



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

**Monday, November 9, 2015
Tuesday, November 10, 2015**

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. Zanolli, Board President.

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

Board member(s) absent: Subhi Ali, MD
Nina Yeiser, Consumer Member

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. CONSIDERATION OF APPLICATIONS

MD X-Ray Applicant Interview(s):

Dana Earhart appeared before the Board to address her absence from practice since 2008. After review of the materials contained in her license file and interviewing her, Dr. Beckford made a motion to approve the application pending confirmation from her employer that she has

completed remediation and the Board's receipt of a redacted procedure list. Dr. Baron suggested a friendly amendment, which would require the documentation to be submitted before the next Board meeting, which was accepted by Dr. Beckford. Dr. Musil seconded the motion, which passed unanimously.

Serena Fisher appeared before the Board to address her absence from practice since 2010. Ms. Fisher previously appeared before the Board in May 2015. At that time, the Board tabled her application for up to six (6) months to allow her to work with the medical consultant to identify an appropriate reentry pathway and complete remediation. After review of the supplemental materials provided pursuant to her reentry activities, Dr. Beckford made a motion to approve the application. Dr. Higdon seconded the motion, which was unanimously approved.

Shaneka Matthews appeared before the Board to address her criminal history. After review of the materials contained in her license file and interviewing her, Dr. Higdon made a motion to approve the application. Dr. Beckford seconded the motion, which was unanimously approved.

Calandra Santana appeared before the Board to address her absence from practice since 2011. After review of the materials contained in her license file and interviewing her, Dr. Johnson made a motion to table the application for up to six (6) months to allow her to work with the medical consultant to identify an appropriate reentry pathway and complete remediation. Dr. Musil seconded the motion, which was unanimously approved.

Kimberly Sherwood appeared before the Board to address her absence from practice since 2013. After review of the materials contained in her license file and interviewing her, Dr. Beckford made a motion to approve her application on the basis that when she submitted her application, she had not yet been out of practice as a medical x-ray operator for two years. Dr. Baron seconded the motion, which was unanimously approved.

Brandi Smith appeared before the Board to address her criminal history. Dr. Zanolli recused himself. After review of the materials contained in her license file and interviewing her, Dr. Baron made a motion to approve her application contingent upon Ms. Smith correcting the answer for question eight (8) of the application to "Yes." Dr. Beckford seconded the motion, which was unanimously approved.

Medical Doctor Applicant Interview(s):

Wesam Bolkhir, MD appeared before the Board because he did not complete all three steps of the USMLE within seven years of his first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). After review of the materials contained in his license file and interviewing him, Dr. Musil made a motion to approve the application. Dr. Beckford seconded the motion. Dr. Musil and Dr. Beckford voted for the motion. Dr. Baron, Ms. Eller, Dr. Blake, Dr. Christiansen, and Dr. Higdon voted against. Ms. Outhier and Dr. Johnson abstained. The motion did not pass. Dr. Johnson made a motion to table the application for up to four (4) months to allow the applicant time to consider a petition for declaratory order. Dr. Beckford seconded the motion. The motion passed.

Jeanetta Campbell, MD appeared before the Board to address her examination history. After review of the materials contained in her license file and interviewing her, Dr. Johnson made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. Ms. Outhier and Dr. Baron abstained. The motion passed.

Thomas Chester, MD appeared before the Board to address his absence from clinical practice since January 2012. After review of the materials contained in his license file and interviewing him, Dr. Johnson made a motion to table the application for up to six (6) months to allow the applicant time to consider whether he would be interested in a license restricted to administrative work only, or whether he will obtain an assessment of his clinical skills. Dr. Beckford seconded the motion, which passed unanimously.

Terrance Craion, MD appeared before the Board because he did not complete all three steps of the USMLE within seven years of his first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). After review of the materials contained in his license file and interviewing him, Dr. Christiansen made a motion to table the application for up to four (4) months to allow the applicant time to consider a petition for declaratory order. Dr. Johnson seconded the motion, which passed unanimously.

Tuan Dao, MD appeared before the Board because he did not complete all three steps of the USMLE within seven years of his first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). Dr. Dao also has a Petition for Declaratory Order on the agenda. A representative from St. Jude addressed the Board on Dr. Dao's behalf and requested that the Board grant Dr. Dao a St. Jude license based upon the need at St. Jude. Dr. Dao's attorney, Mr. David Steed, also addressed the Board. After review of the materials contained in his license file and interviewing him, Dr. Musil made a motion to grant a St. Jude Children's Research Hospital Global Collaboration License. Dr. Musil noted Dr. Dao's exemplary training and the need of St. Jude's. Dr. Beckford seconded the motion, which passed unanimously. Dr. Higdon made a motion to accept moving the Petition for Declaratory Order to a hearing. Dr. Johnson seconded the motion, which was unanimously approved. Ms. Tarr clarified that the administration could issue the license once the application was received and the appropriate fees paid. Dr. Zanolli requested the fee be waived for the St. Jude application, due to Dr. Dao already paying the fee for the application for Full Medical Doctor Licensure.

Michele Etling, MD appeared before the Board because she did not complete all three steps of the USMLE within seven years of his first successful step as required by R. 0880-02-.08 and TCA § 63-6-207(b). Dr. Etling's examination history was delayed due to her pursuit of the MD/PhD degree. The Board asked Dr. Etling to explain the action taken during her residency programs. After review of the materials contained in her license file and interviewing her, Dr. Baron made a motion to grant an unrestricted license. Dr. Beckford seconded the motion, which passed unanimously.

