



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

**Tuesday, July 28, 2020  
Wednesday, July 29, 2020**

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**MINUTES**

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The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:41 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. W. Reeves Johnson, Board President.

Board members present:           W. Reeves Johnson, MD, President  
  Melanie Blake, MD, Vice President  
  Charles Handorf, MD, Secretary  
  Neal Beckford, MD  
  Robert Ellis, Consumer Member  
  Phyllis Miller, MD  
  Deborah Christiansen, MD  
  Stephen D. Loyd, MD  
  Julianne Cole, Consumer Member  
  Samantha McLerran, MD

Board member(s) absent:           Jennifer Claxton, Consumer Member  
  John Hale, 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

Ms. Lawrence made opening remarks to the Board and provided an overview of the requirements for a special meeting by teleconference. All of the requirements were satisfied. The electronic meeting was scheduled for the purpose of considering time sensitive matters in light of the covid-19 pandemic. Dr. Charles Handorf motioned for approval to conduct the meeting electronically for this purpose and Dr. Deborah Christiansen seconded the motion. A roll call vote was taken and it passed. By roll call confirmation all members present confirmed they received all meeting materials prior to this meeting. The teleconference was then turned over to the President of the Board, Dr. W. Reeves Johnson.

Dr. Johnson called the meeting to order. A roll call was conducted and a quorum of the Board was established with the following members present: Dr. W. Reeves Johnson, Dr. Melanie Blake, Dr. Charles

Handorf, Dr. Stephen Loyd, Dr. Neal Beckford, Mr. Robert Ellis, Dr. Deborah Christiansen and Ms. Julianne Cole.

## **I. CONSIDERATION OF APPLICATIONS**

### **Medical X-Ray Operator Applicant Interview(s):**

**Fancy Hayes, MDXL** - appeared before the Board via WebEx without legal representation. Ms. Hayes is attempting to qualify for licensure by reciprocity for limited licensure in Chest and Spine. It appears that the requirements for licensure in Texas are not “substantially similar” to ours with respect to the classroom training hours required for both Chest (2 hours difference) and Spine (22 hours difference). Ms. Hayes reports she has been working in a physician’s office since December 2019 shadowing other x-ray technicians. She has performed all steps to position the patient and get the machine ready but has not pushed the button to shoot the x-ray. She reports shadowing in this way for about 3 – 4 spine x-rays per week and 6 – 7 chest x-rays per day. Dr. Handorf motioned to grant licensure for chest only and a contingent license for spine after successful completion of twenty-two (22) classroom hours. Mr. Ellis seconded the motion and it passed by roll call vote.

*Dr. Samantha McLerran and Dr. Phyllis Miller joined the meeting.*

### **Medical Doctor Applicant Interview(s):**

**Derek Heldzinger, MD** – appeared before the Board via WebEx without legal representation. Dr. Blake recused. Dr. Heldzinger has no U.S. postgraduate medical training, is not ABMS Board Certified and does not qualify for licensure by reciprocity. Additionally, he has prior medical board action in Georgia with reciprocal action based on failure to report or the action itself in four (4) other states. Dr. Christiansen motioned to table the application for up to six (6) months to apply for a Declaratory Order. Dr. McLerran seconded the motion and it passed by roll call vote. The applicant has already submitted his petition for a Declaratory Order hearing. Dr. Handorf motioned to grant the petition for the Declaratory Order. Dr. Beckford seconded the motion and the applicant presented his petition. The petition indicates he should be licensed based on his licensure in Canada and another U.S. state. Ms. Baca-Chavez, along with the Board, discussed scenarios in which the Board historically has granted a license through a Declaratory Order. Historically, licenses have been granted when the petitioner proves they have extensive training or experience in a specialty and there is an expressed need for the petitioners practice in the state. The motion passed by roll call vote with Dr. Blake recused and Dr. Miller abstained.

**Rodrigo Endara, MD** - appeared before the Board via WebEx without legal representation. Dr. Endara has been reprimanded by the Illinois State Board after settling a large malpractice suit. The applicant provided an overview of his malpractice lawsuit. He reports his last clinical practice was September 2019. Dr. Christiansen motioned to grant an unrestricted license. Dr. Loyd seconded the motion and the motion passed by roll call vote.

**Scott Bell, MD** - appeared before the Board via WebEx without legal representation. Dr. Bell completed an evaluation with TMF. His current participation with a Physician’s Health Program (hereinafter “PHP”) suggests that continued participation is advisable. Dr. Bell has a pending malpractice case which he discussed with the Board. Dr. Baron presented before the Board and attests that Dr. Bell signed a monitoring agreement with TMF on June 18<sup>th</sup> to run concurrent with his Alabama PHP that is set to end July 2022. Dr. Baron expressed the applicants recovery program is good and he is compliant and has the advocacy of TMF. Dr. Christiansen motioned to grant an unrestricted license. Dr. Loyd seconded the motion and it passed by roll call vote.

