



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

**Tuesday, September 15, 2015
Wednesday, September 16, 2015**

MINUTES

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. Zanolli, Board President.

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

Board member(s) absent: Neal Beckford, MD

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

I. APPROVAL OF MINUTES

For the regular July 21-22 meeting minutes, multiple corrections to the proposed draft were requested by members of the Board. Dr. Ali made a motion to approve the minutes with all corrections as discussed. Dr. Johnson seconded the motion, which passed unanimously.

Dr. Ali made a motion to approve the minutes from the August 18th Development Committee meeting. Dr. Higdon seconded the motion which was unanimously approved.

II. DEVELOPMENT COMMITTEE RECOMMENDATIONS

Reentry Policy for MD X-Ray Operators

Dr. Ali discussed the letter that had been created to send to Radiology Department Directors in order to gather information on facilities that may be willing to allow those who had been out of practice to demonstrate their skills to ensure they are sufficient. The motion to proceed with the first step of consideration of reentry policy for MD X-Ray Operators (dissemination of the letter and data collection to add to further discussion) was unanimously approved.

Policy for unapproved schools

Dr. Ali discussed adding three approval lists for Medical Schools that were proposed by the Development Committee, which include the NCFMEA, CAAM-HP, and ACCM. If a school is on one of the lists as accredited or provisional accreditation, it will be acceptable. The effective date of the approval would be the first date of accreditation. The motion to add the CAAM-HP approved list, the ACCM approved list, and the list of approved accrediting bodies in various countries approved by NCFMEA, in addition to the California approved list as the lists of schools to be considered as approved was unanimously approved. If an applicant attended an international medical school which is not on any of the four approved lists, then he or she has the burden of presenting evidence that the school they attended meets the requirements of the State of Tennessee. Those cases will be presented to the Board. In the past, the policy was that if someone was Board Certified and having passed the USMLE on the first try. It is proposed the requirement regarding passing the USMLE on the first try be dropped. The motion is to accept Board Certification and having passed the USMLE. Dr. Baron asked if “Board Certification” meant one of the ABMS certifications and Dr. Ali confirmed that was correct. Dr. Zanolli clarified that the applicant must still meet all other requirements. The motion, which is that the Board does not require an applicant from a foreign medical school, to pass the USMLE on the first attempt, they just need to follow the rules everyone else does and just pass the USMLE according to Board’s established rules, was unanimously approved.

Boards Mission Statement

Dr. Ali explained that there were three proposed choices for the Mission Statement, with the Development Committee deciding on the one that states “The mission of the Tennessee Board of Medical Examiners is to protect the health, safety, and welfare of people in the State of Tennessee”. The motion to accept the selected revised Mission Statement as read aloud by Dr. Ali passed unanimously.

Additional Development Committee Business

Dr. Zanolli made a motion to move the vote to the next day in order to allow the Board Members adequate time to review the draft of the policy for unapproved schools and send any recommended changes to Ms. Huddleston overnight. Dr. Higdon seconded the motion.

III. CONSIDERATION OF APPLICATIONS

MD X-Ray Applicant Interview(s):

Jennifer Yates – appeared before the Board because she last operated x-ray equipment as a student radiographer in May 2012. After review of the materials contained in her license file and

interviewing her, Ms. Eller made a motion to table Ms. Yates application for a period of up to six (6) months to allow her work with the medical consultant to identify an appropriate reentry pathway and complete remediation. Dr. Ali seconded the motion which passed unanimously.

Medical Doctor Applicant Interview(s):

Robert Allen, MD - appeared before the Board pursuant to a request for a new license. His request was due to previous discipline by the Board resulting in a voluntary surrender of his license. After review of the materials contained in his license file and interviewing him, Dr. Higdon made a motion to table the application until after the lunch break to review additional information provided by Dr. Allen. Dr. Ali seconded the motion, which was approved unanimously. Dr. Allen appeared back before the Board later in the day. Having reviewed the additional information provided by Dr. Allen and interviewing him further, Dr. Baron made a motion to grant a restricted license with the following restrictions: the license will be on probation for a period of at least five (5) years; Dr. Allen is required to sign a lifetime contract with the Tennessee Medical Foundation (TMF), maintain lifetime advocacy of TMF and ensure that quarterly reports are provided from TMF to the Department's Disciplinary Coordinator; he is prohibited from seeking a DEA registration for controlled substances; he is prohibited from engaging in the independent practice of medicine in a solo setting; he must comply with all other recommendations contained in the 2015 reevaluation report of the Vanderbilt Comprehensive Assessment Program, including maintaining therapeutic monitoring of his medical and psychiatric conditions and comply with reasonable and appropriate recommendations of his providers. Dr. Ali made a friendly amendment to the motion that adds the restriction that prior to engaging in the practice of medicine, Dr. Allen must obtain approval of a practice plan from the Board's Medical Consultant. Dr. Baron seconded the amendment, which passed. Dr. Musil recused himself. Ms. Outhier and Ms. Eller abstained. After further discussion, Dr. Ali made a motion to reconsider the action that was just taken, due to a need to add an additional restriction. Dr. Johnson seconded the motion, which was approved unanimously. Dr. Baron made a motion that in order for Dr. Allen to have the probation of his license lifted, he must file a Petition for Order of Compliance with the Disciplinary Coordinator and appear back before the Board. Dr. Ali seconded the motion, which passed. Dr. Musil, Ms. Outhier, and Ms. Eller abstained.

Sheila Asghar, MD - appeared before the Board because she did not complete all three Steps of the USMLE within seven (7) years of her first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). She did not pass all Steps on her first attempt. While interviewing her, an attorney, Mr. Steed asked to speak to the Board on the issue of the seven (7) year rule though he was not representing Dr. Asghar. The Board and Dr. Asghar consented to let Mr. Steed speak on the issue. Mr. Steed spoke with the Board about the fact that when the Statute regarding the seven-year rule was issued, Dr. Asghar had already completed two of the steps. He also mentioned a ruling in Virginia that found that the rule in that state did not apply to those who had already taken steps one and two at the time that the rule was adopted. After additional input by Ms. Huddleston regarding the issue, Dr. Zanolli asked if Dr. Asghar would like to withdraw her application or allow the Board to proceed. Dr. Asghar decided to take some time to make her decision and the Board decided to revisit her application later in the day. Dr. Asghar returned to speak to the Board and she requested more time to decide how to proceed. Dr. Johnson made a motion to table Dr. Asghar's application until the November meeting to allow her time to decide how to proceed with her application. Ms. Yeiser seconded the motion, which passed unanimously.