Ivan Gonzalez-Cancel, MD appeared before the Board because he has been a named party in at least three malpractice claims since 2004. After review of the materials contained in his license file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Musil seconded the motion. Ms. Eller and Ms. Outhier opposed. The motion passed.

Sarah Pietrangelo, MD appeared before the Board to give an update on her situation. Dr. Pietrangelo previously appeared before the Board at the July 21, 2015 meeting. At that time, she was asked to identify a preceptor for remediation. Dr. Pietrangelo has arranged a preceptorship and will work with a physician for at least 16 hours per week for three months. At the conclusion of this preceptorship, her preceptor will attest to whether the remediation has been successful and more specifically whether he is satisfied with her clinical skills. After review of the materials contained in her license file and interviewing her, Dr. Higdon made a motion to accept the proposed remediation, with the caveat that the Board has final approval regarding the letter from Dr. Fazell and that Dr. Pietrangelo will need to appear again before the Board at the March meeting once her remediation is complete. Dr. Christiansen seconded the motion, which passed unanimously.

Meredith Walgren, MD appeared before the Board because she has been out of traditional clinical medicine since 2010. After review of the materials contained in her license file and interviewing her, Dr. Christiansen made a motion to grant an unrestricted license. Dr. Blake seconded the motion. Dr. Baron recused himself. Dr. Musil abstained. The motion passed.

LICENSEE REQUEST

Hemchand Ramberan, MD - Dr. Ramberan explained in a letter to the Board that he submitted his retirement affidavit to his employer, Erlanger Hospital, and it was not submitted for him to the Medical Board. He is requesting that administrative staff backdate his retirement date to October 2014, which is not something administrative staff can do without permission from the Board. If the retirement was backdated, Dr. Ramberan would not be subject to the 2015 professional privilege tax. Ms. Eller and Dr. Blake recused themselves. After discussing the issue, Dr. Johnson made a motion to deny his request to backdate his application. Dr. Christiansen seconded the motion. Dr. Beckford voted against the motion. The motion to deny the request passed.

II. APPROVAL OF MINUTES

For the regular September 15-16 meeting minutes, multiple corrections to the proposed draft were requested by members of the Board. Dr. Christiansen noted that on page 18, the first sentence in the last paragraph, the name “Dr. Denmark” should say “Dr. Brault.” Dr. Blake noted on page 17, under motion for continuance, Ms. Eller and Dr. Blake approved the motion; Dr. Higdon was opposed. Dr. Higdon noted that on page 18, the spelling of USMLE needs to be corrected in multiple locations. Dr. Zanolli noted that on page 2 under the policy for unapproved IMG schools after “from a foreign medical school” he would add “who is board certified to pass the USMLE on the first attempt”. After further discussion, Dr. Zanolli stated that that section will only be corrected if it was stated in the audio; if what was in the minutes is what was actually stated, it will not be corrected. Dr. Johnson noted that for page 4, Dr. Buena was not board certified. Dr. Baron requested that the definition of an addiction specialist be added to page 10. Ms. Shell asked that the corrections Ms. Huddleston had made on page 17 for the order of Dr. Rhodes be accepted; Dr. Zanolli agreed. Dr. Higdon made a motion to approve the

minutes with all corrections as discussed. Dr. Blake seconded the motion, which passed unanimously.

For the September 14 Development Committee meeting minutes, Dr. Higdon asked that MLCs be corrected to “Maintenance of Certification (MOC)”. Dr. Higdon made a motion to approve the minutes with the corrections as discussed. Dr. Zanolli seconded the motion, which passed unanimously.

III. CONDUCT NEW BUSINESS

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
Genetic Counselors
Clinical Perfusionists
Physician Assistants
Polysomnography

Dr. Beckford made a motion to ratify the lists as presented. Dr. Christiansen seconded the motion. Dr. Higdon noted that on the second page of the Physician Assistant ratification list, there was a note next to the last name that said “Voluntarily.” Dr. Zanolli asked if staff would look into that name and see if that was cut off just due to the limited space on the page. With that noted, the ratification was approved.

ANNE CARR ON BEHALF OF TNPATH

Anne Carr addressed the Board on behalf of the Tennessee Public and Teaching Hospital Association (TNPATH). There are currently five members: Regional One (formerly The Med in Memphis), Vanderbilt University Medical Center, Metro General Hospital, UT Medical Center in Knoxville, and Mountain States Health Alliance. These teaching hospitals have been talking for several years about the changing marketplace in terms of physician recruitment and many other issues. They concluded a few months ago that they probably needed to file legislation in 2016 on some recurring issues, particularly those that affect international medical graduates.

In the spring of 2015, they had a call with Ms. Huddleston and Ms. Martin in an effort to determine the source of some of the issues, specifically, they sought to determine which issues arose from rules and which arose from statutes. The letter provided to the Board summarizes the issues they identified. The first item is the period during the last year of the residency during which international medical graduates may file an application. For non IMGs it is the whole last year of residency, or maybe sooner than that, but the three month period for IMGs is difficult because they are always in some changing situation with their visas to live and/or work and/or be students. Many IMGs are transitioning from a student visa to a work visa at the end of their

residency. Additionally, a lot of them are recruited directly from their residency program and are not able to accept employment until they are fully licensed and they have a work visa. Because this timeline often puts the applicants in a “catch-22” TNP PATH would propose a longer period prior at the end of residency during which they could initiate the licensure process. If that three (3) months period is authorized by rule only, no statutory changes will be sought. There is a statutory requirement that IMGs have a visa that authorizes him or her to live and work in Tennessee. Ms. Carr’s understanding is that this is being interpreted such that the administrative staff requires a work visa, even if they are still in transition and trying to get that visa from the federal government. This, she recognized, would require a legislative change.

