



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

**Tuesday, March 19, 2019
Wednesday, March 20, 2019**

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. Reeves Johnson, Board President.

Board members present: Reeves Johnson, MD, President
Melanie Blake, MD, Vice President
Charles Handorf, MD, Secretary
Subhi Ali, MD
Michael Zanolli, MD
Deborah Christiansen, MD
Neal Beckford, MD
John Hale, MD
Jennifer Claxton, Consumer Member
Robert Ellis, Consumer Member
Julianne Cole, Consumer Member

Board member(s) absent: Phyllis Miller, MD

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel
Rene Saunders, MD, Medical Consultant, BME
Angela Lawrence, BME Executive Director
Stacy Tarr, Administrative Director
Candyce Wilson, Administrative Director
Courtney Lewis, Board Administrator
Tammy Davis, Board Administrator

RULEMAKING HEARING, 9:00 A.M. CST

Ms. Mary Katherine Bratton described the procedural steps that have been taken in preparation for the rulemaking hearing and established that all formalities were met. The same roll call taken early is accurate meaning the following members were present for voting: Dr. Reeves Johnson, Dr. Melanie

Blake, Dr. Charles Handorf, Dr. Subhi Ali, Dr. Michael Zanolli, Dr. Deborah Christiansen, Dr. Neal Beckford, Dr. John Hale, Ms. Jennifer Claxton, Mr. Robert Ellis and Ms. Julianne Cole.

This rulemaking hearing proposes amendments to Board rule 0880-02-.02. The proposed rules delete subparagraphs (1)(a) and (1)(f) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs shall read: (a) Application Fee - a non-refundable fee to be paid by all licensure applicants regardless of the type of license applied for. It must be paid each time an application for licensure is filed.....\$500.00; (b) Licensure Renewal Fee – to be paid biennially by all licensees except inactive pro bono licensees. This fee also applies to licensees who reactivate a retired license or who reactivate an inactive license.....\$300.00. This amendment increases the application fee from \$400.00 to \$500.00 and increases the renewal fee from \$225.00 to \$300.00.

The public comments sheet was blank. The Board received and had a chance to review several written public comments which were submitted ahead of time. The substances of the written comments were concerns about the Board’s surplus funds being previously raided and the potential of that occurring again. Dr. Handorf provided a response to the written comments: The Board shares the concerns addressed in the written comments but the Board has no authority to prevent the State from raiding the surplus funds and the Board feels a fee increase is necessary at this time. Furthermore, it has been a number of years since the last fee increase and the Board has expanded since then which will cause the Board to run short of funds without this fee increase.

Dr. Beckford motioned to approve the regulatory flexibility analysis. Dr. Christiansen seconded the motion and it passed. Dr. Christiansen motioned to approve the statement of economic impact to small businesses. Dr. Beckford seconded the motion and it passed.

Dr. Zanolli motioned to add language regarding special volunteer licensees also not being charged the renewal fee into the amended section (b). Dr. Ali seconded the motion and it passed.

The Board voted to approve the rule amendments by roll call vote: Dr. Handorf – aye, Dr. Blake – aye, Dr. Johnson – aye, Dr. Beckford – aye, Dr. Hale – aye, Dr. Ali – aye, Ms. Cole – aye, Dr. Christiansen – aye, Mr. Ellis – aye, Ms. Claxton – aye, Dr. Zanolli – aye. The rule amendments passed and the rulemaking hearing concluded.

CONSIDERATION OF APPLICATIONS

Medical X-Ray Operator Applicant Interview(s):

Katrina Mercer, AMDX – appeared before the Board without legal representation. Ms. Mercer previously appeared before the Board in September 2018. At that time her application was tabled up to six (6) months and she was asked to obtain a Tennessee Medical Foundation (hereinafter “TMF) evaluation. At this time, Ms. Mercer has since completed the evaluation. Additionally, Ms. Mercer’s application revealed a significant period of time during which she was practicing unlicensed in violation of Board rules. Ms. Mercer explains she has an addiction diagnosis and is being treated with suboxone. She reports no concerns regarding her ability to safely practice while using suboxone as she does not experience cognitive impairments. Ms. Mercer reports she has been on buprenorphine treatment for several years and her last x-ray practice was about one (1) year ago. She has practiced as an x-ray operator while under buprenorphine treatment. The Board interviewed Ms. Mercer regarding her relapse and treatment history. Dr. Michael Baron, TMF Medical Director, addressed the Board regarding Ms. Mercer. He reports TMF could place Ms. Mercer in a monitoring contract but could not advocate for her due to her suboxone treatment. An evaluation by Dr. Tinley indicates that Ms. Mercer is fit to practice. Dr. Baron expressed there is no way to monitor the amount of buprenorphine she is on and her safety to practice may vary

based on the milligrams she is prescribed. Dr. Handorf motioned to grant licensure conditioned on continued compliance with the following requirements: 1) lifetime monitoring contract with TMF, advocacy is not required, 2) participation in 12-step meetings, 3) urine drug screenings, 4) continuing substance use disorder treatments as recommended by a medical provider working in conjunction with TMF, 5) TMF must receive quarterly reports from the medical provider and TMF shall issue quarterly reports to the Board and 6) all restrictions and requirements of a full and unencumbered license shall adhere to this license and a deviation could result in public discipline. Dr. Hale seconded the motion. The motion passed with Dr. Christiansen opposed.

Jada Cousar, AMDX – appeared before the Board without legal representation. Ms. Cousar was previously licensed with conditions. She allowed her license to lapse prior to fulfilling the conditions of licensure and does not currently have TMF advocacy. Dr. Baron provided an overview of Ms. Cousar's history with TMF. In 2011, the Board referred the applicant to TMF due to substance use disorder. She signed a contract in August 2011 but there was a pattern of noncompliance. In September 2012, she voluntarily retired her Tennessee license. In November 2018, she contacted TMF to discuss the process of reinstating her medical x-ray operator license. In that same month, Dr. Baron met with the applicant and discovered she was taking prescribed medication that also happened to be her previous drug of choice. The Board discussed their need for a complete evaluation and to obtain TMF advocacy before licensure can be considered. Dr. Christiansen motioned to table the application for up to four (4) months to give Ms. Cousar time to follow TMF's recommendation and obtain their advocacy. Dr. Ali seconded the motion and it passed.

Kellie McClintock, AMDX – did not appear and rescheduled for the Board's May 2019 meeting.

Medical Doctor Applicant Interview(s):

Angela Culbreth, MD – did not appear and the Board did not consider her application.

Maria Del Pilar Anton Martin, MD – appeared before the Board with legal representation from Mr. Dan Elrod. Dr. Anton Martin is an international medical school graduate who has not completed a three (3) year U.S. ACGME accredited residency program in one (1) discipline and is not ABMS certified. She has been granted credit for one (1) year of postgraduate training by the American Board of Pediatrics. She will be eligible to sit for the Board examination in October 2019. Dr. Anton Martin outlined her extensive medical training.

Ms. Bratton reviewed the Board's *One Discipline Policy* which permits applicants to have completed two (2) years of accredited residency training in one (1) discipline and have been given credit for the third year. That policy was adopted because of cases where applicants may complete training in more than one discipline. Also, TCA only allows for three (3) years of accredited training in the U.S. in one (1) discipline. Ms. Bratton reviewed the Board's *Demonstrating Competency Policy* which outlines how an applicant will demonstrate competency in order to be granted temporary licensure. In that policy, applicants may demonstrate competency by completing two (2) years of residency training and only having one (1) year remaining. Ms. Bratton proposed the Board could grant temporary licensure contingent on her completion of her second year of training as of July 1, 2019. Or, the Board could consider her extensive foreign training and one (1) year of completed residency as proof of competency and grant temporary licensure today. Dr. Zanolli motioned to grant a temporary license as of today based on her demonstrated competency and it was seconded by Dr. Hale. This temporary license is for up to one (1) year in duration, the license is not renewable, all of the rules and statutes would apply but she is not permitted to supervise advanced practice professionals. Dr. Zanolli motioned that upon successful completion of her current residency program she is considered to have met the full and unrestricted

licensure requirement of needing three (3) years of accredited U.S. residency training and she may apply for full licensure. Dr. Handorf seconded the motion and it passed.