Varija Bhogireddy, MD - was asked to appear before the Board because she did not complete all three Steps of the USMLE within seven (7) years of her first successful step as required by R. 0880-

02-.08 and TCA § 63-6-207(b). She did not pass all Steps on her first attempt. Dr. Bhogireddy was present at the meeting, but she had to leave and requested that her interview be rescheduled to the November meeting.

Burton Brooks, MD - appeared before the Board because he is a graduate of a medical school that is not on the “approved list” (it is also not on the “disapproved list”). Although he is board certified, he did not pass all Steps of the USMLE on his first attempt. After review of the materials contained in his license file and interviewing him, Dr. Musil made a motion to approve the application. Dr. Johnson seconded the motion, which passed unanimously.

Carlo Buena, MD - appeared before the Board because he did not complete all three Steps of the USMLE within seven (7) years of his first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). He did not pass all Steps on his first attempt, and he is not Board Certified. After review of the materials contained in his license file and interviewing him, Dr. Johnson made the motion to table the application for two months to allow Dr. Buena to decide how he would like to proceed with his application – either withdraw, allow the Board to proceed, or pursue a Declaratory Order. Dr. Higdon seconded the motion, which passed unanimously.

Sumit Chawla, MD - appeared before the Board because he is a graduate of a medical school that is not on the “approved list” (it is also not on the “disapproved list”). Although he did pass all Steps of the USMLE on his first attempt, he is not board certified. After review of the materials contained in his license file and interviewing him, Dr. Johnson made a motion to approve the application. Dr. Christianson seconded the motion. After additional discussion, Dr. Christianson withdrew her second. Dr. Johnson made a motion to approve the application contingent upon Dr. Chawla becoming Board Certified within the next six months, with the option to return before the Board if he does not pass. Dr. Ali seconded the motion, which passed unanimously.

Christopher Cummins, MD - appeared before the Board because he attended Saba University from 1998-2003. Saba was not added to the California “approved” list until 2002. Accordingly, at issue is whether he attended an approved school. In addition, Dr. Cummins was disciplined by the Mississippi Board of Medicine in October 2013 after he failed to make arrangements for an alternate physician to supervise his mid-level providers during his deployment. All restrictions on Dr. Cummins’ practice were lifted by Board order in May 2015. After some discussion of Dr. Cummins application, and whether it is a valid application based on the school he attended being an unapproved school, Dr. Higdon made a motion to continue after it was determined that Dr. Cummins does have a valid application. Dr. Ali seconded the motion, which passed unanimously. After review of the materials contained in his license file and interviewing him, Dr. Ali made a motion to approve the application. Dr. Higdon seconded the motion, which passed unanimously.

Ajitpal Dhaliwal, MD – requested that he be allowed to appear before the Board to appeal a denial at the July 2015 Board Meeting for failure to show up at multiple Board Meetings. There were issues of an address change that was not reported and whether Dr. Dhaliwal was properly notified of the meetings. After the Board discussed the issue, there was a motion to reconsider the action of denial of Dr. Dhaliwal’s application in July. Dr. Musil, Dr. Higdon, Dr. Ali, Dr. Johnson, Dr. Blake, and Dr. Christiansen voted for the motion. Dr. Baron, Ms. Yeiser, and Ms. Outhier were opposed. Ms. Eller abstained and Dr. Zanolli did not vote. The motion carried. Dr. Dhaliwal then chose to withdraw his application, which the Board allowed him to do. The Board will also support the removal of the denial from Dr. Dhaliwal’s NPDB report, which he had stated had caused him to lose a job offer.

Randall Feather, MD - appeared before the Board because he is a graduate of a medical school that is not on the “approved list” (it is also not on the “disapproved list”). He did pass all Steps of the USMLE on his first attempt, he is not board certified. After review of the materials contained in his license file and interviewing him, Dr. Baron made a motion to approve the application (due to the medical school now being on one of the lists that was approved earlier in the day, and that he is now Board Certified). Dr. Blake seconded the motion, which passed unanimously.

Kimberly Freeman, MD - appeared before the Board because she retired her medical license in 2001 and has been out of clinical practice since that time. She has been offered employment with Lifesigns Prevention Clinic in Memphis where she will conduct screening and wellness examinations and counsel patients on healthy practices. She has identified a physician to assist in her remediation. That individual will accompany her to her interview. Dr. Higdon and Dr. Baron recused themselves. Dr. Musil made a motion to not approve the license. After review of the materials contained in her licensure file and at the conclusion of her interview, the Board permitted her to withdraw her application, which she elected to do.

Belinda Hsi Dickie, MD - appeared before the Board because she did not complete all three Steps of the USMLE within seven (7) years of her first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). She did pass all Steps on her first attempt. After review of the materials contained in her license file and interviewing her, Dr. Ali made a motion to table the applicant’s application for up to six (6) months in order for the applicant to decide how to proceed. Dr. Baron seconded the motion, which was unanimously approved.

Sumita Jain, MD - appeared before the Board because she is a graduate of a medical school that is not on the “approved list” (it is also not on the “disapproved list”). Although she passed all Steps of the USMLE on her first attempt, she is not board certified. After review of the materials contained in her license file and interviewing her, Dr. Johnson made a motion that a license be granted contingent upon verifying that the applicant will be able to receive Board Certification upon issuance of a state license. Dr. Blake seconded the motion. The motion was held until additional information could be obtained. After a letter from the American Board of Family Medicine was received, which stated that Dr. Jain would obtain her ABMS certification on the same date that all requirements were fulfilled (and that “holding a currently valid full and unrestricted license to practice medicine in the United States or Canada” was the only requirement pending). With the additional information provided, the motion passed. Dr. Baron and Ms. Eller abstained.

Lincoln Jimenez, MD - appeared before the Board because he did not complete all three Steps of the USMLE within seven (7) years of his first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). He failed Step 3 four times before passing on his fifth attempt; however, Steps 1 and 2 were completed on his first try. After review of the materials contained in his licensure file and at the conclusion of his interview, the Board permitted him to withdraw his application, which he elected to do.