Item two related to the applicant’s ability to produce a proof of work authorization. Ms. Carr requested that the extension to the deadline for production of this document, which is commonly permitted, be extended beyond thirty (30) days.

The third item relates to established physicians who have been licensed in another state and who happen to be IMGs. The teaching hospitals believe that the licensure process for IMGs is more complex in Tennessee than in other states. They believe they lose out on some IMG recruits.. Ms. Carr added that she would be happy to get some folks from the schools to come to the next meeting, who know more about the issues than she does. Dr. Zanolli asked Ms. Carr to expand upon her reference to the “three month period” during which IMGs can apply for their license. Ms. Carr replied that an international medical school graduate in their residency could only apply for licensure once they were in the last three months of the program. Dr. Saunders confirmed this rule and explained that United States graduates can apply after their first year of residency.

Dr. Zanolli stated that the letter was helpful and they would need to take up these issues and rectify things that might either be unequal or have the appearance of being unequal as they go along. Ms. Carr thanked the Board and added that she thought the new policy on foreign medical schools would be helpful. Dr. Johnson asked Ms. Carr about her comment regarding the application process in Tennessee being more arduous than other states. He asked whether there were areas other than rule, policy, or code restrictions that made this the case. Ms. Carr replied that it was these restrictions that were the issue. Ms. Huddleston clarified that pursuant to the rules, both US and IMG graduates may apply for their license three (3) months before scheduled completion of their residency programs. The relevant statute, however, specifies that US graduates must complete a one year residency before they qualify for licensure while IMGs must complete a three year residency. The license can’t be granted until they actually complete the residency program, but they can start the process three months before they complete the training. She noted that a legislative change may not solve the problem, since the rule says that no matter how early you start the application process, a license cannot be issued until the requisite training is completed. Dr. Zanolli noted that the criminal background check is only valid for six months, so if the application was submitted earlier and it takes more than six months, the background check would have to be repeated. Dr. Beckford asked if West Tennessee public and teaching hospitals were members or participate in TNP PATH. Ms. Carr replied that Region One in Memphis does.

IV. DEPARTMENTAL REPORTS

Office of Investigations Report

Ms. Diona Laden, Interim Director for the Office of Investigations, presented the Investigative Report. Since September, the licenses of two physicians were suspended, bringing the total number of suspended licensees to 33. One physician was placed on probation, bringing the total number of physicians on probation to 73. There are 30 licensees subject to a board order, which is down one from September. And one new revocation/suspension, which brings the total number of licensees in this category to 91. There was no change in the numbers for the medical x-ray operators. There were 44 new complaints opened against medical doctors in October. There were 11 more new complaints added to the numbers presented for September at the September meeting. The total number of open complaints is 217. For the medical x-ray operators, there has been no change in the numbers. For pain management clinics, there were 2 new complaints opened in October. The total number opened in September was 5. The current number of complaints open is 23. The Office of Investigations is on track to complete 100 audits by the end of the year.

Report from BME's Administrative Office

Ms. Tarr reported on the BME Unit's licensing activities from September 1, 2015 through October 31, 2015. The statistics are as follows: there were 222 new applications for full medical doctor licenses, 2 for locum tenens, 11 for telemedicine, 1 for special training, 1 for single purpose, and 0 for St. Jude received. 180 new licenses were issued, 1,629 renewals (1,173 online renewals) were processed, 120 licensees failed to renew, and 55 licensees retired their license. The number of active licenses as of October 31, 2015 is 21,684. The total number of active licensees as of October 31, 2015 with a Tennessee mailing address is 16,378. The total number of telemedicine licenses is 456.

There are 1,792 physician assistants licensed in Tennessee and 21 orthopedic physician assistants (OPAs). There are currently 3,708 certified x-ray operators.

Dr. Zanolli asked if Ms. Tarr could present a visual graph at the end of the year instead of numbers. Ms. Tarr replied that she would be able to do so.

Report from the Office of General Counsel

Ms. Huddleston presented the Report from the Office of General Counsel. As far as cases on appeal, the only new activity is the Oni case. The Chancellor had previously reversed the Board's decision to revoke that medical license on the basis that the doctor had allowed his license to lapse while the case was pending. They asked the Attorney General's office to appeal that decision on behalf of the Board, and they agreed to do so.

There are 121 complaints in the Office of General Counsel against 84 practitioners; that number is up slightly from the last meeting. Dr. Zanolli asked if there is a statute of limitations on complaints for the Board of Medical Examiners, and Ms. Huddleston replied that there is not. Dr.

Zanolli then asked Ms. Huddleston if any other Health Related Boards had a statute of limitations. Ms. Huddleston replied that she didn't think there were any. Dr. Baron asked how many of the 121 complaints were filed in the last 60 days. Ms. Huddleston did not have that data available on hand; however, she speculated that less than 20 had come over in the last 60 days. Dr. Beckford stated that it was very encouraging to see these numbers compared to the numbers presented in the past, and he applauded her efforts and those of her office. Ms. Huddleston thanked Dr. Beckford and stated she hoped to see the number come down lower. There was then a very brief discussion about screening panels to help deal with some of the complaints. It was noted that Ms. Molly Gass was leaving the Department to pursue another opportunity. Ms. Huddleston added that three new attorneys that the Board met in September are on the prescribing team.

