licensed by the state. The bill also creates a board, which has not yet been appointed, that will be administratively attached to the BME, but will not report to it. The BME's administrative staff will support the board and two new people will be hired to assist with these new licensees.

First time examinee passage report was offered for information only. No action was required by the Board.

Ms. Martin asked the Board to authorize two staff people to attend the South Central Telehealth Forum that will be held in Nashville on August 1-2. Ms. Huddleston asked that the Board authorize one attorney to attend the FARB meeting this Fall. Dr. Christiansen made a motion to approve. Dr. Ali seconded and the motion passed.

OGC Report

Ms. Huddleston provided a status update on the following rules:

- Telemedicine rules are still pending in the attorney general's office
- Addiction specialist definition rule has been continued to the September meeting
- Medical spa registry rule and intractable pain rules are pending in internal review

- Fee increase has not moved out of the internal review process. Ms. Huddleston stated that there were no new financials and asked whether the board wanted to reexamine this issue given the governor's office's reluctance to approve the rule. The projections that led to the authorization of the fee increase changed so that a deficit was not projected after all. Dr. Zanolli and Dr. Ali expressed their preference that the fee increase continues. Dr. Ali cited the need for increased funding to the CSMD and other initiatives.

Ms. Huddleston summarized the rulemaking process for the benefit of the new member, Ms. Cole. She explained that after a rulemaking hearing, such as the hearing that occurred today, the rule goes to the attorney general's office for review of legality. There they look to make sure that there is the statutory authority for the rules. Once they are approved, they're filed with the secretary of state's office for 90 days. During that 90 day period they're scheduled for review before the government operations committee. If there are no problems during that review, they become effective on the effective date assigned. The government operations can ask questions, ask the Board for reconsideration, or to stay the effective date of the rules.

The internal review process includes review by the advisory attorney's supervising attorney and Ms. Huddleston, the General Counsel, the Commissioner and the Governor.

Ms. Huddleston provided an overview of the cases currently on appeal. There are five cases on appeal. The Robin Freeman, MD, case was recently dismissed for failure to prosecute. Oral arguments were heard in the Court of Appeals last week in Dr. Oni's case. Dr. Alton Ingram's case has been remanded back so there will likely be another hearing. There are currently 125 complaints against 92 distinct respondents. Ms. Huddleston will be hiring several new attorneys who will be serving this Board. This is likely to cause the legal fees to increase.

Appointment of New Members to Development Committee

Dr. Zanolli asked Dr. Johnson and Ms. Outhier if they would be willing to fill the vacancy created by Dr. Beckford's and Ms. Eller's expired terms. Dr. Ali made a motion to approve Dr. Zanolli's appointments which was seconded by Dr. Higdon. The motion passed.

Discussion regarding the Timing of Elections

The Board determined that the elections would be held in September and that a member can self-nominate or be nominated from the floor.

Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners Wednesday, July 20th, 2016

The second day of the regular board meeting was called to order at 8:44 a.m. in the 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, Dr. Reeves Johnson, Dr. Debbie Christiansen, Dr. Melanie Blake, Ms. Julianne Cole, Dr. C. Allen Musil, Dr. Dennis Higdon, and Ms. Barbara Outhier.

Ms. Stacy Tarr, administrative director, presented the statistical licensing report and the Board's continuing medical education audit report. The report is from January 1, 2015 – December 31, 2015. Dr. Johnson asked the process of the deficient individuals.

Ms. Martin stated if an individual is found to be deficient, a letter is sent out stating the licensee's deficiency and giving them 14 days to send any additional information they may have. If we receive additional information showing the individual compliant, they will then be sent a compliant letter. If nothing is sent, an agreed citation is sent to the individual and they are considered deficient.

Presentation from Dr. Mitchell Mutter

Dr. Mitchell Mutter, Medical Director of Special Projects, provided an overview of the Department's work and progress in eliminating the prescription drug epidemic. Although our total MME's prescribed in the first six months in the state have dropped 22% compared to last year, we still have growth in overdose death and instances of NAS. Ms. Martin and Dr. Mutter and others have been working on a new initiative to educate high school aged children on the dangers of experimenting with prescription drugs. The group has preliminarily set a goal of partnering with TTU's iCube to develop virtual reality modules and other technology that will appeal to students.