Xiangxia Liu, MD – appeared before the Board with legal representation from Mr. Jimmy Bradshaw. Dr. Liu is an international medical school graduate who has not completed a three (3) year U.S. ACGME accredited residency program in one (1) discipline and is not ABMS certified. He is not currently Board eligible. Dr. Liu provided an outline of his extensive medical training. The Board led a discussion in regards to the applicant not being eligible for licensure and how a declaratory order would be the best avenue to licensure if the applicant wishes to pursue licensure. Dr. Blake motioned to table this application for up to four (4) months to allow time for the applicant to petition for a declaratory order. Dr. Handorf seconded the motion and it passed. The Board heard the applicants request for a petition for declaratory order presented by Mr. Bradshaw. Dr. Handorf motioned to accept the petition for declaratory order. Dr. Beckford seconded the motion and it passed.

Panambur Bhandari, MD – appeared before the Board with legal representation from Mr. Jimmy Bradshaw. Dr. Bhandari has not completed three (3) years of a U.S. residency training program in one (1) discipline and is not ABMS Board Certified. The applicant will be eligible for Board Certification in seven (7) years. Dr. Bhandari provided an overview of his extensive medical training. Mr. Bradshaw is prepared to petition the Board for declaratory order if permitted. Dr. Beckford motioned to table the application for up to four (4) months to allow time for the applicant to petition for a declaratory order. Dr. Ali seconded the motion and it passed. The Board heard the applicants request for a petition for declaratory order presented by Mr. Bradshaw. Dr. Blake motioned to accept the petition for declaratory order. Dr. Beckford seconded the motion and it passed.

Recognition Awards presented by Commissioner Lisa Piercey, MD and David Raegan, Chief Medical Officer

Dr. Subhi Ali has served the citizens of Tennessee, the physician's and physician assistants of Tennessee by serving with integrity and with distinction on the Board of Medical Examiners for the last fifteen (15) years. His efforts have promoted a Board culture that has allowed the Board to preform exceptionally well. Dr. Ali has served as President of the Board of Medical Examiners and under his leadership has enhanced the work of the Development Committee allowing the creation of a new licensure process for foreign medical graduates, mentored new members of the Board of Medical Examiners, enhanced the relationship with the Tennessee Medical Foundation, and championed the use of reserve funds to help respond to the epidemic of drug abuse in Tennessee, including enhanced data analytics and efforts to integrate the CSMD into electronic medical records in Tennessee. Dr. Ali has represented Tennessee well and served our nation on the financial committee of the Federation of State Medical Boards. Dr. Ali has been a pleasure to work with and has set a very high standard for current and future Board members. It is with great pleasure that we present Dr. Ali with the Commissioner's Outstanding Service to Population Health award for his long and outstanding service to the Board of Medical Examiners and his many accomplishments.

Dr. Michael Zanolli has served the citizens of Tennessee, the physician's and physician assistants of Tennessee by serving with integrity and distinction on the Board of Medical Examiners for the last fifteen (15) years. His steady leadership has fostered a Board culture that has allowed the Board to perform exceptionally well. Under Dr. Zanolli's leadership the renewal application process was streamlined, approved foreign medical schools were identified, telemedicine was studied and promoted, the Boards reserve funds were allocated to support response to the epidemic of drug abuse in Tennessee, including enhanced data analytics and efforts to integrate the CSMD into electronic medical records in Tennessee. Dr. Zanolli championed closer collaboration with the Tennessee Medical Foundation in supporting physician wellness. Dr. Zanolli represented Tennessee well at the Federation of State Medical Boards and

participated in leadership roles, including his current role of ACCME Vice Chair. Dr. Zanolli has been a pleasure to work with and has set a very high standard for current and future Board members. It is with great pleasure that we present Dr. Zanolli with the Commissioner's Outstanding Service to Population Health award for his long and outstanding service to the Board of Medical Examiners and his many accomplishments.

Applicant Interviews (continued)

Mila Riehl, MD – appeared before the Board without legal representation. Dr. Riehl has a lifetime contract with the Alabama Physicians Health Program (hereinafter “PHP”), signed in June of 2017, secondary to substance use disorder. Dr. Riehl discussed her history of relapse, treatment, and her interest to practice as an Emergency Room physician in Tennessee. Dr. Baron spoke on behalf of Dr. Riehl and suggests that as long as she practices she should continue to be monitored. Dr. Riehl has a Maine medical license which was issued with the condition to have lifetime monitoring and is aware that such issuance of licensure is reported to the National Practitioner Databank. Dr. Zanolli motioned to grant licensure conditioned upon lifetime advocacy with the TMF. The Alabama PHP will remain Dr. Riehl's primary monitor and provide reports to the TMF. If Dr. Riehl shall move to Tennessee, then the TMF will become her primary monitor. Dr. Ali seconded the motion and it passed.

Peter Fong, MD – appeared before the Board without legal representation. Dr. Fong has a criminal conviction for importation of controlled substances which resulted in the loss of his D.E.A. certification as well as Hawaii and Georgia Medical Licensure Board actions. He has participated in inpatient substance abuse treatment as well as outpatient monitoring. He has reportedly completed all required monitoring and his licenses have been restored to unrestricted status. All of his licenses were restored to unrestricted status as of 2010. He has already completed an evaluation with Dr. Baron with the TMF. Dr. Baron reports that the Georgia monitoring program does not release information so there is no documented proof that his Georgia monitoring was successfully completed. Dr. Christiansen motioned to grant unrestricted licensure and it was seconded by Dr. Handorf. The motion passed.

Pending Legislation Discussion

Ms. Bratton provided the Board with a summary of pending bills which may interest the Board.

HB0783 medical students - University of Tennessee - As introduced, requires a medical student in good academic standing with an accredited medical college in this state to receive priority consideration over a medical student attending medical college outside of this state in the process of assigning clinical rotations to a healthcare facility contracting with a state medical school or accepting state funding. - Amends TCA Title 49; Title 63 and Title 68.

Dr. Johnson inquired if the word “priority” was defined for **HB0783**. Ms. Bratton reports there is no definition of “priority” and reports she provided this summary because it involves the Board's potential future licensees.

Mr. Yarnell Beatty, with the Tennessee Medical Association, provided the Board with TMA's feedback on a number of pending bills. Mr. Beatty joined the meeting through conference call for the pending legislative review discussion.

SB53/HB496 – Exemptions to licensure and certification requirements for participation in federal Innovative Readiness Training programs.

Summary: creates exemptions to licensure and certification requirements for various health professionals who are participating in federal Innovative Readiness Training programs, including chiropractors, dentists, physicians, and nurses. (17pp.)

Amendment Summary:

Senate amendment 3 (004270) deletes all language after the enacting clause such that the only substantive change is exempting any military health professional licensed to practice in another state, as opposed to various military health professionals, from licensure and certification requirements in Tennessee while participating in an Innovative Readiness Training Civil-Military partnership program.

Active duty military personnel participating in an Innovative Readiness Training Civil-Military partnership program, and licensed in another state, may become licensed in Tennessee. The scope of practice for the licensee will be the Tennessee scope of practice, not the other state from which they hold licensure. Mr. Beatty expressed that this bill passed in the Senate and is expected to pass in the House.

SB384/HB304 – Exempts armed forces members and their spouses from licensure requirements.

Summary: Exempts armed forces members stationed within this state and their spouses from licensure requirements to practice professions and occupations regulated by the department of commerce and insurance and the department of health, subject to meeting certain requirements to practice.

Dr. Johnson inquired as to whether or not this bill means someone could be out of practice but be exempted from licensure in Tennessee if they met the requirements of this bill. Mr. Beatty expressed an understanding that there would still be requirements the individual would have to follow such as showing proof of practice and not having a history of liability claims.

Dr. Zanolli expressed a concern about which state board a patient would file a complaint with; stating an exemption from licensure in this state would mean Tennessee does not have jurisdiction over the individual's license. Mr. Beatty reported that the patient should still contact the Tennessee Medical Board to file a complaint in this instance.