Report from the Financial Office

Ms. Huddleston was able to provide some initial information regarding the financial report, but the details are not available yet. The Board will be in the black in fiscal year 2015. The Board had previously been projected to be in the red for fiscal year 2015 and for the next several years. At least part of the reason for this is a reduction in legal costs over the last year, but that number will probably go back up.

CSMD Report

The CSMD report was presented by Dr. Baron. The CSMD Committee met October 13th and meetings have been set up for the next two years. Dr. Baron was reelected as the chair. Dr. Baron reported first that all CSMD information is now stored in a tier 4 security server. It is encrypted both in transit and at rest. Even if someone were able to hack into the system, they wouldn't have access to any usable information. Dr. Baron also reported that the usage in the state for controlled substance prescriptions and morphine milligram equivalents decreased in 2014. Morphine milligram equivalents went down by 5.1% over 2012; Excluding Buprenorphine, that number went down by 10.1%. The unfortunate news is that Buprenorphine went up from 2012 to 2014 by 59%. Dr. Zanolli asked if someone has to have a special DEA designation to prescribe Buprenorphine. Dr. Baron replied that yes, you have to have an X on your drug enforcement registration number, but that it is very easy to get. The Committee voted to send Dr. Todd Bess to next year's meeting on national drug abuse on behalf of the CSMD Committee and staff, which the Board of Medical Examiners supports in part.

V. TOPICS FOR DISCUSSION

Comptroller's Performance Audit

Dr. Zanolli noted he did not receive the audit report before it was released to the newspapers. He noted that he was interviewed and asked general questions about the Board Members, the composition of the Board, and what sort of topics are discussed by the Board. Dr. Zanolli asked if Ms. Tarr wanted to comment on the audit report process. Ms. Tarr replied that most of the auditor's questions were initially directed to Ms. Martin. The auditors gather information by asking questions via email and also by interviewing individuals. Dr. Higdon asked what kind of

notice is given and if it was a planned event. Ms. Huddleston was not entirely sure but they do send a certain number of auditors that are housed in Health Related Board for a period of months. Dr. Higdon asked if they visit her, and Ms. Huddleston said they did in this case.

Ms. Huddleston addressed the first finding of the report which required the Board to develop a form to be used by the clerks of courts to report physicians' felony convictions. No form was ever prepared for the clerks to report those convictions. If a form was prepared in the 70's, there was no record of it. Upon being made aware of this, Ms. Martin produced a form that was tweaked by Ms. Huddleston and was sent out on October 21, 2015 to clerks across the state. Ms. Huddleston noted that the court clerks may not always know if a defendant is a physician. Dr. Zanolli inquired as to whether if someone had not paid their federal income tax for example, if that would automatically prompt an investigation from the Office of General Counsel concerning their medical license, and Ms. Huddleston replied that anytime there is a conviction they would open a complaint. Dr. Zanolli then asked what would be done if it wasn't related to their medical practice or their treatment of patients. Ms. Huddleston replied that it would be up to the Consultant reviewing the file and the attorney, but she thought the Board was interested in seeing those cases if it was a felony. She added that the Board routinely takes action against physicians for criminal convictions, such as DUIs, that don't necessarily impact the practice of medicine.

Dr. Zanolli asked whether LARS could be used to create a timeline to take the Board members from the initial complaint to final action, as that would be helpful. Dr. Saunders believes that functionality would require programming. Dr. Blake spoke in support of exploring the system's abilities. Ms. Laden stated that the Office of Investigations is looking at LARS to determine how best to track a complaint's path from the Office of Investigations to the Office of General Counsel. Priority codes are assigned at the time of complaint. These codes are currently being used to track complaints—sometimes in LARS, sometimes in excel. Dr. Zanolli asked Ms. Laden to expand upon usage of these codes and requested that the priority code be noted when presenting complaint information to the Board. Dr. Saunders asked Dr. Zanolli if he wanted the outcomes of each level. Dr. Zanolli thought that information would be hard to gather. Ms. Laden stated that the office does keep that information tracked in spreadsheet, but she wasn't sure it was available in LARS. Ms. Huddleston added that LARS was created with certain canned reports that can be pulled, but there is a limited ability to customize reports. A new system, Crystal Reports, may let staff program their own reports.

Ms. Eller referred to the audit report which she had interpreted as taking issue with the fact that a complaint went beyond the deadline corresponding to the assigned priority code. For example, if X number of days was permitted for a priority three and the complaint lingered past that number of days, the policy wasn't being followed. She expressed a preference for computer-generated reports over those that are processed manually. Ms. Laden noted that during an investigation, there are sometimes certain roadblocks that the initial codes do not take into account. Ms. Eller stated she would assume that if there was documentation as to why that roadblock was there, that that would be a sufficient response

Dr. Blake mentioned communication between the Board of Medical Examiners working with the Office of Attorney General working to recoup the case costs from former medical practitioners. She believes that some amount of bad debt should be expected from providers that have, for

example, lost their license and are not working. It seemed odd to her to be held accountable for that, particularly since there is probably historical data to support this expectation.. She asked whether the Board should have a performance goal or metric that would be more feasible than 100% recoupment. Ms. Laden said they would look at that.