**Awais Ammar, MD** - appeared before the Board without legal representation. Dr. Ammar is an International Medical School graduate who has not completed three (3) years of a U.S. residency program and is not ABMS Board Certified. The applicant will be eligible for licensure on August 1<sup>st</sup>, at the completion of his training program. Dr. Christiansen motioned to grant a full and unrestricted license on August 1<sup>st</sup>. Dr. Blake seconded the motion and it passed by roll call vote.

Dr. Johnson avers that it is up to the program director to grant one (1) year of grace at their discretion and it is not up to the ABMS boards. If an international graduate applicant has attended an approved school, has finished three (3) years in one (1) specialty attested by the program director then it is clear that it satisfies the qualifications for licensure. This is the will of the Board and Board staff should imply this instruction for further applicants.

**Ndianabasi McBride, MD** - appeared before the Board via WebEx without legal representation. Dr. Blake recused. Dr. McBride is a graduate of an unapproved International Medical School and is not currently AMBS Board Certified. She has completed three (3) years of a U.S. postgraduate medical training and passed Step 3 of the USMLE on the first attempt. The Board interviewed the applicant and considered issuing a temporary license. She indicates she received a preliminary notification from the ABIM Board that she will likely become Board Certified. She should receive board certification notice in about two (2) months. The applicant wishes to be granted a temporary license in the interim. Dr. Beckford motioned to grant a temporary license, for a limited duration of six (6) months and for the purpose of becoming Board Certified. Dr. Miller seconded the motion. The motion passed by roll call vote with Dr. Blake recused.

**Jeremy Fisher, MD** - appeared before the Board via WebEx without legal representation. Dr. Fisher is an active participant in the Ohio PHP and has prior reprimand on his Ohio license for writing false or fictitious prescriptions. The applicant discussed his history of addiction and current PHP participation. Dr. Baron presented before the Board and attested that he signed a monitoring agreement with TMF on July 2<sup>nd</sup> that is set to expire September 9, 2024. Ohio will be the primary monitoring PHP, until if and when he obtains licensure and moves to Tennessee to practice. Dr. Baron avers he has the advocacy of TMF. Dr. Christiansen motioned to grant contingent licensure on him signing a TMF contract. Dr. Miller seconded the motion and the motion passed by roll call vote.

**Robert Horne, MD** – appeared before the Board via WebEx without legal representation. Dr. Horne previously appeared before this Board in May 2020 and it was requested he meet with TMF and obtain a formal evaluation. Dr. Horne has Medical Board action related to not reporting malpractice action as well as reciprocal action related to this issue. Additionally, there is a large malpractice settlement for an issue related to sexual misconduct. Dr. Horne has been subject to “evaluation and monitoring” in a Nevada Board Order but the scope of this requirement is unclear. Dr. Horne reports he was recently licensed in West Virginia with no issues, and he is under no restrictions with the Nevada PHP program and all previous requirements were satisfied in 2009. Dr. Baron has met with Dr. Horne and provided the Board with a letter. In the letter he reports Dr. Horne does not need licensure restrictions or monitoring and no clinical intervention is warranted at this time. Dr. Handorf motioned to grant a full unrestricted license. Dr. Beckford seconded the motion and the motion passed by roll call vote.

## II. **Presentation by Ms. Jennifer Putnam, DOH Deputy Director**

- a. **Continuing Education Requirement for Identified High-Prescribers** – Ms. Putnam presented this draft policy before the Board for consideration and ratification. Ms. Putnam discussed how in 2017, the statute required the Boards to identify high

prescribers, notify them and then require them to complete a CME course on opioid addiction. It also requires the number of hours be made available to the licensees. She reports this policy just puts into writing the current process which will make it convenient for high prescribers and it will list the number of required hours. The Board reviewed the proposed policy and branched from this policy into a deeper discussion.

The Board discussed the interest in requiring the supervisor of a supervisee who is identified as a high prescriber to also be required to take a certain number of specific CME hours. Ms. Putnam noted there is not statutory authority for them to request and enforce that. It was requested that the Board receive information during their September Board meeting on the patterns of practice specialties identified as a high prescriber and the number of physicians who are identified two years in a row needing to repeat the CME course. Dr. Beckford proposed the Development Committee discuss the issue of the physicians that supervise overprescribing mid-levels and see if there isn't a reasonable way to take a more aggressive posture with that group of physicians than we currently do. Dr. Blake agreed this would be an appropriate addition to the Development Committee agenda.