Dr. Saunders referenced the current situation where a physician working in a VA clinic, holds a license in another state and does not have to be licensed in this state. She reported the patient may complain to the Federal Government, the VA system, or to the Tennessee Medical Board but this Board cannot discipline a physician who doesn't hold a state license.

Dr. Zanolli's concern is that **SB384** does not specifically state the professional can only practice in a Federal facility. This limitation is found in **SB53**.

SB972/HB1135 – Review of charts for practice site visits at a community mental health center.

Summary: Allows physician assistants authorized to prescribe drugs and advanced practice registered nurses with a certificate of fitness to arrange for the required personal review of the advanced practice registered charts by a collaborating physician in the office, practice site, or a remote site. Authorizes HIPAA-compliant electronic means rather than at the site of the clinic as an option of collaborating physicians by both means as well. Specifies both the physician assistant and the advanced practice registered nurse must provide services in a community mental health center to be eligible to arrange for the required personal review.

Dr. Johnson stated this bill carves out community mental health centers from being required to have on site visits. Mr. Beatty indicated there is another bill in recent years that passed regarding federal health centers and the intent of this bill is to expand that law. Dr. Johnson expresses a concern about mental

health being carved out, over traditional health, when revisions to the collaboration rules have not been finalized as directed to amend in recent legislation.

SB999/HB1218 – Reinstatement of professional and occupational licenses under certain circumstances. Summary: Allows the reinstatement of a professional or occupational licenses if there is submission of an application acceptable to the licensing entity, payment of the full renewal fee for an active license, and payment of any reinstatement penalty that may be required by the licensing entity.

Mr. Beatty expressed that this bill has failed.

SB672/HB810 – Graduate Physicians Act.

Summary: Requires the board of medical examiners, in consultation with the board of osteopathic examination, to establish the process for licensure of graduate physicians. Define "graduate physician" and specifies that a graduate physician is considered a physician assistant for purposes of the regulations of the Centers for Medicare and Medicaid Services. Also specifies that graduate physicians are subject to the supervision requirements established in any controlling federal law and any supervision requirements established by the board of medical examiners. In order to remain licensed as a graduate physician, requires the graduate physician to successfully complete Step 3 of the United States Medical Licensing Exam (USMLE) no later than one year from the date that the graduate obtained a graduate physician license. Specifies that if the graduate physician does not successfully complete Step 3 of the USMLE, then the graduate physician's license must be revoked. Prohibits a graduate physician from practicing without a graduate physician collaborative practice arrangement. Defines "graduate physician collaborative practice arrangement" as an agreement between a licensed physician and a graduate physician that meets certain requirements. Establishes parameters for graduate physician collaborative arrangements. (12 pp.)

Mr. Beatty reported this bill is not expected to pass.

Dr. Zanolli provided the Board with the following update as it pertains to **SB672**:

Since 2014, four (4) states have passed legislation introducing assistant physicians (Arkansas, Kansas, Missouri and Utah); this category of licensure is for individuals who have not completed post graduate medical training or USMLE step 3. In the 2019 legislative session, five (5) more states have pushed for this legislation (New Hampshire, Hawaii, Minnesota, Wyoming and Tennessee).

With the influx of bills, the Federation of State Medical Boards liaisons conducted research to determine who was behind this legislation and it has been identified as an organization called Freedom to Recognize, Educate, and Employ Doctors of Medicine. The founder of that organization is Brian Sweeny, who is an assistant physician in Missouri. Currently, Missouri holds the most licensed assistant physicians. Mr. Sweeny also created the Association of Medical Doctor Assistant Physicians. Presently, the Utah Board is required to license five (5) of these candidates each year despite the individual having passed medical school but not having been accepted into a graduate medical program or completing all steps of the USMLE.

The consensus of the Board is that this bill certainly should not be passed.

SB884/HB1377 – Doctor of Medical Science Act.

Summary: Establishes procedure for an applicant to receive a doctor of medical science license. Requires the Board of Medical Examiners to grant an applicant such a license if the applicant meets the following criteria: (1) previously has been licensed and served in clinical practice for at least three years in one or more states as a physician assistant; (2) is a graduate of a minimum two-year doctor of medical science program accredited by a regional body under the United States department of education; (3) has

successfully completed the examination on the certification of doctors of medical science, with the examination determined by the board; and (4) provides satisfactory evidence of an affiliation or association with a hospital, group practice, or a list of physicians with medical expertise outside the expertise of the person seeking licensure as a doctor of medical science. For renewal of license, requires licensees to present satisfactory evidence to the board of medical examiners' committee on doctors of medical science that the licensee in the year preceding the application for renewal successfully completed 100 hours of continuing medical education.

Mr. Beatty reported this bill is dead.

SB743/HB422 – Practice of nursing - references to human patients.

Summary: Changes references of patients to human patients. Determines exclusive eligibility for the licensed practice of nursing to persons licensed by the board of nursing.

Mr. Beatty stated there was a bill that would allow veterinary technicians to become veterinary nurses and the nurses opposed that bill and pushed for **SB743** to narrow the scope to human patients.

SB672/HB810 – Graduate Physicians Act.

Dr. Ali addressed this bill again urging TMA and others to not support this bill. Dr. Blake added that there is no way to define the physician overtime because there is no pathway to board certification or a way to get them eligible as a full unrestricted medical doctor. She further expressed there could be a discussion to find a pathway towards licensure for those this applies to but the proposed bill is not the appropriate avenue. Perhaps the State could look into expanding residency programs as a solution.

HB328 med labs - Health Care - As introduced, exempt's medical laboratory personnel employed by privately owned labs while performing work at a medical laboratory from the requirements of the Tennessee Medical Laboratory Act. - Amends TCA Section 68-1-901; Title 68, Chapter 29 and Title 68, Chapter 3, Part 1.

Mr. Beatty reports TMA objected to this bill and the sponsor agreed to allow the stakeholders to discuss this matter over the summer, thus it will not be going anywhere this year. The concern with this bill is it would permit lab work to be done by unqualified personnel.

Discuss and consider request for an Advisory Ruling by Paul Brezina, MD

Dr. Brezina's attorney, Ms. Poisner, joined the meeting by conference call. Dr. Brezina requests an advisory ruling that inclusion of the name of a pharmacy in which he has a minority interest, Fertility Pharmacy of America LP, on a list given to patients informing them that the Fertility Pharmacy is one of multiple pharmacies that can fill certain prescriptions would not constitute a violation of the Health Care Referrals Act.

Ms. Bratton reminded the Board that they are not required to issue an advisory ruling, but when they do issue an advisory ruling it only pertains to the practitioner making the request. Ms. Bratton informed the Board that the Healthcare Referral Act (TCA 63-6-601-608) in summary prohibits a physician from referring a patient to a program in which they have self-interest. Ms. Bratton reports she requested additional information prior to the meeting, which the Board members reviewed, and this information provided the number of pharmacies which would be suggested and the types and number of drugs listed. Ms. Bratton stated a limited list of pharmacies and limited list of drugs could play into the Boards determination on whether or not this would be permissible or constitutes a violation.

Several Board members agreed that listing the pharmacy and indicating self-interest is essentially steering the patient to that pharmacy.

Dr. Beckford inquired as to how this request is dissimilar to a surgeon referring a patient to its affiliate surgery center. Ms. Poisner stated that under Federal law surgery centers are exempt from the Stark law; they are governed by the anti-kick-back statute to make sure there is no impropriety in a surgeon performing cases at the surgery center and certain guidelines have to be adhered to.

Ms. Poisner further explained, that this particular pharmacy's limited partner physicians do not refer their patients for prescription drugs that are covered by Medicare or Medicaid, so there are no federal funds involved. TN Code allows physicians to hold ownership interests in health facilities, which does include pharmacies, but there are strict conditions which have to be met when doing so. One of the ownership interest requirements is that the potential conflict of interest has to be addressed by the physician disclosing to the patient the physician's ownership in the facility at the time of the treatment.

Ms. Poisner stated the intent of the disclosure form is to not only satisfy the requirement of the law but also to make the patient aware that there are other options for pharmacies and their choice will not impact the care they receive.