Results of Letter sent by Administrative Staff regarding MD X-Ray Reentry

Dr. Saunders explained the administrative office's efforts to explore possible remediation options for x-ray operators. The letter provided to the Board was sent to facilities that are registered with Healthcare Facilities as either Hospitals or Outpatient Diagnostic Centers. The letter was sent to 153 Hospitals and 38 Diagnostic Imaging Centers. Of those who responded, only a few facilities were interested in providing remediation, and of those few, some would require the operator to be ARRT certified, and some would require the operator to be an employee of the facility. A couple of facilities were interested in providing remediation, but did not specify how they would go about offering such a program.. Based on these results, Dr. Saunders did not think the Board should occupy themselves with trying to place people, but that the Board could now, when someone had been out of practice, have a list of places that might be viable options for that person to remain remediation.

Dr. Zanolli asked if the responses received suggested that there were adequate spots for the operators who are seeking to reenter practice. Dr. Saunders replied that she did not think it did. She added that if there are too many people inundating the facilities that are open to remediation, the facilities may cease allowing new operators to remediate. Some of the facilities that replied cited liability concerns. Dr. Beckford suggested that it would be prudent to include educational information in the reapplication or renewal packet that emphasizes the importance of maintain your skill set and your license, because if you lose it, the Board's policy is to examine whether remediation should be required after an individual has been out of practice for two or more years. Dr. Saunders replied that she didn't know where we would make that statement but did not feel that such a statement would be unreasonable. Dr. Baron noted that radiologists might be more open to having people in their office than hospital administrators. Dr. Zanolli noted that it would be best if the schools would put together a program. Dr. Musil asked whether the Board licenses the schools. Dr. Saunders replied that the Board approves the schools. Dr. Musil then asked whether the Board could require programs to have some type of credentialing, or recertification program as a condition of approval. Dr. Saunders noted that the requirements for the schools are in the rules. Ms. Huddleston added that she doubts the Board has the statutory authority to implement such a requirement.

Consider Changes to Medical Doctor Application

Ms. Huddleston noted that some changes to the MD application have been requested. She presented the changes received to date and noted that most of the proposed changes are just wording changes. She suggested this issue be presented to the Development Committee at its January meeting. Dr. Zanolli asked if Dr. Johnson could work with Ms. Huddleston and present the topic at that time. Dr. Christiansen asked if we could change the application question regarding if an applicant had been convicted of a felony or misdemeanor to also include the statement "whether it's been expunged or not". Ms. Huddleston wasn't sure if we could ask if a

conviction has been expunged, but there has been discussion about changing the question to include for example, defining a minor traffic offense. She thought we could also add to the question “ a misdemeanor or felony that has not been expunged”. If an applicant has had a conviction expunged, they can honestly say that no, they haven’t had a conviction. Dr. Saunders noted that when an applicant answered yes to the question regarding conviction, she asks for supporting documentation, or if something shows up on the background check, but the applicant didn’t answer yes to that question, she will ask if the applicant has anything they want to tell her. If the incident was expunged, she will ask for an e-mail statement from the applicant stating it was expunged. Dr. Higdon asked if expungement is automatic. Ms. Huddleston replied that it was not, that the applicant had to seek to have the conviction expunged.

Consider Radiology Education Seminars’ Request for Renewal

Dr. Saunders reviewed the request from Radiology Education Seminars request for renewal. Some additional information was requested after her review, which has since been provided. Dr. Saunders believes the school is entitled to renewal and has preliminarily approved their application. Dr. Higdon made a motion to ratify Dr. Saunders’ approval. Dr. Beckford seconded the motion, which passed unanimously.

Discussion of the 7-year Statute

Dr. Zanolli stated the Board has identified applicants that would improve access to specialty care in Tennessee who are unable to become licensed because their examination history violates the seven year statute. He also noted that these situations are being referred to declaratory orders too frequently, which is inefficient for all involved. He believes that the rule is deficient in some manner, either it is too restrictive or there is something missing. He stated that the Board should discuss possible exceptions to the statute. Dr. Zanolli noted that many states he has heard from on this issue have moved away from a 7-year rule in favor of a 10-year rule or other modification. It’s time to bring this up to date – get firm recommendations on how to bring it up to date and have others help us. Dr. Musil asked Dr. Saunders if she had any suggestions and what she thought about the ten year rule. Dr. Saunders thought that whether the rule permits seven years or ten years for completion of the exam, some will still fail to meet the deadline. She does not have preference for what is appropriate, but added that now the USMLE is only allowing six attempts unless a state medical board sponsors the person. After further discussion, Dr. Zanolli directed that the issue be moved to the next Development Committee Meeting.

Additional Discussion regarding International Medical Graduate Policy

Dr. Johnson returned to the issue of IMGs, he referred specifically to the recently adopted policy on this issue as well as Rule 0880-02.04(3). He noted that the relevant section of the rule refers to admission standards, and he wanted to be sure there is a clear differentiation between admission and accreditation. When the rule says “admission standards must meet or exceed those of medical schools accredited,” that means they have to take the MCAT, etc. That is what they are interested in for (d); are they admitting qualified students to get into their program. The policy the Board adopted stated that the relevant date to be considered in determining whether a school meets the relevant standards is the date of graduation. Dr. Johnson believes the Board

should want to know what the applicant was doing when they got into the program. After the Board thoroughly discussed the issue, Dr. Johnson made a motion to amend the policy that was adopted at the last meeting to refer to rule 0880-02.04(3), rather than 0880-02.04(3)(d). Ms. Eller seconded the motion, which passed.