The required CME course cannot be used towards the regular forty (40) CME hours completed every two (2) years. Therefore, the high prescribing team will notify administrative staff of the list of high prescribers, so if any of those licensees are selected for a random audit staff can ensure the licensee does not attempt to submit proof of the twenty (20) hours they completed be used as their regular forty (40) CME hours.

Dr. Blake motioned to approve adoption of the policy statement. Dr. Handorf seconded the motion and it passed by roll call vote.

*The Board recessed for a lunch break at 11:35pm CT.  
The Board meeting resumed and a quorum was confirmed.*

### III. Updates from Taskforces & Committees

- a. **Development Committee (Dr. Blake, Dr. Johnson, Dr. Beckford and Mr. Ellis) –**
  - i. The Committee met yesterday, July 27, 2020. At this meeting, the Committee discussed the re-entry diagram, two (2) advisory opinions and the licensure requirements of Canadian Medical School applicants.
  - ii. Re-entry Diagram: The area of concern is the 2 – 5 year out of practice period. The Committee will collect more information to determine if that 2 – 5 year period should be re-evaluated and possibly make changes to the policy regarding when the out of practice period begins. The Committee will poll licensees who completed the re-entry process and those who were just licensed per the Executive Order, were out of clinical practice greater than 2 years and bypassed the re-entry process due to the Order. Dr. Blake reviewed the questions they would ask to those licensees. The Board supports the Committees plan.
  - iii. Advisory Opinion – Dr. James Sizemore: At the May 2020 Board meeting, the Board heard this advisory opinion and deferred it to the Development Committee. The advisory opinion requests to know if the Board would not issue discipline against the licensee for excluding the patients name on a prescribed naloxone vial. The Committee proposed the answer should be “no” so long as it is documented in the patient’s medical record and that it is of good faith. Dr. Beckford motioned to approve issuance of this response. Dr. Loyd seconded the motion and it passed by roll call vote.

- iv. **Advisory Opinion – Crystal Dyer, MD** – request for a ruling on first whether botox injections for wrinkles, dermal fillers, microneedling, dermaplaning, chemical peels and microdermabrasion are considered medical services as that term is used in the Board’s Policy Statement on the Delegation of Medical Services. The response suggested is “yes” to the first part and to the second part to refer the requester back to the Delegation Policy as it speaks for itself in the delegation of medical services. Dr. Handorf motioned to approve issuance of this response. Dr. Loyd seconded the motion and it passed by roll call vote.
- v. **Review of the Board rule which discusses the process by which the Board and Board staff responds in regards to the review of advisory opinions.** It was suggested that the Boards advisory attorney and the Boards consultant develop a few bullet points in regards to a possible response to the request. Then, that information and request will be brought before the Development Committee to fully consider and discuss. That discussion will lead to the draft of a response letter to then be reviewed and considered for approval by the full Board. The Board is in support of this process. Dr. Miller motioned to add Advisory Opinions as a Development Committee agenda item. Dr. Beckford seconded the motion and it passed by roll call vote.
- vi. **Licensure of Canadian Applicants – The Committee motions that ABMS Certification be accepted as a qualification for Canadian medical school graduates.** Dr. McLerran seconded the Committee’s report and it passed by a roll call vote. Dr. Handorf motioned to begin the rule making process. Dr. Christiansen seconded the motion and it passed by roll call vote.

**IV. Conduct New Business**

- a. **CE Wavier Request for Alexander J. Chalko III, MD** – The Board reviewed a request to waive the CME requirement for Dr. Chalko. He intended to retire his license, but has since changed his mind and is set to renew his license by September 2020 and he does not have enough completed CME hours. Per Board rule, the request for a waiver must be sent prior to the expiration of the calendar year in which the CME was due. In his case, the end of his CME period would have been December 2019. Per the rule, his request for a waiver should have been submitted prior to the end of 2019. It was also identified that the rules list requirements for what is an acceptable reason to request a waiver of CMEs and his situation does not meet the criteria. The Board discussed an interest in knowing how many CME hours he completed in 2018. Dr. Miller motioned for the Board to respond to this request by saying thank you for the information, per Board rule you do not qualify for a CME waiver, it is recognized that you have completed thirty (30) hours of CMEs, our audits are randomized and you may or may not be audited. Dr. Beckford seconded the motion and it passed by roll call vote with one (1) opposition.