Chimene Kesserwan, MD - appeared before the Board because she did not complete all three Steps of the USMLE within seven (7) years of her first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). Her first successful Step was completed in March 1996 and her last successful Step in February 2004. She failed Step 1 on her first attempt; however, all other steps were completed on her first try. The applicant’s counsel, Mr. David Steed, was present and spoke to the Board about Dr. Kesserwan. After review of the materials contained in her license file and further interviewing her, Ms. Yeiser made a motion to grant a St. Jude Children’s Research Hospital Global

Collaboration license. Dr. Ali seconded the motion, which passed. Dr. Blake recused herself. Dr. Johnson made a motion to grant a petition for a declaratory order for Dr. Kesserwan. Dr. Ali seconded the motion, which passed unanimously.

Christina Nickels, MD - appeared before the Board due to previous criminal behavior. Dr. Nickels attended Northeastern Ohio Universities College of Medicine from 2000 to 2004. After five failed attempts at Step 2 of the USMLE, she transferred her credits to the International University of the Health Sciences, apparently because they were willing to sponsor her for additional attempts. Because her degree was conferred by a foreign medical school, **which was not on the approved list**, Dr. Nickels must have completed three years of a US residency; however, she resigned from her residency before completing three years. After review of the materials contained in her license file and interviewing her, Dr. Nickels then elected to withdraw her application after a brief discussion in which it was pointed out that Dr. Nickels did not qualify for licensure at this time and. The Board permitted her to withdraw her application.

Mike Sundar, MD - appeared before the Board because he did not complete a three year US residency as required by R. 0880-02-.04(5) nor is he board certified. After review of the materials contained in his license file and interviewing him, Dr. Sundar then elected to withdraw his application, which the Board permitted him to do.

Ionela Triple - appeared before the Board because she is a graduate of a medical school that is not on the “approved list” She is board certified and passed all steps of the USMLE on her first attempt. After review of the materials contained in her license file and interviewing her, Dr. Ali made a motion to approve the application. Dr. Johnson seconded the motion, which was unanimously approved.

Fazel Yahya - appeared before the Board originally at the July meeting because he is a graduate of a medical school that is not on the “approved list” (it is also not on the “disapproved list”). Although he did pass all Steps of the USMLE on his first attempt, he is not board certified. At the July meeting, he testified that he cannot take the exam to become board certified until 2016. At the conclusion of his interview in July, the Board directed him to appear before the Board again in September. After review of the materials contained in his license file and interviewing him, Dr. Yahya then elected to withdraw his application, which the Board permitted him to do.

IV. CONDUCT NEW BUSINESS

PRESENTATION BY SOLICITOR GENERAL

Andrée Sophia Blumstein, Solicitor General for the State of Tennessee, presented a discussion on anti-trust law, in regards to the United States Supreme Court decision on the North Carolina Dental Board v The Federal Trade Commission.

A summary of the case was presented by Ms. Blumstein. There had been a surge of teeth whitening shops opening and offering teeth whitening services for a lower cost than Dentists in North Carolina. Dentists in North Carolina complained to the North Carolina Dental Board (hereafter the NC Dental Board). The NC Dental Board took action by issuing about 50 cease-and-desist letters to those teeth whitening shops. The letters were strongly worded and threatened the teeth whiteners with criminal prosecution if they persisted in providing these teeth whitening services. The Board also went to product manufacturers and encouraged them not to supply the teeth whitening supplies to non-dentist teeth whiteners. In addition, the NC Dental Board also approached the North Carolina Cosmetology

Board and told them to inform the Cosmetologists that they can't offer those services either. Finally, the NC Dental Board threatened mall operators who were renting kiosk space to teeth whiteners with prosecution and other penalties if they did not expel the teeth whiteners. This drove out the teeth whiteners but brought in the Federal Regulators. The Federal Trade Commission charged the NC Dental Board with anti-competitive and unfair trade practices in violation of the Federal Anti-Trust laws. The NC Board claimed they were immune from suit under the anti-trust laws due to acting as a State agency and State agencies being generally immune from anti-trust laws. It was determined that because the NC Dental Board was controlled by active participants in the market that the NC Board was set up to regulate, the anti-trust immunity that would only be available if the Board was subject to active State supervision.

Ms. Blumstein stated that the federal anti-trust laws were created to promote robust and strong competition, but at the same time, those laws recognize that the States as individual sovereign States could engage in anti-competitive activities if they chose to do so. That is why States acting as States in their sovereign capacity have immunity from anti-trust prosecution. Sovereign immunity applies clearly if it is the executive branch, legislative branch, or judicial branch acting. They grey area is with State agencies. The Supreme Court has said that if a Board is controlled by people who are active participants in the market they regulate, that is not the State speaking as the State. The Supreme Court has said there has to be some meaningful active State supervision in areas where there might be anti-trust liability. The Board will want to have the State supervision to not be only meaningful and meet all the other requirements of active State supervision, but documented. The reason the Court thinks that active State supervision is so important is that the Court recognizes that people act out of self-interest sometimes, and so even when we think that we are doing something in the public interest or for the benefit of consumers, if we stand to benefit somehow, that might push us in the direction of doing something that goes beyond the State policy. The Supreme Court said people can be presumed to act in their self-interest. The active State supervisor can't be, in this case, another physician. The problem in the NC Dental Board case was there was no active State supervision, and so the Board had to defend itself on the theory that it was the same kind of authority as the governor, or the legislature, which the Supreme Court said it did not have. The most important part of what the Supreme Court said was that a State agency is not the same as the sovereign; its actions are open to question if it does certain things. The Board wants to have immunity from anti-trust liability, and that decision cuts down on some extent on that immunity, but it's not as if the Board can't have immunity, as if the Board can't protect themselves. This is a serious issue that has come up, but it's important to keep it in perspective. Just because the Board might not have immunity doesn't mean automatically that if a problem arises, the Board would be found liable for anti-trust violations, they just might have to defend themselves. The other point Ms. Blumstein made is that many, if not most of the things the Board does have no serious anti-trust implications at all. Ms. Blumstein gave some examples to the Board of market sensitive activities that could trigger a problem, things that create barriers to entry for colleagues and competitors. Some Boards have imposed really onerous requirements for licensure that were not remotely necessary or related to the practice that they were regulating. One example was certain kinds of cosmetology practices, such as people who only braid hair are sometimes asked to pass the same rigorous tests and have the same qualifications as people who apply chemicals or use sharp instruments. Another example was restricting advertising. A final example was fee schedules or restricting hours of operation. Ms. Blumstein then gave examples of things the Board could act on with reasonable confidence that nothing terrible would happen. If the Board promulgates regulations with public notice and written justification, and they are for the safety of the consumers, that would be a reasonable activity; disciplinary action is not a problem as long as the Board implements it fairly; licensing activities, according to the rules and regulations that are in place, should be a safe harbor, as are conducting