Status Update on the Rules in Progress

Ms. Huddleston provided an overview of the status of all rules in progress. The request for a rulemaking hearing for a possible fee increase is in the Governor's Office. The Governor's Office is waiting to see the final result of the books for fiscal year 2015. The telemedicine rule is at the Attorney General's office for review. The definition of an addiction specialist is in internal review. Regarding Public Chapter 494, Ms. Huddleston did not have the information yet for anyone to recommend a fee. The infrastructure is still being worked out, but she can go ahead and start drafting some skeleton rules. Dr. Zanolli noted this would impact many doctors. Ms. Huddleston stated that the Board's authority is limited to setting up the registry, setting up the process of the registry, and setting the fee. Dr. Zanolli asked that this topic be discussed further at the next Development Committee Meeting. Ms. Huddleston added that the rulemaking requires pursuant to Public Chapter 26 is the internal review process.

The Collaborative Pharmacy practice rulemaking hearing will occur on December 18th. Dr. Higdon stated that he thinks they did the best job they could do as a Committee and that the convened parties did in fact create a draft rule for pharmacy collaboration. He was hopeful that the result of the Committee's work would remain unchanged after the rulemaking hearing. Dr. Baron agreed and thanked Ms. Huddleston for answering all the questions he had about administrative law. He noted that a lot of interested individuals will be in the audience. Dr. Johnson pointed out that the rulemaking hearing and proposed rules are on the website.

VI. OGC/DISCIPLINARY BUSINESS

Petitions for Declaratory Order

Sara Bomar, MD

Petition for Declaratory Order

Counsel for State: Andrea Huddleston

Petitioner: Sara Bomar, MD

Petitioner's Attorney: James Sperring

Dr. Bomar seeks a declaratory order lifting any and all restrictions on her medical license. In 2006, Dr. Bomar was granted a license restricted to administrative practice due to some health conditions. Dr. Christiansen made a motion to accept the petition for declaratory order so it can be moved to a hearing. Dr. Beckford seconded the motion, which passed unanimously.

Won Huh, MD

Petition for Declaratory Order

Counsel for State: Andrea Huddleston

Petitioner: Won Huh, MD

Petitioner's Attorney: William Haynes III

Dr. Huh has filed a petition for declaratory order in his pursuit of a full license to practice medicine in Tennessee. Dr. Huh had appeared for an interview before the Board at the July 2015 meeting. At that time, his application was tabled to give him time to consider filing for a petition for declaratory order. Dr. Beckford made a motion to accept the petition for declaratory order so it can be moved to a hearing. Dr. Christiansen seconded the motion, which passed unanimously

Carlo Buena, MD

Petition for Declaratory Order

Counsel for State: Andrea Huddleston

Petitioner: Carlo Buena, MD

Petitioner's Attorney: William Haynes III

Dr. Buena has filed a petition for declaratory order in his pursuit of a full license to practice medicine in Tennessee. Dr. Buena had appeared for an interview before the Board at the September 2015 meeting. His application was tabled to give him time to consider filing for a petition for declaratory order. Dr. Christiansen made a motion to accept the petition for declaratory order so it can be moved to a hearing. Dr. Musil seconded the motion, which passed unanimously.

Petition for Order Modification

Gina Dieudonne, MD

Petition for Order Modification

Counsel for State: Andrea Huddleston

Petitioner: Gina Dieudonne, MD

Dr. Dieudonne seeks an order modification that would remove the requirement that she apply for and obtain an unrestricted Illinois license. After interviewing her, Dr. Beckford made a motion to approve the request for modification. Dr. Musil seconded the motion, which passed unanimously.

Order of Compliance

William Fontenot, MD – Dr. Fontenot's license was placed on probation in 2010 based on some criminal charges including a DUI. His license was placed on probation for a period of not less than five years, and he was required to get with TMF and have quarterly reporting. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Baron recused himself. Dr. Beckford made a motion to accept the Order. Ms. Eller seconded the motion which passed.

The first day of the meeting ended at 5:28 p.m.

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners
Wednesday, November 10, 2015**

The second day of the regular board meeting was called to order at 8:41 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. Michael Baron, Ms. Pat Eller, Dr. Reeves Johnson, Dr. Melanie Blake, Dr. Deborah Christiansen, Ms. Barbara Outhier, Dr. Neal Beckford, Dr. Dennis Higdon, and C. Allen Musil.

Naloxone Standing Order Draft Presentation

Ms. Huddleston gave a presentation for informational purposes to the Board on legislation that was passed the previous year and was codified in TENN. CODE ANN. § 63-1-152. That legislation permits licensed health prescribers who are otherwise authorized to prescribe and who are acting in good faith, to prescribe Naloxone either directly or by standing order to persons who are at risk of overdose death, or to family, friends, and others who are close to persons who are at risk of overdose death. The number of overdose deaths continues to rise in the state of Tennessee, notwithstanding the fact that the total morphine equivalents prescribed is being reduced. Dr. Zanolli asked that the draft be posted on our website.