Dr. Mutter presented the proposed changes to the Tennessee Chronic Pain Guidelines which must be updated annually.

Agreed Citations (CME)

The Board discussed the CME report and the compliance rate. Dr. Baron asked whether the Board should consider increasing the fine in an effort to increase the compliance rate. Dr. Christiansen stated that increasing the fine will only impact the compliance rate if there are repeat offenders. Dr. Ali asked that this item be added to the development committee for further study and consideration.

Dr. Higdon made a motion to approve to following agreed citations en mass which was seconded by Dr. Johnson and passed.

William Baucom, MD – was not present nor did a legal representative appear on his behalf. Dr. Baucom has agreed to pay \$3,000.00 in civil penalties for failure to obtain 30 CME hours, to include two (2) hours of prescribing practices with instruction on the Department's Chronic Pain Guidelines.

Mandeep Bakshi, MD – was not present nor did a legal representative appear on his behalf. Dr. Bakshi has agreed to pay \$950.00 in civil penalties for failure to obtain 9.5 CME hours, to include 1 general prescribing hour.

Brian Berger, MD – was not present nor did a legal representative appear on his behalf. Dr. Berger has agreed to pay \$1,825.00 in civil penalties for failure to obtain 18.25 CME hours.

Audrey Campbell, AMDX – was not present nor did a legal representative appear on his behalf. Ms. Campbell has agreed to pay \$40.00 in civil penalties for failure to obtain 2 CE hours.

Olatubosun Dennis, MD – was not present nor did a legal representative appear on his behalf. Dr. Dennis has agreed to pay \$200.00 in civil penalties for failure to obtain 2 two (2) hours of prescribing CME which must include instruction on the Department's Chronic Pain Guidelines.

Luis Alberto Destarac-Maselli, MD – was not present nor did a legal representative appear on his behalf. Dr. Destarac-Maselli has agreed to pay \$4,000.00 in civil penalties for failure to obtain 40 CME

hours, to include two (2) hours of prescribing practices with instructions on the Department's Chronic Pain Guidelines.

Kerri Estep, AMDX – was not present nor did a legal representative appear on his behalf. Ms. Estep has agreed to pay \$40.00 in civil penalties for failure to obtain 2 CE hours.

Stephen Hammond, MD – was not present nor did a legal representative appear on his behalf. Dr. Hammond has agreed to pay \$200.00 in civil penalties for failure to obtain 2 two (2) hours of prescribing CME which must include instruction on the Department's Chronic Pain Guidelines.

Katherine Hartman, MD – was not present nor did a legal representative appear on his behalf. Dr. Hartman has agreed to pay \$200.00 in civil penalties for failure to obtain 2 two (2) hours of prescribing CME which must include instruction on the Department's Chronic Pain Guidelines.

Kenneth Johnson, AMDX – was not present nor did a legal representative appear on his behalf. Mr. Johnson has agreed to pay \$40.00 in civil penalties for failure to obtain 2 CE hours.

Malia Nappi, AMDX – was not present nor did a legal representative appear on his behalf. Ms. Nappi has agreed to pay \$40.00 in civil penalties for failure to obtain 2 CE hours.

Tim Noyes, MD – was not present nor did a legal representative appear on his behalf. Dr. Noyes has agreed to pay \$1,550.00 in civil penalties for failure to obtain 15.5 CME hours, to include two (2) hours of prescribing practices with instruction on the Department's Chronic Pain Guidelines.

Ferrell Pierson, MD – was not present nor did a legal representative appear on his behalf. Dr. Baucom has agreed to pay \$600.00 in civil penalties for failure to obtain 6 CME hours, to include two (2) hours of prescribing practices with instruction on the Department's Chronic Pain Guidelines.

Michael Rakestraw, MD – was not present nor did a legal representative appear on his behalf. Dr. Rakestraw has agreed to pay \$200.00 in civil penalties for failure to obtain 2 two (2) hours of prescribing CME which must include instruction on the Department's Chronic Pain Guidelines.

Stephen Shiffman, MD – was not present nor did a legal representative appear on his behalf. Dr. Shiffman has agreed to pay \$625.00 in civil penalties for failure to obtain 6.25 CME hours.