**V. Disciplinary Order(s) – Order(s) of Compliance**

**Yousuf Mohammad, MD** – appeared before the Board via WebEx with legal representation by Mr. James Bradshaw. Ms. Francine Baca-Chavez represented the State. The Board reviewed the order of compliance packet. Ms. Baca-Chavez reviewed the facts regarding his Consent Order, issued on May 29, 2019. The Office of General Counsel confirms he has complied with the terms of his order. Dr. Beckford motioned for approval. Dr. Miller seconded the motion and it passed by roll call vote.

**Richard Coffey, MD** – appeared before the Board via WebEx with legal representation by Mr. Robert Kraemer. Dr. Loyd recused. Ms. Francine Baca-Chavez represented the State. The Board

reviewed the order of compliance packet. Ms. Baca-Chavez reviewed the facts regarding his Consent Order, issued on July 18, 2019. The Office of General Counsel confirms he has complied with the terms of his order. Dr. Christiansen motioned to accept the order. Dr. Miller seconded the motion. The motion passed by roll call vote with Dr. Loyd recused.

**Michael Reed, MD** – appeared before the Board via WebEx with legal representation by Mr. Robert Kraemer. Ms. Francine Baca-Chavez represented the State. The Board reviewed the order of compliance packet. Ms. Baca-Chavez reviewed the facts regarding his Agreed Order, issued on July 23, 2014. The Office of General Counsel confirms he has complied with the terms of his order. Dr. Handorf motioned to accept the order. Mr. Ellis seconded the motion. The motion passed by roll call vote.

**VI. Update on Gateway Project by Dr. David Bess**

In September 2018, Dr. Bess first appeared before the Board discussing the proposed project to integrate the Controlled Substance Monitoring Database (hereinafter “CSMD”) into Electronic Health Records (hereinafter “EHR”) and Pharmacy systems. This project has since launched. Dr. Bess reports there are currently 325 active systems connected to the CSMD. Also, all prescribers and pharmacists have been sent a notice regarding the integration. More information about this integration and be found on the CSMD website.

**VII. Presentation by Mr. Greg P. Thomas, PA-C Emeritus, MPH**

Mr. Thomas provided an overview of the foundation and purpose of the NCCPA and discussed the growth of the PA profession.

**VIII. Legislative Update by Ms. Alexa Witcher, Assistant Commissioner for Legislative Affairs –**

**Public Chapter 541**

This act extends the board of medical examiners to June 30, 2023. This chapter took effect March 19, 2020.

**Public Chapter 573**

This act amends the Tennessee Together statutes. It expands the definition of “alternative treatments” by adding “nonopioid medicinal drugs or drug products, occupational therapy, and interventional procedures or treatments.” This is primarily relevant to the treatments that must be disclosed and explained by a healthcare practitioner to a patient or the patient’s legal representative as a prerequisite to obtaining informed consent to treatment with an opioid. This act took effect on March 19, 2020.

**Public Chapter 574**

This act allows federally qualified health centers (FQHCs) and rural health clinics to employ physicians as long as the employment includes some documentation (a contract, job description, etc.) that contains language making it clear that the physician is not restricted from exercising independent medical judgment in diagnosing and treating patients. This act took effect on March 19, 2020.

**Public Chapter 594**

This act was the Department of Health’s Licensure Accountability Act. The bill allows all health related boards to take action against a licensee that has been disciplined by another state for any acts or omissions that would constitute grounds for discipline in Tennessee. The law also expands available emergency actions, allowing actions beyond simply a summary suspension. Finally, the

act establishes that the notification of law changes to health practitioners can be satisfied by the online posting of law changes by the respective boards. Notice must be maintained online for at least 2 years following the change. This act took effect March 20, 2020.

#### **Public Chapter 645**

This act establishes the Rare Disease Advisory Council under the Bureau of TennCare. The council is comprised of eleven members (nine appointed by the Governor, one by Lt. Governor, one by Speaker of the House). Two physicians with experience treating rare disease and one RN or APRN with experience treating rare disease are among those members to be appointed by the Governor. The council exists to advise TennCare's pharmacy advisory committee and drug utilization review committee in regard to rare and orphan diseases. For the purpose of appointing members to the advisory council, this act took effect April 1, 2020. For all other purposes, this act took effect July 1, 2020.

#### **Public Chapter 684**

This chapter modifies the time period for which a hospital and certain other facilities (community health clinic, birthing center, out-patient "walk-in" clinic, emergency medical services facility) shall receive possession of any newborn infant from the mother wishing to give up the child. Previously the time period was 72 hours. The new time window is 2 weeks. This act took effect June 15, 2020.