Dr. Handorf motioned to not issue an advisory ruling. Dr. Zanolli seconded the motion.

Dr. Beckford and Dr. Hale indicated the proposed form before them is equivalent to informed consent to a patient, rather than steering or a self-referral and the Board may want to consider issuing an advisory ruling on this request. A discussion ensued whether the Board felt it was appropriate to have assurance from the Board in the form of an advisory ruling on this particular subject. .

The motion to not issue an advisory ruling failed. Dr. Christiansen motioned to issue a favorable advisory ruling stating that the provided document, as worded, is adequate for disclosure of physician ownership. Ms. Claxton seconded the motion and it passed. Dr. Zanolli stated he felt that the request attempted to hit the statutory requirements.

Report from the Office of Investigations by Ms. Lori Leonard

Currently in the Office of Investigations the following are being monitored.

- twenty-seven (27) suspended medical doctor licensees
- sixty-four (64) medical doctor licensees on probation
- fifty-four (54) medical doctor licensees under a board order
- sixty-four (64) medical doctor licensees are revoked or surrendered
- zero (0) x-ray technologist licensees suspended
- one (1) x-ray technologist licensee on probation
- eight (8) x-ray technologist licensees under a board order
- three (3) x-ray technologist licensees revoked or surrendered

One hundred and eighty-one (181) new medical doctor complaints opened year-to-date.

- One (1) on abuse/neglect
- One (1) on falsification of records
- Two (2) for fraud or false billing
- Three (3) on drugs
- Twenty (20) on actions by another state
- Two (2) for criminal charges

- Forty-four (44) for malpractice/negligence
- Three (3) for unlicensed practice
- Seventy-three (73) for unprofessional conduct
- Two (2) for violation of a board order
- Seven (7) for medical record requests
- Eight (8) for over prescribing
- Two (2) for failure to supervise
- One (1) for criminal conviction
- One (1) for right to know violation
- One (1) for practicing beyond the scope
- Two (2) for prescribing to friends and family
- One (1) for CME violation
- Eight (8) for other

Two hundred and ninety-three (293) medical doctor complaints currently open and being investigated or reviewed.

- One hundred and eighty-one (181) medical doctor complaints closed year-to-date
- Thirty (30) were closed due to insufficient evidence to discipline
- Seventeen (17) medical doctor complaints were closed and sent to the Office of General Counsel for discipline
- One hundred and four (104) medical doctor complaints were closed with no actions
- Three (3) medical doctor complaints closed with a letter of concern
- Twenty-seven (27) medical doctor complaints closed with a letter of warning

Six (6) new x-ray operator complaints opened year-to-date.

- One (1) for unlicensed practice
- Five (5) for lapsed license

Six (6) x-ray operator complaints closed year-to-date.

- Three (3) x-ray operator complaints were closed and sent to the Office of General Counsel for discipline
- Three (3) x-ray operator complaints were closed with no actions

Financial Report from the Bureau Office by Ms. Noranda French – Mid-Year Report for Fiscal Year 2019

The Board has a mid-year revenue total of \$1,740,668.22. In comparing direct expenditures from last year, there is a spike in salaries and wages. That spike is attributed to employees being evaluated annually and receiving raises in salary based on their performance. Based on the projection, the Board is anticipated to close in a deficit of -\$13,790.90. Ms. French reported if the Board closes in the red again this year, they will have to go before Government Operations in the Spring of 2020. At which time, it could be explained that the Board's fee increase had yet to take effect.

Self-Sufficiency Hearing Update by W. Reeves Johnson, Jr., MD

Dr. Johnson reported he was present, representing the Board, at the recent self-sufficiency hearing alongside Ms. French, Ms. Lawrence and Ms. Bratton. At this meeting, the question raised was what the Board's plan was to get out of the red. The response given was to raise fees. Further discussion was held

on the large amount of reserve carryover funds that the Board cannot use and the reasoning for providing TMF with increased funding.

Approval of Minutes

The Board reviewed the January 22 – January 23, 2019 regular Board meeting minutes. Dr. Christiansen motioned to approve the minutes. Mr. Ellis seconded the motion and it carried.

The Board reviewed the January 17, 2019 Advanced Practice Professional Taskforce meeting minutes. Dr. Blake motioned to approve the minutes. Dr. Handorf seconded the motion and it carried.

Development Committee Update by Dr. Melanie Blake

The Development Committee met on March 18th, 2019 and discussed the following:

1. Consider National Practitioner Data Bank fee charge – When practitioners request a databank report it costs \$4. When the Department requests a databank report it costs \$2. The Committee decided it would be ideal for the office to make a databank request on all new applicants. It is understood that with the Board fee increase underway the expense of this additional charge will be covered. This comes as a motion from the Development Committee and the motion passed by the Board.

Ms. Bratton recommended that the Board change their rules to require the databank as part of the application documents. She stated this will give the public a chance to comment on this change. Also, revising the rule would provide transparency by giving notice to applicants that the query is being pulled and instruction to staff that this is required for the application process. Dr. Blake motioned to revise the rules to require the national practitioner databank query by staff for all initial licensure applications. Ms. Claxton seconded the motion. This motion will move this rule revision to the internal review process. The Board will not begin querying the databank on all applicants until after the proposed rule change is in effect. Ms. Bratton informed the Board of a stay on all rules. Thus meaning, no rules may be amended at this time. She has submitted an exception request for the Boards fee increase rules but she has not received a response back yet.

2. Discussion on the rules regarding prescribing amphetamines – The Committee decided to establish a taskforce to look over the rules on prescribing amphetamines and convene experts in the field to assist the taskforce. Dr. Christiansen volunteered to chair this taskforce and Dr. Michael Baron, with TMF, agreed to participate on the taskforce.

At this time there are no further development committee agenda items.

DISCIPLINARY ORDER(S)

Petition(s) for Order of Modification

Peter Gardner, MD - appeared before the Board with legal representation from Mr. C.J. Gideon. Ms. Francine Baca-Chavez represented the State. The Petitioner submits that the collective orders, specifically the March 21st, 2007 Order of Compliance, the September 30th, 2008 Disciplinary Order and the October 21st, 2009 Order of Compliance require him to maintain a lifetime contract with and the advocacy of the TMF. The Petitioner requests that the requirement to maintain a lifetime contract with and the advocacy of the TMF be removed. The Petitioner states he has been in contract with TMF for over ten (10) years and has maintained advocacy and sobriety for that same period of time. The Office of General Counsel

(hereinafter “OGC”) is concerned about granting such a petition for order of modification simply because the office does not feel the modification standard of impossibility of compliance has been met in this particular case. Pursuant to Board Rule 0880-02-.12(3)(a), this board will entertain modifications of previous issued orders only when the petitioner can prove that compliance with any one or more of the conditions or terms of the order are impossible. Also, OGC is concerned about lifting the lifetime TMF requirement for someone who has had the number of board actions that Dr. Gardner has had. OGC’s position is to honor a previous board decision and does not want to create unfavorable precedent. Dr. Gardner does have a decade of sobriety and the support of TMF; therefore OGC defers the decision on this petition to the Board. Mr. Gideon presented his case as to why the Petitioner should be granted the modification request. He outlined the Petitioner’s decade of sobriety and professional achievements. Dr. Baron spoke on behalf of Dr. Gardner as a model participant in his recovery success and in support of him being granted a full and unrestricted license. Dr. Baron further reports that outcome data, to suggest a chance of relapse, is measured up to five (5) years of recovery; so after five (5) years those individuals are off the radar. He reports it is not a statistical number but the chance of relapse would be slim to none, likely over 98% chance that he would never relapse again.

Dr. Baron explained in detail the standard length of monitoring being five (5) years and how monitoring of individuals may become less stringent overtime based on compliance. Dr. Gardner disclosed to the Board his intentions on maintaining a life of recovery and goals to move forward in his career. Dr. Blake motioned to lift the lifetime advocacy of TMF and grant the petition for order of modification. Dr. Ali seconded the motion and it passed.