investigations. The Board can comfortably prohibit license holders from engaging in fraudulent business practices. They can't prohibit people from advertising their credentials or experience, but if they are falsely advertising, that is something the Board can prohibit. Some statutes that give the Board authority to act are very general, but some are quite detailed and if the Board is just carrying out the details of what the statute commands the Board to do, they won't need to worry about any active State supervision. Ms. Blumstein noted that in Tennessee, practically all the licensing boards are controlled by active market participants but this is understandable because you want people who know the market and profession to protect the public interests. Changing the composition of the Board is not feasible. What the Board needs to think about is when they are contemplating an action that has potential anti-competitive impact; they might want to rethink the action, if there is some other way of accomplishing the objective, or seek active State supervision. Ms. Blumstein suggests when such issues come up, that the Board talks to their Counsel for further direction on whether something it is a problem or not. Reasonable restraints on competition are not anti-trust violations even if they have some economic interests at stake. Dr. Zanolli stated the Board is very interested in seeing if the State will formalize the series of active State supervision. Ms. Blumstein replied that the State is working on that, and that it would not be a physician. The State already has in place some procedures for supervising things, particularly in the rulemaking area, where every rule gets reviewed in the Governor's office; that procedure is now being fine-tuned. There are also two areas that are being looked at; one is the possible creation of an umbrella organization at the executive branch level that will be the go-to organization. It may have people with overlapping interests but they will not be part of the supervisory process. The alternative would be to create smaller oversight agencies of ombudsmen and certain Boards would go to one, and other Boards would go to another. Another protection for the Board is to have the legislature have in place indemnity provisions to protect them; there are already some, but they may need to be broadened. The important thing is for the Board to keep in mind when they may be treading on dangerous ground. Ms. Blumstein added that it boils down to whether action they are contemplating taking is going to benefit the Board members either directly or indirectly in their profession. It may benefit them, but sometimes the benefit is so miniscule, and proper procedures have been followed, so the Board doesn't even need to worry about that. Dr. Zanolli stated that the information provided was very helpful, that the Board was interested in the process, and added that it sounds like the Board is already following rulemaking statutes. He then asked if there is a deadline for formal recommendation from her office. Ms. Blumstein stated they are trying to work with the executive branch because they already have some of it in place, and that she will be in touch when everything is reworked. Dr. Zanolli thanked her for her time.

RATIFICATION OF LICENSES

Dr. Zanolli suggested that the new, reinstated, failed-to-renew and voluntarily retired licenses for the following professions be ratified en masse:

- Medical Doctors
- MD X-ray Operators
- Acupuncture
- Acupuncture Detoxification Specialists
- Genetic Counselors

Dr. Ali made a motion to ratify the lists as presented. Dr. Johnson seconded the motion, which passed unanimously.

UPDATE FROM DR. MUTTER

There was an update from Dr. Mutter. In January of 2016 the Controlled Substance Database will be updated daily. For Public Chapter 983 (Restriction of Prescriber Dispensing), it has been creating some consternation, trying to say what a coordinated care model is and the two Pharmacy databases are looking to see if that is going on. Public Chapter 396 (Addiction Treatment Act of 2015) will be discussed further. For Public Chapter 475, what constitutes a pain specialist, will be discussed on September 25th by the core expert group for Chronic Pain Guidelines. Public Chapter 476 says that in addition to the top 50 prescribers, they will now include the top 10 prescribers from all the combined counties having populations of fewer than 50,000 people. Public chapter 898 was previously discussed, but there was a meeting the prior day and there was a difference between the number of DEAs that exist and APNs and Pas and the numbers that are actually registered with a supervisory person, but it is much better than it was, and it is being followed up on. Dr. Mutter then moved on to the slideshow which Dr. Chen created, which shows county specific data on the MMEs (Morphine Milligram Equivalents) Per Capita Filled by Tennessee Residents in 2013. Dr. Mutter added that the progress is much better than what has been in the legislative report because Buprenorphine was included in the legislative report, and if it is removed, the total MMEs decline by 10.1 percent. The statewide data shows East Tennessee is getting better, and West Tennessee is getting worse. Dr. Blake asked if the data included methadone from methadone clinics. Dr. Mutter replied that it does not but that they may see some legislation that allows the methadone clinic morphine equivalents to go into the state database. Ms. Outhier asked what made the difference in the counties on the slide that were yellow and why have they gotten better. Dr. Mutter thinks the key is the coalitions. The greatest problem is to trying to reduce morphine equivalents and at the same time treat patients, while trying to get patients not to go to heroin. Dr. Johnson asked if with the increase in the west, has there been an increase in pain clinics. Dr. Mutter replied no, the number of pain clinics is about the same. Dr. Mutter had some slides from IMS. The morphine equivalents per prescription have gone down dramatically. He mentioned there has also been a question of short acting vs long acting. Finally Dr. Mutter mentioned that there are two possible solutions the problem. Patients are either not started on the medication, or they are weaned down. He closed by mentioning some upcoming meeting dates.

V. DEPARTMENTAL REPORTS

Report from BME's Administrative Office

Ms. Lawrence reported on the BME Unit's licensing activities from July 1, 2015 through August 31, 2015. The statistics are as follows: there were 249 new applications for full medical doctor licenses, 5 for locum tenens, 20 for telemedicine, 1 for special training, 2 for single purpose, and 0 for St. Jude received. 430 new licenses were issued, 1,718 renewals (1,219 online renewals) were processed, 237 licensees failed to renew, 91 licensees retired their license, and there were 32 reinstatements. The number of active licenses as of August 31, 2015 is 21,701. The total number of active licensees as of July 31, 2015 with a Tennessee mailing address is 16,701. The total number of telemedicine licenses is 453. There are 1,792 physician assistants licensed in Tennessee and 21 orthopedic physician assistants (OPAs). There are currently 3,682 certified X-Ray Operators.