Statement on Orthopedic Physician Assistant Training Programs

Ms. Mary Katherine Bratton briefed the Board on the history of the topic. The Committee on Physician Assistants (COPA) licenses both physician assistants and orthopedic physician assistants. The statutes and rules specify that OPAs must attend a training program approved by the Committee; however, the rules do not contain approval criteria. The Committee convened a taskforce to create an applicable policy when it had a school apply for Committee approval. The policy identified criteria to evaluate an OPA program. It was approved by the Physician Assistant Committee and approved by the Board in July 2015.

Due to the previous FTC case, the Committee and the Board were advised that the Commissioner should also look at the policy to ensure that there was full state supervision of this decision as there is some potential for accusations of anticompetitive activity, since denying a program on the basis of the policy would limit the number of Committee approved OPA training programs. The Commissioner has made a suggestion to the policy statement, which was re-presented to COPA and approved.. The change is as follows: "The Committee acknowledges that accreditation of OPA programs is not currently available; however should accreditation be made available by any one of the following organizations, in order to be deemed adequate, the school or program must obtain accreditation, **or should substantially meet the applicable standards for the same in the judgment of the Committee**, in order to be Committee-approved." This language, Ms. Bratton explained, seeks to preserve the Committee's ability to approve a program that had met the standards of accreditation, but had not yet become accredited for whatever reason. Dr. Baron made a motion to ratify the revised policy. Dr. Musil seconded the motion, which passed unanimously

Agreed Citations

Ellis Salloum, 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. Salloum has agreed to pay \$3,400.00 in civil penalties for failure to obtain 34 CME hours, to include two (2) hours of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Dr. Beckford seconded the motion, which passed unanimously.

James Nell, 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. Nell has agreed to pay \$750.00 in civil penalties for failure to obtain 7.5 CME hours, to include two (2) hours of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Dr. Beckford seconded the motion, which passed unanimously.

Russell Gross, 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. Gross has agreed to pay \$3,000.00 in civil penalties for failure to obtain 30 CME hours. Dr. Higdon made a motion to accept the Agreed Citation. Dr. Beckford seconded the motion, which passed unanimously.

Angeli Jain, 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. Jain has agreed to pay \$650.00 in civil penalties for failure to obtain 6.5 CME hours, to include one (1) hour of prescribing practices. Dr. Higdon made a motion to accept the Agreed Citation. Dr. Beckford seconded the motion, which passed unanimously.

Allyn Boatwright – was not present nor did a legal representative appear on her behalf. Ms. Tracy Alcock presented the Agreed Citation. As part of her agreed citation, Ms. Boatwright has agreed to pay \$700.00 in civil penalties for unlicensed practice (\$100.00 for each month of unlicensed practice). The agreed citation was previously accepted by the Polysomnography Committee. Dr. Beckford made a motion to ratify the agreed citation. Dr. Johnson seconded the motion, which was unanimously approved.

Requests for Advisory Opinions

Ms. Penny Logan has requested an advisory ruling regarding one of the Board's rules. This inquiry is regarding what the Board intends with their rule about supervision of nurse practitioners practicing at a "remote site;" however, Ms. Huddleston noted the statute that authorizes the Board to issue private advisory rulings is limited to inquiries from licensees. Ms. Logan is not a licensee of this Board, but of the Board of Nursing. Ms. Huddleston suggested that the Board not provide a substantive response to the request. She did think that it is something that needs some discussion, but she does not think it would be appropriate to issue an advisory ruling to someone who is not a licensee. Her suggestion is that the Board permits Ms. Huddleston to inform Ms. Logan that the inquiry needs to come from a licensee. Her supervising physician can send in the same request and they will respond to it later if the Board chooses, perhaps at the next meeting. Ms. Eller asked if the Board of Nursing could take care of it. Ms. Huddleston stated they could not, as the rule in question exists only under this Board's rules. She

added that the applicable set of rules is not in the Nursing rules, but they are in the process of trying to amend their rules to add the material there as well. Dr. Zanolli thought that the Board had received sound legal advice from counsel, and that they should not give advisory opinions to everyone that asks, just to licensees who are entitled to them. He does think her question is important, but it should be framed in the proper light for them to respond appropriately.

Dr. Alexander Zotos has requested an advisory ruling. Neither Dr. Zotos, nor his attorney Mr. C.J. Gideon, Jr., was present, but attorney Mr. James Sperring, from Mr. Gideon's office was present. Dr. Zotos was granted a license with the provision that he would be required to have a lifetime contract with the Tennessee Medical Foundation. Dr. Zotos is asking that the requirement for the lifetime contract be lifted. Ms. Huddleston was not sure if a request for an advisory ruling was the appropriate vehicle for the request, but instead a petition for order modification. The rules for order modification require that in order to get a modification, the term that is being requested to change must be impossible to comply with. She does not think the requirement is impossible to comply with; he has so far had a lifetime contract and has apparently complied with that contract. Mr. Sperring spoke to the Board. Dr. Baron recused himself. After further discussion between the Board and Ms. Huddleston, Dr. Zanolli noted that a more appropriate vehicle might be either a request for hearing of order modification or a request for a hearing for a declaratory order, and they would leave it to Mr. Sperring to work with General Counsel to see how they want to bring the issue back before the Board

Orders of Compliance

John Bacon, MD- Dr. Bacon's license was placed on probation for a period of not less than five years in 2010 related to improper prescribing of. He was also required to pay penalties and costs. He is in compliance with the requirements and is entitled to have his petition granted. Dr. Musil made a motion to accept the order. Dr. Beckford seconded the motion, which was approved.