Joseph Bowers, MD - appeared before the Board with legal representation from Mr. C.J. Gideon. Ms. Francine Baca-Chavez represented the State. The Petitioner submits that it is impossible for him to comply with paragraph six (6) of the May 23, 2018 Order of Compliance which requires him to renew his ABMS certification at the time he is eligible to do so. The Petitioner asserts that the impossibility is due to the existing limitations upon his practice imposed by the May 23, 2018 Order and his contract with TMF. The Petitioner requests that paragraph six (6) be stricken and has attached a letter dated 11/13/2018 from an American Board of Family Medicine counsel as well as the American Board of Family Medicine guidelines for professionalism licensure and personal conduct. The letter states that Dr. Bowers is not eligible to sit for the examination if his hours of work, ability to prescribe, and practice format are restricted and if the order of compliance requires compliance with an aftercare agreement with TMF. The current order precludes Dr. Bowers from a solo practice, does limit his hours to twenty (20) hours per week until TMF allows him to return to a more full time practice and does mandate compliance with an aftercare agreement. OGC does not oppose such a modification to the existing order. However, the Petitioner does also request a modification to paragraph five (5) to the current order of compliance which requires Dr. Bowers to enter into a comprehensive practice monitoring agreement with affiliated monitors or with a preapproved practice monitoring company. Dr. Bowers indicates that his professional practice is currently limited to part-time supervised medical care to indigent members of the community through the volunteers in medicine clinic. He has indicated that he is not being compensated for his services at this clinic. Dr. Bowers asserts he cannot afford the cost of monitoring through affiliated monitors. Ms. Baca-Chavez states the Petitioner’s second request does not fit within the Board’s rules regarding an order of modification. Dr. Bowers is already in violation of his order of compliance because paragraph five (5) required him to obtain practice monitoring within ninety (90) days of receipt of the May 23, 2018 order. OGC is not opposed to lifting the monitoring requirements as long as Dr. Bowers is working in his present part-time supervised environment. However, OGC is not comfortable delaying his practice monitoring until he makes a certain amount of income. Mr. Gideon presented Dr. Bowers request for modification.

The Board discussed the impossibility of Dr. Bowers to maintain board certification. Mr. Gideon explained that monitoring agencies review charts retrospectively from when the care was given. He further explained that the supervision Dr. Bowers currently receives is real-time. Dr. Johnson avers the Board is familiar with the monitoring provided by affiliated monitors and there is no way to know if the on-site supervision Dr. Bower's receives would be equivalent. Dr. Handorf questioned Dr. Baron regarding Dr. Bower's compliance with TMF. Dr. Baron informed the Board that Dr. Bowers is currently in treatment due to a relapse. Dr. Baron explained that a relapse is not a violation of a TMF contract. However, a relapse and then refusal to do what is recommended of TMF would be noncompliance. Given that Dr. Bowers is following TMF's recommendations since relapse; he is not in noncompliant status. Dr. Hale questioned Mr. Gideon regarding cognitive impairment concerns of Dr. Bowers. Mr. Gideon asserts there is cognitive testing being done, by a neuropsychologist, at the Florida Recovery Network during the treatment for relapse.

Dr. Zanolli motioned to split the order of modification into two separate requests, paragraph 5 and paragraph 6. Dr. Ali seconded the motion and it passed. Mr. Ellis motioned to approve OGC's order of modification which removes paragraph six (6) from the May 23, 2018 Order and states all other paragraphs remain intact. The motion was seconded by Dr. Christiansen and it passed. The Board led a discussion on the requirement of Dr. Bowers to obtain the monitoring before he began practicing in any capacity and that he could seek employment which would compensate him for his services. Dr. Zanolli motioned to deny the request for order of modification for paragraph five (5). Dr. Blake seconded the motion and it passed.

Petition(s) for Order of Compliance

Kou-Wei Chiu, MD - appeared before the Board without legal representation. Ms. Francine Baca-Chavez represented the State. Dr. Chiu has submitted an order of compliance asking that the probationary status on his medical license be lifted. In support of the petition there is an affidavit from the Board's disciplinary coordinator, Lori Leonard, certifying that the Petitioner is in compliance with the terms and conditions of the consent order. There is also a letter from TMF indicating the Petitioner is compliant with all requirements of his lifetime aftercare agreement which was signed on July 26, 2010. OGC is not opposed to lifting the probation on the Petitioner's medical license; however, it is noted that the Petitioner will still be required to maintain TMF advocacy for the duration of the time that he holds a Tennessee medical license. Dr. Chiu addressed the Board regarding his path to recovery over the last decade and his professional growth. Dr. Christiansen motioned to accept the order of compliance. Dr. Handorf seconded the motion and it passed.

ACCME Pilot Project Update by Dr. Michael Zanolli

The pilot project now has the participation of Tennessee, North Carolina and Alabama. Also, Dr. Zanolli urged users to register with their license number, not their national number.

QuizTime Pilot Project Update by Dr. Michael Zanolli

Dr. Zanolli reports he has received positive feedback about QuizTime. From his own personal experience, he finds QuizTime to be very professional. Dr. Zanolli avers that QuizTime has great potential for future Tennessee licensees.

Presentation on Ketamine Clinics by Dr. Michael Baron, Medical Director of TMF

At the last Board meeting, the Board wished to address the influx of ketamine clinics and the regulation on those clinics. At current state, there are questions as to who is administering ketamine and for what

diagnosis it is being administered for. Dr. Baron avers that ketamine has been used for the treatment of treatment resistant depression. In his experience this form of treatment for treatment resistant depression has tremendous results. The concern of this practice is that it is being used in walk-in clinics, surgery centers and ambulatory centers by non-behavioral health trained individuals. There is a concern about whether or not there is follow-up with patients and/or monitoring of the treatment.

Ketamine is an abuse-able drug. It has a street value known as Vitamin K or Super K. It resembles a similar dissociative drug. It does support blood pressure, heart rate and respiratory rate so it does work as a local anesthetic. It is used in pediatric emergency rooms, labor and delivery suites and surgery centers as a general anesthetic. It has had known anti-depressant effects.

As of February 12th, the FDA advisory committee recommends to approve s-ketamine as a scheduled drug for adults with treatment-resistant depression. It is only to be used by a psychiatrist in treatment centers and is only to be dispensed by the provider and not to be prescribed to the patient.

Currently, ketamine clinics are being opened as an entrepreneurial opportunity and ketamine is being used for various diagnoses without regulation. Patients are paying costly amounts for the ketamine treatment to help with depression, OCD, PTSD, Chronic Pain and other diagnoses and most are not taking a prescribed anti-depressant medication in conjunction with the treatment. The general populations of those running these clinics are certified registered nurse assistants. This discussion was brought up during the last chronic pain guidelines meeting and several CRNA's appeared to lobby for this practice to continue.

Dr. Baron reported that the D.E.A. has not provided a response to ketamine and it may be that their response will shut down these clinics. Furthermore, it may be a scope of practice issue for the Nursing Board. Dr. Blake and Dr. Zanolli addressed a concern about the supervision of CRNA's at the clinics. Dr. Zanolli reported that supervision must be provided by a physician with experience in that particular field of medicine. Dr. Blake avers that this type of practice, that has little oversight and supervision, poses as a threat to patients. Also, that those administering the medications are licensed by state boards in Tennessee and hopefully they understand the appropriate indications, the documentations, and the management to where they can appropriately defend themselves in front of their boards if that time comes.

DISCIPLINARY ORDER(S) (CONTINUED)

Consent Order(s)

Clary P. Foote, MD – did not appear before the Board nor did legal representation appear on his behalf. Mr. Peyton Smith represented the State. Respondent was granted a license on April 10, 1979 and it has a current expiration date of May 31, 2019. On November 16, 2016, Respondent entered into a Consent Order with the Board which placed Respondent's license on probation for no less than five (5) years. The Order stemmed from various prescribing-related violations as well as treating friends and family not pursuant to an emergency situation. As a condition of his probation, among others, Respondent agreed to obtain practice monitoring through Affiliated Monitors, Inc. for a period of two (2) years. One requirement of the practice monitoring was: "If Respondent has not prescribed any controlled substances during a prior ninety (90) day period, Respondent shall notify the practice monitor of such, and submit to the practice monitor a printout or digital duplicate of his CSMD Practitioner Report for the prior ninety (90) day period." Affiliated Monitors has lost contact with Respondent and Respondent has not complied with the previously stated requirement. The facts stipulated constitute grounds for discipline. This Order shall extend Respondents probationary period for one (1) year. Respondent must comply with all conditions of probation. Respondent must also pay all actual and reasonable costs of the case not to

exceed two thousand dollars (\$2,000.00). Dr. Handorf motioned to approve the order. Dr. Christiansen seconded the motion and it passed.