Office of Investigations Report

Ms. Diona Laden, Deputy Director for the Division of Health, Licensure, and Regulation introduced herself and stated she is serving in the interim for the Office of Investigations. For the Pain Management Clinic Random Audits for the month of August there were 7 audits completed. Of the closed audits for August, one had no action, four were closed with a letter of concern, and four were closed with a letter of warning. The office is on target to reach their goal of 100 random audits for the Calendar year.

Disciplinary Report

For the September 2015 Disciplinary Report, there were 31 Doctors suspended, 71 on probation, 32 Board orders, and 90 revoked/surrendered. There were also 2 Medical X-Ray Operators suspended, 1 Board order, 0 on probation, and 2 revoked.

Receive report from CSMD Committee Chair

Dr. Baron gave an update on the CSMD Committee. The CSMD met on August 25th and will meet again on October 13th. The CSMD has been given a grant of four million dollars over five years from the CDC which will fund epidemiologists, clinical coordinators, some public nursing, and administrative assistants. As of 2014, the number of registrants is about forty thousand. There were about twenty one hundred law enforcement requests. The number of substances reported was over eighteen million. There were four or five public chapters that went through.

Consider definition of “addiction specialist” as required by PC 396.

Dr. Baron gave a report regarding the definition of an addiction specialist as required by Public Chapter 396. It was reworded and presented to the Board as:

To qualify as an addiction specialist, a physician must be either:

(a) A medical doctor licensed by the Board of Medical Examiners or Board of Osteopathic Examination who is board certified in addiction psychiatry by either the American Board of Addiction Medicine or the American Board of Psychiatry and Neurology or has completed the required residency training to become so certified and is in the board certification process; or

(b) A medical doctor licensed by the Board of Medical Examiners or Board of Osteopathic Examination who has a primary ABMS certification and at least three years of experience treating patients with a primary substance use disorder while employed by a facility that is licensed by the Tennessee Department of Mental Health and Substance Abuse Services. At least six months of that experience must be gained while caring for patients who are at the Alcohol and Drug Rehabilitation Detoxification or Alcohol and Drug Residential Rehabilitation level of care.

Review recommended changes to medical doctor application

Dr. Blake recommended that on page 10 of 13, the application says “LCME/AGCME”, and it should say “LCME/ACGME”. Ms. Eller had concerns with a question of the application. Dr. Zanolli asked that that concerns be e-mailed to Stacy Tarr or Angela Lawrence and the issue would be deferred to the next meeting.

Consider Radiology Education Seminars’ request for renewal

This issue was deferred to the November meeting.

VI. OGC/DISCIPLINARY BUSINESS

Murad Salaita, MD

Petition for Declaratory Order

Counsel for State: Andrea Huddleston, Esq.

Petitioner: Murad Salaita, MD

Petitioners’ Attorney: Kimberly Silvas

Dr. Salaita seeks a declaratory order finding (1) the manner by which the investigation leading to the previous Consent Order was conducted and the manner by which the Consent Order was procured violate his due process rights, (2) the Consent Order should be set aside and/or vacated, and (3) he should be permitted to have a contested hearing on the original allegations of The Division of Health Related Boards consistent with his due process rights.

Dr. Musil made a motion to decline the petition for declaratory order. Dr. Christiansen seconded the motion which passed. Ms. Yeiser did not vote. Dr. Johnson asked if the Board could write a letter and clarify exactly what the probation included since the doctor needs to be able to show that his license is not restricted to practice and that all conditions have been met as far as fines and coursework. Dr. Zanolli made motion accept Dr. Johnson's request. Dr. Ali seconded the motion. Dr. Zanolli clarified that the motion would be to write a letter to clarify the doctor's current status to the ABIM. The motion passed.

Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners Wednesday, September 16, 2015

The second day of the regular board meeting was called to order at 8:42 a.m. at the Health Related Board's Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee, by Board of Medical Examiners' President, Dr. Michael Zanolli. Members present included: Dr. Subhi Ali, Dr. Michael Baron, Ms. Pat Eller, Ms. Barbara Outhier, Dr. Dennis Higdon, Dr. Melanie Blake, and Ms. Yeiser.

I. CONDUCT NEW BUSINESS (CONT.)

Executive Director's request to continue Administrators in Medicine (AIM) membership

There was a request by Dr. Zanolli that the Executive Director, Ms. Maegan Martin remain a member of Administrators in Medicine (AIM). After a brief discussion, Dr. Ali made a motion that the Tennessee Board of Medical Examiners support all the expenses associated with membership and travel of the Executive Director to participate in the AIM organization. The motion was seconded by Ms. Eller, which was unanimously approved. Dr. Zanolli added that this does not need to be an annual request but there should be ongoing support as long as Ms. Martin is Executive Director.

Presentation by Jack Butterworth, MD, regarding "Retired Doctor Manual"

Dr. Butterworth gave a presentation to the Board on the topic of Doctors who are retiring or plan to soon retire. He also included a booklet created with TMA and State Volunteer Insurance Company, of the regulations of what a retired physician can and cannot do. He stated he would like the Board to consider some type of an endorsement of the pamphlet and asked if they would also like to add anything. He stated the approval of TMA, State Volunteer Insurance Company, and the Board would give significant weight to the information. He also asked that there be some consideration of communication with a doctor who is retiring; that the pamphlet be given to a doctor who calls and is considering retirement. He then asked if the Board would consider, perhaps yearly, to review the document to see if any updates are needed. Finally, he thanked the Board. Ms. Eller thanked Dr. Butterworth. She then asked if the Board needed to take any action, and she asked we could take the list of retired Medical Doctors and take a moment to acknowledge them. Dr. Zanolli stated that he hoped the Board ended up with an endorsement of the material in conjunction with TMA and SVIC and that we could provide the link to anyone who needs it. Dr. Ali also thanked Dr. Butterworth and liked how complete the document was and that he is ready to endorse the document. Dr. Saunders reminded the Board that pursuant to their rules, people retire their licenses for many reasons, and that

the Board will have to figure out who they want to honor. Dr. Zanolli then asked the board to endorse the document, but asked first that since it quotes different rules and statutes, to ensure the information is accurate. Mr. Yarnell Beatty spoke to the Board on that issue in addition to thanking Becky Morrissey, TMA's paralegal. He stated there had been a sufficient vetting of the accuracy and included that when the rules and law has been changed, the document will be updated. Dr. Higdon expressed his appreciation for the creation of the document. Dr. Ali saluted the collaboration and made a motion to endorse the document presented entitled "A Guide to Physician Retirement and Closing a Medical Practice". It was seconded by Dr. Baron. Dr. Zanolli requested the endorsement be a printed part of the document as well, as well as the mission statement. The motion passed unanimously.