Rowella Sirbildaze, MD – was not present nor did a legal representative appear on his behalf. Dr. Sirbildaze has agreed to pay \$200.00 in civil penalties for failure to obtain 2 two (2) hours of prescribing CME which must include instruction on the Department's Chronic Pain Guidelines.

Suzanne Smith, MD – was not present nor did a legal representative appear on his behalf. Dr. Smith has agreed to pay \$400.00 in civil penalties for failure to obtain 4 CME hours.

Jerome Tannenbaum, MD – was not present nor did a legal representative appear on his behalf. Dr. Tannenbaum has agreed to pay \$200.00 in civil penalties for failure to obtain 2 two (2) hours of prescribing CME which must include instruction on the Department's Chronic Pain Guidelines.

Ms. Huddleston reported on the telemedicine rule and reminded the Board that once the rule is approved it will be sent to government operations for final review. It will be necessary for a board member to attend that hearing. She assumed that Dr. Zanolli will attend.

Order(s) of Compliance

William D. Shippen, Jr., MD – appeared in-person without counsel. Ms. Huddleston presented the order. Dr. Shippen was disciplined in 2006 related to an incident that occurred with a patient at the hospital where he was working. Dr. Shippen’s license was placed on probation for the period of his contract with TMF and until such time as Petitioner complied with certain other restrictions. Dr. Shippen has complied with all terms of his order and is entitled to have his petition granted. Dr. Christiansen made a motion to accept which was seconded by Dr. Higdon. Drs. Musil and Baron recused themselves.

David H. Drucker, MD – did not appear nor did counsel speak on his behalf. Dr. Drucker was disciplined for Medicaid fraud and one count of tax evasion. He was ordered to Dr. Drucker has complied with all terms of his order and is entitled to have his petition granted. Dr. Baron made a motion to accept with was seconded by Dr. Musil and passed.

Charles W. Emerson, III, MD – did not appear nor did counsel speak on his behalf. Dr. Emerson was disciplined for failure to provide adequate supervision in a medical spa. His license was placed on probation for a period of 5 years and he was required to complete additional coursework and continuing medical education. Dr. Emerson has complied with all terms of his order and is entitled to have his petition granted. Dr. Christiansen made a motion to accept which was seconded by Dr. Johnson. The motion passed.

Marilyn Watts, MD – did not appear nor did counsel speak on her behalf. Dr. Watts was disciplined in 2011 related to a conviction for wire fraud and healthcare fraud. Her license was placed on suspension for a period of one (1) year and placed on probation for a period of five years effective May 25, 2011 and until such time as she complied with other restrictions. Dr. Watts has complied with all terms of his order is entitled to have her petition granted. Dr. Musil made a motion to accept. Dr. Blake seconded the motion which passed.

Justin Turner, PA-C – Mr. Turner appeared in-person without counsel. Ms. Mary Katherine Bratton represented the state. Earlier this month, the Committee on Physician Assistants granted Mr. Turner’s Petition for Order of Compliance seeking termination of his probation. The Committee reviewed the prohibition of his prescribing of controlled substances at that time, which was modified in 2015 to allow Mr. Turner to prescribe testosterone, and determined that the prohibition was meant to be a lifetime restriction. He is petitioning for an order of compliance seeking a lifting of the probation on his license. Dr. Christiansen made a motion to approve which was seconded by Dr. Musil. Ms. Outhier abstained. The motion passed.

Final Order

Shawn M. Blair, PA-C – Mr. Blair did not appear before the Committee. Ms. Bratton represented the state. Mr. Blair was licensed by the Tennessee Committee on Physician Assistants in October 2014. At that time, the approval of his application was contingent upon his continued compliance with the terms of his advocacy agreement with TnPAP. Mr. Blair has failed to comply with the monitoring agreement. Accordingly, the Committee has taken action to revoke his license. Dr. Baron made a motion to accept. Dr. Christiansen seconded the motion which passed.