Eddie Hamilton, MD – Dr. Hamilton's license was suspended for three months, effective August 22nd, 2015 after he pled guilty and was convicted of healthcare fraud. By order, Dr. Hamilton was required to take course work, have monitoring by Affiliated Monitors, and pay penalties and costs. He is compliant with the requirements and is entitled to have his petition granted; however, Dr. Hamilton's suspension is not set to be lifted until November 22nd. Dr. Hamilton is appearing before the Board to request that his petition be considered early, with the understanding that the suspension would not be lifted until November 22nd. Dr. Hamilton's attorney, Mr. Christopher Coffman, addressed the Board on Dr. Hamilton's behalf. Dr. Christian recused herself. After discussing the issue, the Board agreed to move forward with the petition for order of compliance. Dr. Musil made a motion to issue the order, with the understanding that the suspension would not be lifted until the 22nd. Dr. Johnson and Ms. Eller recused themselves. Dr. Beckford seconded the motion. The motion passed. Once the suspension is lifted, the license will be put on probation.

Bruce Levy, MD – Dr. Levy's license was placed on probation in 2015 for a period of not less than five years related to being found in possession of marijuana. He was also required to have monitoring by Affiliated Monitors, and pay penalties and costs. He is in compliance with the requirements of his order and is entitled to have his petition granted; however, his probation is

not eligible to be lifted for another week. Dr. Zanolli asked that the issue of orders of compliance being presented prior to end of suspension or probation would be placed on the agenda for the next Development Committee meeting. Mr. Michael Todd from TMF spoke briefly to the Board. Dr. Johnson made a motion to accept the order contingent upon the probation period being completed in full. Dr. Beckford seconded the motion. The motion passed.

Consent Order

Linda Foster, MD – was not present nor did a legal representative appear on her behalf. Ms. Jennifer Putnam represented the state. Dr. Foster’s license was placed on probation in 2015 for prescribing Adderall to family members when it was not pursuant to an emergency situation and also prescribing testosterone to herself in 2013. The Board placed her on probation for five years; however, it was discovered that after her probation became effective, she was still continuing to supervise mid-level practitioners, which is not permitted when a license is encumbered with a probationary status. Dr. Foster violated TENN. CODE ANN. § 63-6-204(b)(2). The Consent Order presented to the Board ordered that Dr. Foster’s medical license be placed on probation for an additional year to be added to the probationary period imposed by the previous Consent Order, for a total of six (6) years. Dr. Beckford made a motion to accept the order. Dr. Johnson seconded the motion, which passed.

Dr. Johnson asked if the Development Committee would consider hearing not only about the initial application, but the renewal application as well. Ms. Tarr noted that the renewal questions apply to all professions across Health Related Boards.

Declaratory Order

State of Tennessee Board of Medical Examiners v. Chimene Kesserwan, MD

Chimene Kesserwan, MD
Petition for Declaratory Order
Iris Room

Judge:	D. Kim Summers
Panelists:	Melanie Blake, MD, Deborah Christiansen MD, Reeves Johnson, MD
Counsel for State:	Andrea Huddleston
Petitioner:	Chimene Kesserwan
Counsel for Petitioner:	David L. Steed

Dr. Kesserwan seeks a declaratory order issuing a full and unrestricted license to practice medicine in the state of Tennessee. Dr. Kesserwan 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. Kesserwan was previously granted a St. Jude Children’s Research Hospital Global Collaboration license. Dr. Blake made a motion to suspend deliberations. Dr. Christiansen seconded the motion, which passed unanimously. The panel asked questions. Dr. Blake made a motion to resume deliberations. Dr. Christiansen seconded the motion, which

passed unanimously. Dr. Christiansen made a motion to accept the findings of fact as modified, in the Petitioner's proposed order. Dr. Blake seconded the motion, which passed unanimously. Dr. Blake made a motion to accept the conclusions of law as modified, in the Petitioner's proposed order. Dr. Christiansen seconded the motion, which passed unanimously. Dr. Christian made a motion to accept the policy statement. Dr. Blake seconded the motion, which passed unanimously. Dr. Blake made a motion to accept the declaratory order. Dr. Christiansen seconded the motion, which passed unanimously.

Contested Case

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

Gursheel Dhillon, MD
Contested Case
Iris Room

Administrative Law Judge: D. Kim Summers
Panelists: Melanie Blake, MD, Deborah Christiansen MD, Reeves Johnson, MD
Counsel for State: Andrea Huddleston
Respondent: Gursheel Dhillon, MD
Counsel for Respondent: Pro Se

The following witnesses were called during the hearing: Nichelle Dorroh, Disciplinary Coordinator for the State of Tennessee Department of Health; Gursheel S. Dhillon, M.D.; and Kenneth Jones, an investigator with the State of Tennessee Department of Health, Office of Investigations. The case was continued to January 2016.

State of Tennessee Board of Medical Examiners v. Timothy Gowder, MD

Timothy Gowder, MD
Contested Case
Poplar Room

Administrative Law Judge: Thomas Stovall
Panelists: Dr. Hidgon, Dr. Baron, Ms. Outhier
Counsel for State: Mary Katherine Bratton
Respondent: Timothy Gowder, MD
Counsel for Respondent: Edward Hadley and Matthew Buchbinder

The following witnesses were called during the hearing: Linda Gowder and Timothy Gowder, MD. The case was continued to December 2015.