Policy Update Draft

Dr. Zanolli directed the Board to the draft of the update of Policy for determinations of standards for international medical schools and graduates of unapproved foreign medical schools. Ms. Huddleston noted the amendment from the version the members looked at the day before. Dr. Zanolli volunteered to accept corrections and additions and he will work with Ms. Huddleston to come up with a final version, if the Board was willing. Dr. Ali made a motion to authorize Dr. Zanolli for the task. Ms. Yeiser seconded the motion. Ms. Eller asked for a copy of the final version to be sent out before the next meeting. The motion passed unanimously.

II. OGC/DISCIPLINARY BUSINESS (CONT.)

Consent Order(s):

Lawrence Madlock, MD – was not present nor did a legal representative appear on his behalf. Ms. Jennifer Putnum represented the state. Dr. Higdon recused himself. Patient J.H. was admitted to the Memphis Veterans Administration Medical Center on July 5, 2006 with abdominal pain, nausea, and vomiting. Respondent performed a physical examination and diagnostic testing that were unremarkable with the exception of an elevated lactic acid. Because of this, and Respondent's note that the patient J.H. was too large to fit into their scanner, Respondent did not feel that a CT scan or a surgical consultation was warranted. On July 8, 2006, patient J.H. was brought back to the hospital by ambulance. Patient complained of nausea, vomiting, abdominal pain, bloating and shortness of breath. Surgery revealed a perforated viscus that resulted in the patient developing peritonitis, becoming septic and requiring hospitalization in the intensive care unit before being discharged to a rehabilitation facility. Dr. Matlock violated TENN. CODE ANN. § 63-6-214(b)(1) and (4). The Consent Order presented to the Board ordered that Dr. Madlock's medical license be reprimanded. Respondent shall pay one (1) "Type A" civil penalty in the amount of one thousand dollars (\$1,000) representative of the grounds for discipline, and shall pay all costs not to exceed one thousand dollars (\$1,000.00). Dr. Ali made a motion to accept the order. Dr. Blake seconded the order which passed. Dr. Ali, Dr. Blake, Ms. Eller, Ms. Outhier voted to accept the order. Ms. Yeiser and Dr. Zanolli voted against. Dr. Baron abstained. The motion passed.

Stephen Goodwin, MD – was not present nor did a legal representative appear on his behalf. Ms. Jennifer Putnum represented the state. The Respondent was a supervising physician for three (3) advanced practice nurses employed at Primary Care Specialists located in Jackson, Tennessee from July 2007 through December 12, 2014. During an on-site visit to Primary Care Specialists it was revealed that on August 18-19, 2014, a licensed practical nurse was the only licensed staff present and there was no advance practice nurse present at the clinic due to staffing changes. On August 18-19, 2014, there was no medical doctor or APN present at the clinic and established patients were seen

by the LPN. Specifically, the LPN administered Testosterone shots, and called in medication refills for Phentermine for established patients after contacting Respondent for approval. Patients seen that day were not assessed by any other medical provider and did not have lab work done unless it had been previously scheduled. Respondent was not present at the clinic on those dates and was on call in case something happened. With regard to those dates, Respondent would review the charts of all patients that were to be seen the following day, advise staff to re-schedule new patients until the clinic had APN coverage, and write the orders, including refill prescriptions for Phentermine, for established patients without evaluating the patient prior to writing the orders. Until the end of August 2014, Respondent did not have any system in place to ensure that the clinic was providing him at least 20% of the patient records and 100% of the records of patients receiving controlled substance prescriptions for review. After reviewing a patient chart during this time, Respondent signed a form attached to the patient's chart stating that the supervising physician had reviewed the medical record and those forms were then placed in the medical record. Additionally, the patient charts and attached forms were, on occasion, taken to the Respondent's church to have him review and sign off on charts. Dr. Goodwin violated TENN. CODE ANN. § 63-6-214(b)(1) and TENN. COMP. R. & REGS. 0880-6-02(5). In the Consent Order presented to the Board the Respondent has agreed to voluntary surrender his license, effective October 1, 2015. Dr. Ali made a motion to accept the order. Dr. Higdon seconded the motion, which passed unanimously.

Consider Advisory Committee on Acupuncture's Rules regarding fee reduction

Ms. Hannah Lanford, the Advisory Attorney for the Acupuncture Committee, notified the Board of a rulemaking hearing that was held on August 17th about an application fee reduction for Acupuncturists from \$500.00 to \$300.00 and ADS renewal fees from \$75.00 TO \$50.00. Dr. Baron made a motion to ratify the rule change. Dr. Ali seconded the motion, which passed unanimously.

Consider Advisory Committee on Acupuncture Policy Statement

Ms. Hannah Lanford discussed that an ambiguity had been discovered in the acupuncture rules which needed clarification. TENN. COMP. R. & REGS. 0880-12-.05(1)(f) states that an ADS must submit satisfactory proof of practice. This raised concerns as an uncertified and unlicensed individual should not engage in any practice before becoming certified by the Committee, and thereafter by the Board. The Counsel wanted to clarify the rule for the public in the form of a Policy Statement until a Rulemaking Hearing can be held. The clarification states that the rule does not require that an applicant be employed prior to certification as an ADS; however documentation of these requirements must be provided to the Committee's Administrative Office before the commencement of practice. There was one small change that would need to be made, as the policy stated that it is adopted on the 14th day of September, 2015 and it would need to be changed to the 15th day of September, 2015. Dr. Higdon made a motion to accept the Policy Statement that has been created until the rule is changed. Ms. Yeiser seconded the motion, which passed unanimously.