Consent Orders

James Appleton, Jr, MD – Dr. Blake and Dr. Musil were recused. Dr. Baron also recused himself. Dr. Appleton did not appear; however, his counsel, Bob Kraemer, appeared. Ms. Paetria Morgan represented the state. Dr. Appleton improperly prescribed controlled substances to multiple patients, including to a

patient he knew suffered from addiction. The consent order requires a probationary period of at least 5 years, payment of 7 Type B penalties, monitoring for a period of at least one year, and completion of certain coursework. Dr. Christiansen made a motion to accept the consent order. Dr. Johnson seconded. Dr. Higdon asked Mr. Kraemer whether the coursework has been completed. Mr. Kraemer said that Dr. Appleton has reserved his seat but he is unsure whether Dr. Appleton has attended the courses yet. The motion passed.

Jonathan Leeds Costa, MD – Dr. Costa did not appear nor did a legal representative appear on his behalf. Ms. Morgan represented the state. Dr. Costa prescribed controlled substances improperly and without creating or maintaining a medical record. He also engaged in a romantic relationship with a patient. He has since left Tennessee and has no plans to return. The consent order requires that he voluntarily retire his license and pay reasonable costs related to this matter. Dr. Ali and Dr. Baron abstained. Dr. Musil made a motion to accept. Dr. Johnson seconded. The motion passed.

Quincy Turner, AMDX – Mr. Turner was not present nor did a legal representative appear on his behalf. Ms. Jennifer Putnam represented the state. Mr. Turner was indicted on eight counts of prescription drug fraud and one count of identity theft related to his admitted criminal activities. The consent order orders that Mr. Turner’s license be revoked. Dr. Musil made a motion to accept the order. Dr. Johnson seconded the motion which passed.

John Rodney, MD – Dr. Rodney did not appear, nor did a representative appear on his behalf. Ms. Putnam represented the state. Respondent self-prescribed Adderall using a co-worker’s DEA registration. Dr. Rodney self-reported to the TMF and entered in-patient treatment. The consent order requires a probationary period of at least two years, evaluation by and compliance with any recommendations by the TMF, and the payment of costs. Mr. Mike Todd, TMF, spoke on Dr. Rodney’s behalf. Dr. Christiansen made a motion to accept. Dr. Johnson seconded the motion which passed.

Dr. Mark Fox, MD – Dr. Fox did not appear, nor did a representative appear on his behalf. Ms. Putnam represented the state. Dr. Fox performed a surgery without first checking the PT/INR despite knowledge that the patient was prescribed and took Coumadin. The consent order requires that Dr. Fox’s medical license be reprimanded and that he pay costs and penalties in the amount of \$1,500. Dr. Christiansen made a motion to accept the order. The motion was seconded by Dr. Blake. Dr. Musil, Dr. Johnson and Dr. Baron abstained. The motion passed.

Contested Case (Iris Room)

Administrative Law Judge:	Elizabeth Cambren
Petitioner:	Robbin Gerrah
Petitioner’s counsel:	David Steed
State’s counsel:	Andrea Huddleston
Panelists:	Dr. Ali, Dr. Christiansen and Ms. Cole

Dr. Gerrah does not qualify for a Tennessee medical license because he has not completed a three year residency in a program accredited by the ACGME as required by Tenn. Code Ann. § 63-6-207. Dr. Gerrah has completed a US fellowship. Dr. Gerrah is a graduate of one of the most prestigious medical universities in the world and was being recruited by LeBonheur Children’s Hospital in Memphis. There are only two sites in Tennessee that provide pediatric cardiac surgery. There is a great need for his services in Tennessee. Dr. Gerrah passed all steps of the USMLE in a period of 7 months.

The state did not oppose the petition. All portions of the proposed order were adopted by proper motion and second and the declaratory order was granted. Dr. Gerrah will receive a full and unrestricted medical

license.

Contested Case (Poplar Room)

Administrative Law Judge: Thomas G. Stovall
Respondent: Mark Swaim, MD
State's counsel: Jennifer Putnam
Panelists: Dr. Baron, Dr. Johnson, Dr. Blake

Dr. Swaim admitted during an investigation by the Tennessee Department of Health, that he had prescribed controlled substances to a co-worker not pursuant to a doctor-patient relationship. Issues concerning his disruptive behavior were previously adjudicated by Texas and North Carolina, states in which he held a license. All portions of the proposed order were adopted by proper motion and second and Dr. Swaim's license was ordered to be revoked. Dr. Swaim is also ordered to pay costs and penalties.