Ben High, MD – did not appear before the Board nor did legal representation appear on his behalf. Mr. Peyton Smith represented the State. Respondent was granted a license on September 12, 1983 and it has a current expiration date of January 31, 2020. Respondent is in solo practice and was the supervising physician for Ashley N. Baker, ADMX from August 2014 through July 2015, during which time Ms. Baker practiced on a lapsed certificate. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents license effective from the date of entry of this Consent Order. Respondent shall pay ten (10) Type B civil penalties for a total of four thousand dollars (\$4,000.00). Respondent must also pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Mr. Ellis motioned to approve the order. Dr. Christiansen seconded the motion and it passed.

Ashley Baker, ADMX – did not appear before the Board nor did legal representation appear on her behalf. Mr. Peyton Smith represented the State. Respondent was granted a license on December 23, 2003 and it has a current expiration date of September 30, 2019. From approximately August 2014 until July 2015 and July 2017 until April 2018, Respondent worked as a medical x-ray operator for twenty-one (21) months while her medical x-ray operator certificate was expired. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents license effective from the date of entry of this Consent Order. Respondent shall pay nineteen (19) Type C civil penalties for a total of one thousand nine hundred dollars (\$1,900.00). Respondent must also pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Hale motioned to approve the order. Dr. Ali seconded the motion and it passed.

Joe B. Woody, ADMX – did not appear before the Board nor did legal representation appear on his behalf. Mr. Peyton Smith represented the State. Respondent was granted a license on June 14, 2011 and it has a current expiration date of July 31, 2019. Respondent worked on an expired medical x-ray operator certificate from August 2017 until April 2018. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents license effective the date of entry of this Consent Order. Respondent shall pay six (6) Type C civil penalties for a total of six hundred (\$600.00) dollars. Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Hale motioned to approve the order. Dr. Christiansen seconded the motion and it passed.

Stephanie A. Sulfridge, ADMX – did not appear before the Board nor did legal representation appear on her behalf. Mr. Peyton Smith represented the State. Respondent was granted a license on August 27, 2015 and it has a current expiration date of February 28, 2021. From approximately March 2017 until December 2018, Respondent worked as a medical x-ray operator for twenty two (22) months while her medical x-ray operator certificate was expired. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents license effective the date of entry of this Consent Order. Respondent shall pay twenty (20) Type C civil penalties for a total of two thousand dollars (\$2,000.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to approve the order. Dr. Handorf seconded the motion and it passed.

Staci D. White, ADMX – did not appear before the Board nor did legal representation appear on her behalf. Mr. Peyton Smith represented the State. Respondent was granted a license on February 26, 2009 and it has a current expiration date of August 31, 2021. From approximately April 2017 until February 2019, Respondent worked as a medical x-ray operator for twenty three (23) months while her medical x-ray operator certificate was expired. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents license effective the date of entry of this Consent Order. Respondent shall

pay twenty one (21) Type C civil penalties for a total of two thousand one hundred dollars (\$2,100.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to approve the order. Dr. Handorf seconded the motion and it passed.

Denny M. Schoch, MD – did not appear before the Board nor did legal representation appear on his behalf. Mr. Peyton Smith represented the State. In November 2018, the Board rejected the Consent Order at that time. The Board wished to speak to the Respondent so he was offered a screening panel. A screening panel convened in January 2019 and the members of that panel were Dr. Johnson, Mr. Ellis, and Dr. Hale. All three (3) members are recused from this order. Mr. Smith avers that this order is the result of that screening panel’s recommendation. The Respondent was granted a license on November 2, 2016 and it has a current expiration date of December 31, 2018. Respondent is a board-certified vascular surgeon currently practicing in Stockton, California. On or about July 24, 2018, the Medical Board of California entered into a stipulated settlement and disciplinary order with Respondent which placed his license on probation for a period of three (3) years with terms including additional Continuing Medical Education. The discipline stemmed from “repeated acts and/or omissions constituting negligence in the care and treatment” of five (5) patients. Respondent disputes the allegations levied by the Medical Board of California and represents he chose to settle the case to avoid expensive protracted litigation. The facts stipulated constitute grounds for discipline. This Order shall place Respondents license on probation effective the date of entry of this Consent Order, for a period of no fewer than two (2) years and until Respondents California probation has been lifted. At the end of probation and compliance with all terms of this Order, Respondent may petition the Board for an Order of Compliance to have the probation lifted. Respondent shall pay one (1) Type A civil penalty for a total of five hundred dollars (\$500.00). Respondent must also pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to approve the order. Dr. Zanolli seconded the motion and it passed with three (3) recusals.

Jeffrey A. Campbell, MD – did not appear before the Board nor did legal representation appear on his behalf. Ms. Jennifer Putnam represented the State. Respondent was granted a license on September 25, 2014 and it expired on October 31, 2016. On or about June 27, 2017, Respondent was indicted for knowingly and intentionally distributing and unlawfully dispensing controlled substances. Respondent was indicted for other charges which are listed in the Order. In 2017, an Emergency Order of Suspension was issued against Respondent’s license to practice in the Commonwealth of Kentucky. The suspension of Respondent’s Kentucky license is in effect until conclusion of the criminal trial set for May 2019. In August 2017, the Medical Licensing Board of Indiana summarily suspended the Respondent’s medical license due to suspension by the Kentucky Board. In January 2018, the Washington Board summarily suspended Respondents medical license. In December 2018, Respondent voluntarily relinquished his Florida medical license. The facts stipulated constitute grounds for discipline. This Order shall place Respondents license in voluntarily surrendered status effective the date of entry of this Consent Order. Respondent must also pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Ali motioned to approve the order. Dr. Hale seconded the motion and it passed.

Shannon M. Finch, MD – did not appear before the Board nor did legal representation appear on his behalf. Ms. Jennifer Putnam represented the State. Respondent was granted a license on September 1, 1999 and it has a current expiration date of February 29, 2020. On or about October 4, 2018, the Virginia Board of Medicine summarily suspended Respondent’s medical license for the following: i. on three (3) separate occasions, Respondent engaged in sexual contact intended for his sexual arousal or gratification with Patient A, concurrent with and by virtue of the practitioner-patient relationship and/or during the

course of the practitioner/patient relationship; ii. On two (2) separate occasions, Respondent engaged in sexual contact with patient B; iii. On or about July 30, 2018, Respondent was arrested and charged with one (1) count of attempted forcible sodomy, a felony; and three (3) counts of sexual battery, a Class 1 misdemeanor. Respondent was diagnosed with obsessive-compulsive disorder with sexual addiction. One or about November 30, 2018, the Virginia Board of Medicine revoked Respondent's medical license. The facts stipulated constitute grounds for discipline. This Order shall revoke Respondents license effective the date of entry of this Order. Respondent must pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Blake motioned to approve the order. Dr. Handorf seconded the motion and it passed.