Agreed Citations

Carolyn Wester, MD – was not present nor did a legal representative appear on her behalf. Ms. Huddleston presented the Agreed Citation. As part of her agreed citation, Dr. Wester has agreed to pay \$2,000.00 in civil penalties for practicing as a medical doctor in this state on an expired license. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

David W. Underwood, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Underwood has

agreed to pay \$3,800.00 in civil penalties for failure to obtain 38 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Frank R. Freemon, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Freemon has agreed to pay \$2,125.00 in civil penalties for failure to obtain 21.25 CME hours. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

George L. Ivey, III, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Ivey has agreed to pay \$2,400.00 in civil penalties for failure to obtain 24 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Isaac Stovall, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Stovall has agreed to pay \$1,700.00 in civil penalties for failure to obtain 17 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

James M. Grisolano, Jr., MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. Dr. Arnold, the previous Medical Director, waived the civil penalties requirement of the Agreed Citation and Dr. Saunders, the current Medical Director, agreed. Dr. Grisolano failed to obtain 38 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Louden Nalle, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Nalle has agreed to pay \$1,400.00 in civil penalties for failure to obtain 14 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Michelle Girouard Wall, MD – was not present nor did a legal representative appear on her behalf. Ms. Huddleston presented the Agreed Citation. As part of her agreed citation, Dr. Wall has agreed to pay \$1,575.00 in civil penalties for failure to obtain 15.75 CME hours. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Paul A. Abbey, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Abbey has agreed to pay \$200.00 in civil penalties for failure to obtain 2 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Prathiba Ram, MD – was not present nor did a legal representative appear on her behalf. Ms. Huddleston presented the Agreed Citation. As part of her agreed citation, Dr. Ram has agreed to pay \$600.00 in civil penalties for failure to obtain 6 CME hours. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Roger Lynn McGee, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, McGee has agreed to pay \$1,300.00 in civil penalties for failure to obtain 13 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Y. Nithyananda Pakkala, MD – was not present nor did a legal representative appear on his behalf. Ms. Huddleston presented the Agreed Citation. As part of his agreed citation, Dr. Pakkala has agreed to pay \$3,500.00 in civil penalties for failure to obtain 35 CME hours. Dr. Higdon made a motion to accept the Agreed Citation. Ms. Eller recused herself. Dr. Ali seconded the motion, which passed.

Update from Mollie Gass regarding disciplinary prescribing monitoring

Ms. Mollie Gass gave brief summary to the Board of the Consent Order Francis Lebuffe, which was ratified in November 2014. She then gave the Board an update that Dr. Lebuffe has decreased his opioid prescribing by 30% to his top 25 patients receiving the highest morphine equivalents over a period of six months, per one of the requirement of the Consent Order.

Status update on rules in-progress and to be initiated

Ms. Huddleston gave a status update on rules in-progress and to be initiated. The Fee Increase Rule is still under consideration at the Governor's office. The Telemedicine Rule is at the Attorney General's Office. The language for Definition of addiction specialist pursuant to PC 396 will be submitted through the internal review process. For Public Chapter 494 (med spa legislation), there is a wait on some software, and then the Board of Medical Examiners and the Board of Osteopathic Examination will need to determine a fee. Public Chapter 26 (repeal of the "Intractable Pain Act") is in internal review, as is the Collaborative Pharmacy Practice rule.

Additional Board Business

Mary Katherine Bratton introduced the three new Attorneys, Thomas Aumann, Tracy Alcock, and Andrew Coffman.

Dr. Zanolli then asked the Board members if any other items should be taken up by the Development Committee. Ms. Eller recommended a procedure for notification for failure to appear, and to also look at the rules for St. Jude's.

Dr. Mutter expressed his appreciation for Ms. Mollie Gass for her great work for the CSMD.

Ms. Eller shared an encounter with one of the Physicians who appeared before the Board the previous day and explained how appreciate he was of the Board and administrative staff.

Order(s) of Compliance:

Steven G. Flatt, MD- Dr. Flatt's license was placed on probation for a period of 1 year in 2014 based on an inappropriate relationship with a patient. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Higdon made a motion to accept the Order. Dr. Ali seconded the motion, which was unanimously approved.

Matthew M. Gangwer, MD – Dr. Gangwer's license was suspended in 2009 based on abuse of alcohol and drugs, and criminal convictions. His license was originally suspended, the suspension

was lifted, and then it was placed on probation for a period of five years. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Ali made a motion to accept the Order. Dr. Baron seconded the motion, which was unanimously approved.

Kent Grotefendt – MD – Dr. Grotefendt’s license was placed on probation in 2010 related to inappropriate prescribing. He was also required to have monitoring by Affiliated Monitors and pay penalties and cost. He is in compliance with the requirements and is entitled to have his petition granted. Ms. Eller and Dr. Blake recused themselves. Dr. Ali made a motion to accept the Order. Dr. Higdon seconded the motion, which passed.

Anthony H. Trent – MD – Dr. Trent’s license was placed on a one-year probation in 2014 related to some potential criminal conduct and an indication of a substance abuse problem. He was ordered to complete a 12-week inpatient assessment at the Center for Professional Excellence, as well as pay penalties and cost. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Zanolli recused himself. Ms. Yeiser made a motion to accept the Order. Dr. Ali seconded the motion which passed.

Contested Case:

State of Tennessee Board of Medical Examiners v. Michael Allen Rhodes, SR., M.D.

Michael Allen Rhodes, SR., M.D.