Agreed Order(s)

Christopher Lawrence Calendine, MD – did not appear before the Board nor did his legal representative, Mr. Wade Davies. Ms. Paetria Morgan represented the State. Respondent was granted a license on July 10, 2000 and it has a current expiration date of October 31, 2019. On or about August 21, 2017, Respondent was indicted for intentionally engaging in unlawful sexual contact with a male who was less than eighteen years of age and under the Respondent's custodial authority. On or about September 24, 2018, Respondent entered into a best interest guilty plea to one felony count of Sexual Battery by an Authority Figure. On or about August 21, 2017, Respondent was indicted for intentionally engaging in unlawful sexual contact with a male who was less than thirteen (13) years of age. On or about September 24, 2018, Respondent entered into a best interest guilty plea to one felony count of Sexual Battery. On or about August 20, 2018, Respondent was indicted for knowingly using a patient's identity to obtain Cytomel tablets on thirty-nine (39) occasions. On or about September 24, 2018, Respondent entered into a best interest guilty plea to thirty-nine (39) felony counts of Identity Theft. As a result of Respondent's best interest guilty pleas, Respondent will be a lifetime sex offender registrant. The Respondent was also required to relinquish his Tennessee medical license. In 2017, Respondent wrote a prescription for Testosterone for a patient, and he failed to create a progress note. In 2016, the Respondent wrote a prescription for Vyvance for another patient and he failed to create a progress note. The facts stipulated constitute grounds for discipline. This Order shall voluntarily surrender Respondents license effective the date of entry of this Order. A voluntary surrender has the same effect as a revocation. Respondent shall pay all actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000.00). Dr. Christiansen motioned to approve the order. Dr. Ali seconded the motion and it passed.

I. Conduct New Business

- a. Ratify new licensees – The Board reviewed the list of new licenses approved since the last Board meeting. Dr. Blake motioned to ratify the list and Ms. Claxton seconded. The motion passed.
- b. Appoint Board members to attend Federation of State Medical Boards annual meeting – At the last meeting the Board approved for two (2) members to attend the FSMB meeting. At this time only Dr. Blake has been identified as a member who is able to attend per that approval.

II. Departmental Reports

- a. Statistical licensing report – The Board reviewed the statistical licensing report for the time period of January 1, 2019 to February 28, 2019.

New Applications Received

- Medical Doctors 295

- Compact MD 20
- Locum Tenens 2
- Special Training 1
- Single Purpose 2
- St. Jude 0
- Medical Spas 10
- MD X-Ray Operator (Full) 60
- MD X-Ray Operator (Limited) 11

Total Number of Reinstatements

- Medical Doctors 50
- MD X-Ray Operator 17

Total New Licenses Issued

- Medical Doctors 214
- Administrative 3
- Compact MD 19
- Locum Tenens 6
- Telemedicine 0
- IMG 0
- Special Training 1
- Single Purpose 0
- St. Jude 0
- MD X-Ray Operator (Full) 58
- MD X-Ray Operator (Limited) 15

Total Number Failed to Renew – 117

Total Number of Retired Licenses – 52

Total number of active licensees as of February 28, 2019 is 22,937.

Total number of active licensees as of February 28, 2019 with a Tennessee mailing address is 16,946.

Total number of Telemedicine License – 328

Total number of Special Training License – 74

Total number of Active Physician Assistants – 2,455, Orthopedic Physician Assistant – 14

Total number of Active X-Ray Operators – Full – 2,728 Limited – 1,163

Total number of Active Perfusionists – 141

Total number of Active Acupuncturists – 178; Acupuncture Detoxification Specialists – 51

Total number of Active Radiologist Assistants – 17

Total number of Surgical Assistants – 27

Total number of Office Based Surgery licensed – 17

Total number of Active Genetic Counselors – 193

Total number of Active Polysomnographers – 534

The Board recessed and will continue with Board business during day 2, March 20th, 2019.



Tennessee Board of Medical Examiners Regular Board Meeting

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners
Wednesday, March 20, 2019**

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:46 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Reeves Johnson, Board President.

Board members present: Reeves Johnson, MD, President
Melanie Blake, MD, Vice President
Charles Handorf, MD, Secretary
Subhi Ali, MD
Deborah Christiansen, MD
John Hale, MD
Jennifer Claxton, Consumer Member
Robert Ellis, Consumer Member
Julianne Cole, Consumer Member

Board member(s) absent: Michael Zanolli, MD
Phyllis Miller, MD

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel
Rene Saunders, MD, Medical Consultant, BME
Angela Lawrence, BME Executive Director
Candyce Wilson, Administrative Director

Presentation on the 3rd Edition of the Chronic Pain Guidelines by Dr. Mitchell Mutter, Department of Health's Director of Special Projects

The Department is statutorily required to review the Chronic Pain Guidelines annually. Dr. Mutter provided the following update regarding the revisions made in the latest edition of the Chronic Pain Guidelines:

- Prescriptions in Tennessee have decreased by twenty-five percent (25%) since 2012
- Morphine equivalents have decreased by forty-five percent (45%) since 2012
- Unintentional overdoses have increased by roughly one hundred (100) each year
- For the first time neonatal abstinence has declined
- The use of methadone should be used after considering all other treatment modalities
- Added core competencies in appendixes
- Addressed how universities should be treating pain and addiction
- Updated safety net portion

- Deleted frequently prescribed pain medications because it never was comprehensive enough
- Acute pain guidelines emphasized again that it is for less than ninety (90) days and chronic pain is for greater than ninety (90) days

Dr. Beckford motioned to adopt the 3rd edition of the Chronic Pain Guidelines as policy. Dr. Hale seconded the motion. Dr. Blake commended the committee's attention on palliative care and hopes the committee continues to smooth some of the problems that patients are facing such as the confusion or issues preventing them from getting medications from pharmacies. The motion passed.

DISCIPLINARY ORDER(S) (CONTINUED)

Agreed Citation(s)

The continuing education related agreed citations were previously distributed to the Board for review. This includes: Joaquina De Montoya, MD – License # 41609, Kyongchol Kim, MD – License #43029, Samuel Bagley, MD – License # 13012 and Sarath Gangavarapu, MD – License # 16350.

The unlicensed practice related agreed citations were previously distributed to the Board for review. This includes: Alexandra Morgan Johnson – License # 9458, Heather Silvers – unlicensed polysomnography, Jaylen Nicole Saylor – License # 6670 and Megan Danielle Carder – unlicensed polysomnography.

Dr. Christiansen motioned to ratify the above agreed citations as a whole. Dr. Beckford seconded the motion and it passed.

Discussion on taskforce to review rules regarding prescribing amphetamines – during day 1 of this meeting, the Board voted for Dr. Christiansen and Dr. Baron to create and participate on this taskforce. On April 2nd, Dr. Christiansen, Dr. Baron and Ms. Bratton will meet to discuss who else needs to be included on the taskforce and develop some questions and goals. Ms. Bratton stated that the Board could vote to appoint additional members to this taskforce at their May Board meeting.

Discussion on Collaboration Rules Taskforce – Ms. Lawrence stated members from the other professional boards have not been formally invited yet and the Board may wish to identify how many members of each professional board/committee should be represented on the taskforce. The Board stated the Physician Assistant Committee and Nursing Board should be invited, for a total of four (4) members.

Discussion on Temporary Licenses

Ms. Bratton explained the constraints with the office's data system and reminded the Board that their draft rules do not permit for the temporary license to be renewable. However, early on into issuing temporary licenses the Board did grant a temporary license with the ability to renew it twice.

Update on Buprenorphine & the Department of Mental Health & Substance Abuse Services

The Department of Mental Health & Substance Abuse Services will be at the Boards May meeting to present their new rules regarding office based opioid treatment and outpatient office based surgery centers which have the ability to dispense buprenorphine. They are presenting those rules because this Board has the authority to enforce those rules on its licensees. Given their wealth of knowledge, Ms. Bratton encouraged the Board to bring forth any questions they may have regarding buprenorphine at that time.

Report from the Office of General Counsel by Ms. Mary Katherine Bratton

1. The examination and continuing education rule, intractable pain repeal rules, and licensure rules for surgical assistants, limited licensure, temporary licensure, and St. Jude are in the internal review process, as is the rule to cease issuance of the inactive license status. The fee increase rules were set for a rulemaking hearing during the day one meeting which the Board passed.
2. There are four (4) pending appeals from board action.
3. As of January 14th, there were seventy-eight (78) disciplinary complaints against fifty-eight (58) respondents pending in the Office of General Counsel.
4. There is one (1) civil lawsuit pending that names Dr. Ali, as President of the Board of Medical Examiners, in his official capacity. The suit involves the enforcement of the 48 hour waiting period for an abortion and includes the Memphis Center for Reproductive Health, Planned Parenthood – Greater Memphis Region, Planned Parenthood – East Tennessee and the Knoxville Center for Reproductive Health.
5. Alton Ingram, MD has filed a lawsuit naming Dr. Ali, Dr. Zanolli, Dr. Saunders, Dr. Arnold, and Ms. Huddleston regarding the handling of his application and appeal. The Attorney General’s Office is representing the named parties, and as such in the handling of that matter, all communication from Dr. Ingram should be referred to the Attorney General.
6. There were other self-sufficiency hearings that followed this Board and there appeared to be confusion on the ability of Board members to speak to the public. Ms. Bratton asserts that Board members are discouraged from talking to individuals in the disciplinary process to ensure they can remain impartial jurors. Furthermore, when speaking to the public, Board members should be cautious that their statements are referenced as opinions they personally hold and that they are not opinions of the Board.

DISCIPLINARY ORDER(S) (CONTINUED)

Agreed Order(s)

Louis C. Hesmann, MD – did not appear before the Board nor did legal representation appear on his behalf. Ms. Lara Gill represented the State. Respondent was granted license number 31924 and has a current expiration date of September 30, 2019. On January 18, 2018, Respondent pled “guilty” to three (3) counts of unlawful distributing or dispensing a controlled substance. The Court deferred prosecution of the charges through judicial diversion, which provides the charges “shall” be dismissed upon Respondents successful completion of probation and payment of fees/costs. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents license as permanently retired effective March 15, 2019. Respondent understands that he shall not apply for a new Tennessee medical license. Respondent agrees to voluntarily surrender any and all D.E.A. registrations to prescribe or dispense controlled substances and understands that he shall not apply for a new D.E.A. registration. Respondent surrendered his D.E.A. in January 2018 and will not reapply. Respondent must pay all actual and reasonable costs of the case not to exceed four thousand five hundred dollars (\$4,500.00). Dr. Christiansen motioned to approve the order. Dr. Handorf seconded the motion and it passed.

Consent Order(s)

Karleigh Brianne Burns, PSGP – did not appear before the Board nor did legal representation appear on her behalf. Ms. Mary Katherine Bratton presented the order in Ms. Tracy Alcock’s absence. Respondent was granted a license on July 16, 2015 and it has a current expiration date of August 31, 2021. Respondent’s license expired on or about August 31, 2017. Respondent worked on an expired license as a Registered Polysomnographic Technologist at Keeton Clinic in Atoka, Tennessee from in or around February 2017 through at least August 2018, practicing for a total of twelve (12) months on an expired license. The facts stipulated constitute grounds for discipline. This Order shall reprimand Respondents

license. Respondent shall pay twelve (12) Type C civil penalties for a total of one thousand three hundred and twenty dollars (\$1,320.00). Respondent shall pay all actual and reasonable costs of the case not to exceed eight hundred dollars (\$800.00). Mr. Ellis motioned to approve the order. Dr. Beckford seconded the motion and it passed.

Discussion on Collaboration Rules Taskforce

Ms. Bratton advised the Board that they must revise the existing supervision rules in collaboration with the Committee on Physician Assistants and the Board of Nursing. The Board led a lengthy discussion on what the composition of this taskforce should be. There was also discussion on whether or not the taskforce or each respective committee and board would be responsible for approving the final revisions. The consensus of the Board is to acknowledge that medical doctors hold a high level of responsibility when it comes to collaborating with physician assistants and advanced nurse practitioners. With that said the Board wishes for the taskforce to be comprised of equal supervising and supervisee representation. Also, the Board wishes for the rules to go back to each respective committee and board for final approval. It is determined that Dr. Blake and Dr. Handorf will represent this Board on the taskforce and a formal invite for one (1) member from the Committee on Physician Assistants and one (1) member from the Nursing Board will be sent out.

DISCIPLINARY ORDER(S) (CONTINUED)

Petition(s) for Order of Compliance

Bill G. Sekulovski, MD - appeared before the Board with legal representation from Ms. Alex Fisher. Ms. Mary Katherine Bratton represented the State. Petitioner was disciplined in an inappropriate prescribing case and for engaging in office based surgery level III without a permit. The Board has been provided with the necessary documents to prove compliance with the Petitioners original consent order and the disciplinary coordinators affidavit. The Office of General Counsel does not have any opposition to this petition. Dr. Beckford motioned to approve the order of compliance. Dr. Blake seconded the motion and it passed.

Charles William Ball, MD – did not appear before the Board but was represented by Mr. Robert Kraemer, Jr. Ms. Mary Katherine Bratton represented the State. On May 29, 2013, the Petitioner’s license was suspended until he complied with his Arkansas Board order and TMF provisions were included in his order. He recently appeared before this Board with an application to reinstate his license and a petition for order of compliance. At that time, this Board questioned the status of his Arkansas license and his compliance with the TMF provisions. Dr. Ball’s suspension on his Arkansas license has been lifted but he is still required to comply with monitoring terms. The order of compliance before the Board would lift the status of the Petitioners suspension, require him to maintain compliance with monitoring in Arkansas and his Tennessee license would remain expired. Dr. Hale motioned to accept the order of compliance. Dr. Beckford seconded the motion and it passed.

Contested Case

Charles Brooks, MD v. State of Tennessee Board of Medical Examiners

Iris Room

Administrative Law Judge: Kim Summers

Panelists: Melanie Blake, MD; Charles Handorf, MD; Deborah Christiansen, MD

Counsel for State: Andrew Coffman, JD, Esq.

Counsel for Respondent: None

Respondent has been licensed as a Tennessee medical doctor since August 23, 1985 and hold an expiration date of February 29, 2020. Respondent was placed on probation by this Board on September 10, 2012 as a result of his inappropriate sexual relationship with a patient to whom he was prescribing and dispensing a controlled substance. Around March 2018, Respondent opened a practice called L & B Healthcare in conjunction with Michael LaPaglia, MD, in order to provide medically assisted treatment for patients with substance use disorders. At the time the practice was opened, Respondent was aware that Dr. LaPaglia did not have a DEA registration. Respondent recruited patients from the other practice where he worked. L & B Healthcare did not have a physical location. Dr. LaPaglia saw patients at Dr. LaPaglia's home or at the patients' residences and sometimes at other businesses. Between March 2018 and September 2018, Respondent allowed Dr. LaPaglia to write controlled substance prescriptions to patients as if he were the Respondent. Respondent knew Dr. LaPaglia was not authorized to write such prescriptions and provided him with blank prescriptions, both signed and unsigned in order to assist Dr. LaPaglia in violating federal and state drug law. The patients to whom Dr. LaPaglia prescribed controlled substance would pay Dr. LaPaglia in cash and both he and the Respondent evenly split payments from L & B Healthcare's approximately 40 patients. During this time period, Dr. LaPaglia prescribed patients a combination of Suboxone and benzodiazepines using the Respondents prescriptions. The panel approved the findings of fact and conclusions of law. Dr. Christiansen motioned that the final order be approved with the amendments discussed and Dr. Handorf seconded the motion. The motion passed with the order as follows:

1. To suspend Respondents license for not less than six (6) months;
2. Respondent shall obtain TMF advocacy within ninety (90) days of entry of this Order and enter into a five (5) year monitoring agreement;
3. Respondent shall comply with all requests and recommendations of TMF;
4. Quarterly reports shall be submitted to the Boards Disciplinary Coordinator by TMF detailing compliance and any violation;
5. Respondent shall be responsible for paying all costs associated with TMF monitoring;
6. Respondent shall be permanently prohibited from prescribing controlled substances and from delegating the ability to any other practitioner to prescribe controlled substances;
7. Respondent shall be prohibited from supervising or collaborating with an advanced practice registered nurse or physician assistant during his probation; and
8. Respondent shall pay one (1) Type A civil penalty for a total of one thousand (\$1,000.00) dollars;
9. Respondent must pay all actual and reasonable costs of this case not to exceed twenty thousand dollars (\$20,000.00).

This concludes the Board of Medical Examiners day 2 meeting.