Contested Case

Iris Room

Administrative Law Judge: Mary Collier

Panelists: Pat Eller; Dennis Higdon, MD; Melanie Blake, MD

Counsel for State: Marc Guilford

Respondent: Michael Rhodes, MD

Counsel for Respondent: Edward Gross

The facts giving rise to this case are as follows. In July 2009, the Board entered an order (the “Rhodes I Order”) reprimanding Respondent’s Tennessee medical license and requiring that Respondent complete certain continuing education courses and pay certain costs. In the Rhodes I Order, Respondent admitted to prescribing controlled drugs to nine patients without documenting appropriate medical histories or performing adequate physical examinations, and which drugs were not medically necessary or were prescribed for inappropriate durations. In May 2013, the Board entered an order (the “Rhodes II Order”) placing Respondent’s license on probation for a period of at least five years, requiring that Respondent obtain practice monitoring through an approved program, and pay certain civil penalties and costs. The Rhodes II Order further required that Respondent maintain good and lawful conduct, and stated that any violation of law would be a violation of the Rhodes II Order. In the Rhodes II Order, Respondent admitted to prescribing narcotics and other medications and controlled substances in amounts and/or for durations that were not medically necessary, without a clear objective finding of a chronic pain source that justified his ongoing and increasing prescribing, and without documenting a written treatment plan. Respondent also admitted having failed to properly monitor and respond to signs of substance abuse in his patients, and to providing few modalities of treatment other than prescription of controlled substances. The Rhodes II Order assessed civil penalties totaling \$12,500.00 and costs totaling \$1,197.57. Respondent obtained practice monitoring through an approved program, Affiliated Monitors, Inc. (AMI) in about early

2014. On February 6, 2015, the Board entered an order (the “Rhodes III Order”) extending the probation of Respondent’s license, requiring Respondent to obtain TMF advocacy, requiring Respondent to comply with his past orders, complete certain educational objectives, and assessing additional costs and civil penalties. Paragraph 16 of the Rhodes III Order stated, “[f]ailure to comply with any of the stipulations of this order will result in the revocation of Respondent’s license for three (3) years.” Paragraph 13 of the Rhodes III Order stated, “Respondent will be required to obtain TMF advocacy within six (6) months of the date of this order.” Respondent did not obtain TMF advocacy within six months of the Rhodes III Order. From about January 1, 2005 through May 11, 2015, Respondent’s practice was not being monitored, because Respondent failed to pay the agreed-upon amount on his AMI account by the required due date. When Respondent paid the balance of his AMI account on about May 11, 2015, AMI reinstated their practice monitoring of Respondent. The Rhodes III Order assessed an additional \$400 in civil penalties and ordered that Respondent pay costs. Costs of \$1,737.24 were assessed. Respondent has failed to pay all penalties and costs ordered and has an outstanding balance of \$12,237.24. The Department now seeks to revoke the license of Dr. Rhodes for a minimum of three years. The board voted to revoke the license for a period of two years and Respondent will be required, upon application for a new Tennessee license, to obtain a new evaluation and advocacy through TMF. Additionally, the Respondent must pay costs not to exceed \$10,000.00. Ms. Eller made a motion to accept the State’s proposed findings and conclusions as revised, which was seconded by Dr. Blake. Dr. Higdon opposed. The motion passed.

Motion for a Continuance

State of Tennessee Board of Medical Examiners v. Gursheel Dhillon, MD

Gursheel Dhillon, MD

Motion for a Continuance

Poplar Room

Judge:	D. Kim Summers
Counsel for State:	Andrea Huddleston, Esq.
Petitioner:	Gursheel Dhillon, MD
Counsel for Petitioner:	Pro Se

The Judge called the matter to order and noted that Dr. Dhillon had filed a motion for continuance the day prior. Dr. Dhillon stated that he had been out of the country attending to his mother who has since passed away and that he had not returned to the U.S. until Sept 10th. He stated that, as a result, he had not been able to engage in discovery which he felt was needed or to otherwise prepare for the hearing and, as such, requested a continuance. Ms. Huddleston noted for the record that the matter had been continued multiple times since the original March 2015 trial date and that she saw no reason for a continuance, as there had been more than enough time for Dr. Dhillon to engage in discovery. Ms. Huddleston did concede however that, since Dr. Dhillon’s license was suspended, there was no danger to the public if the matter were continued—it was simply a matter of ensuring finality for a longstanding case and ensuring the board’s docket was cleared. Based on the statements and arguments, Judge Summers continued the matter to the Board’s November meeting on November 10th.

Declaratory Order(s)

State of Tennessee Board of Medical Examiners v. Donald Denmark, MD

Donald Denmark, MD
Petition for Declaratory Order
Poplar Room

Judge: **D. Kim Summers**
Panelists: **Subhi Ali, MD, Michael Baron, MD, Barbara Outhier**
Counsel for State: **Andrea Huddleston, Esq.**
Petitioner: **Donald Denmark, MD**
Counsel for Petitioner: **Josh A. McCreary**

Dr. Denmark seeks a declaratory order issuing a full and unrestricted license to practice medicine in the state of Tennessee. Dr. Denmark has not completed a one year residency in the US as required by TENN.CODE ANN.§ 63-6-207(a) (1) (C) and Rule 0880-02-.03(3). Dr. Ali made a motion to grant the petition and grant an unrestricted license. Dr. Baron seconded the motion, which passed unanimously. Dr. Baron made a motion to adopt the findings of facts, as modified, in the Petitioner’s proposed order. Ms. Outhier seconded the motion which passed unanimously. Dr. Ali made a motion to adopt the Petitioner’s Conclusion of law. Dr. Baron seconded the motion, which passed unanimously. Dr. Ali made a motion to accept the Policy Statement as modified. Dr. Baron seconded the motion which passed unanimously.

State of Tennessee Board of Medical Examiners v. Jennifer Ann Brault, MD

Jennifer Ann Brault, MD
Petition for Declaratory Order
Poplar Room

Judge: **D. Kim Summers**
Panelists: **Subhi Ali, MD, Michael Baron, MD, Barbara Outhier**
Counsel for State: **Andrea Huddleston, Esq.**
Petitioner: **Jennifer Ann Brault, MD**
Counsel for Petitioner: **Michelle Marsicano**

Dr. Brault seeks a declaratory order issuing a full and unrestricted license to practice medicine in the state of Tennessee. Dr. Brault did not complete all three Steps of the USMLE within seven (7) years of her first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). Dr. Ali made a motion to adopt the findings of facts, in the Petitioner’s proposed order. Dr. Baron seconded the motion, which passed unanimously. Dr. Ali made a motion to adopt the Petitioner’s conclusion of law. Dr. Baron seconded the motion, which passed unanimously. Dr. Ali made a motion to accept the Policy Statement as modified by the Board the prior day. Ms. Outhier made the motion which passed unanimously.

The meeting was adjourned.