#### **Public Chapter 738**

This act prohibits a governmental entity from authorizing destruction of public records if the governmental entity knows the records are subject to a pending public record request. Prior to authorizing destruction of public records an entity must contact the public record request coordinator to ensure the records are not subject to any pending public record requests. Records may still be disposed of in accordance with an established records retention schedule/policy as part of an ordinary course of business as long as the records custodian is without knowledge the records are subject to a pending request. This act took effect on June 22, 2020.

#### **Public Chapter 761**

This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a community mental health center (CMHC) or a federally qualified health center (FQHC). To be eligible under this law, the practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or physician assistant. They also must have a DATA waiver issued by SAMHSA/DEA. There can be no limitations or conditions imposed on the provider's license within the previous three (3) years. Prescriptions by the practitioner must not exceed a sixteen (16) milligram daily equivalent. The practitioner also must not prescribe mono product or buprenorphine without naloxone. The provider may only prescribe buprenorphine products to patients treated through the organization that employs the provider. Prescriptions can only be dispensed by a licensed pharmacy to ensure entry into the CSMD. The provider has a cap of fifty (50) patients at any given time. The law also requires the provider to initiate and lead a discussion regarding patient readiness to taper off medications in their treatment at any time upon the patient's request, but no later than one (1) year after initiating treatment, and then every six (6) months thereafter.

#### **Public Chapter 764**

This act addresses multiple provisions related to abortion in the state of Tennessee. First, it deletes the requirement that the Department of Children's Services provide court advocates and other information about judicial procedures to minors who are considering abortion. Second, it establishes an ultrasound requirement. Prior to a woman giving informed consent for an abortion,

an ultrasound must be performed. The physician must determine the gestational age and provide it to the woman. There must be a determination of whether a fetal heartbeat exists, and if audible, make it audible to the woman. The physician must show ultrasound images to the woman and explain what they depict. The gestational age and presence or absence of heartbeat must be recorded in the woman's medical record. The physician must also obtain certification from the woman that she was provided the information required by this statute. The ultrasound requirements of this statute may be delegated by a physician to an ultrasound technician with appropriate certifications/registrations under the statute. The act also establishes a prohibition on abortions at certain gestational milestones. Abortions are prohibited after detection of a fetal heartbeat, at 6 weeks gestational age or older, as well as 8, 10, 12, 15, 18, 20, 21, 22, 23, and 24 weeks gestational age or older. There is a medical emergency exception if certain criteria are met. Abortions are prohibited based on race, sex, or diagnosis of Down syndrome. It is a class C felony for a physician to perform an abortion in violation of this statute. It is a class E felony for an ultrasound technician to not fulfill delegated duties related to the ultrasound provisions, if that non-performance results in an abortion. A physician charged with violation of this statute must report the charge within seven (7) days to the Board of Medical Examiners. The final portion of this act requires that certain information be provided regarding reversing chemical abortions. Specifically it requires the conspicuous posting of a sign in offices or facilities providing more than fifty (50) abortions per year which states: "Recent developing research has indicated that mifepristone alone is not always effective in ending a pregnancy. It may be possible to avoid, cease, or even reverse the intended effects of a chemical abortion utilizing mifepristone if the second pill has not been taken. Please consult with a healthcare professional immediately." Failure to post the signage when/where necessary, requires the department of health to assess a \$10,000 civil monetary penalty. Each day an abortion is performed without the required signage is a separate violation. The same language on the signage is required to be given to woman in medical discharge instructions after the first drug is given in a chemical abortion. The majority of this act took effect July 13, 2020. The provisions relating to chemical abortion reversal take effect October 1, 2020.

### **Public Chapter 771**

This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a non-residential office-based opiate treatment facility (OBOT) licensed by the Department of Mental Health and Substance Abuse Services (MHSAS). To be eligible under this law, the practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or physician assistant. They also must have a DATA waiver issued by SAMHSA/DEA. Prescriptions by midlevel providers under this statute are capped at a sixteen (16) milligram daily dose, and must not be for a mono-product or buprenorphine without naloxone, except when utilizing injectable or implantable buprenorphine products. Midlevel providers under this statute are capped at 100 patients. The OBOT in these situations must employ the midlevel's collaborating physician (who also must hold an active DATA waiver and be treating patients with buprenorphine at the same OBOT) and the OBOT must not have the authority to dispense buprenorphine products. The collaborating/supervising physician under this statute cannot supervise more than two (2) midlevel practitioners. The OBOT also must employ providers that are credentialed and contracted to accept TennCare patients and bill TennCare for services for treatment of opioid use disorder with buprenorphine. Finally the OBOT must be accepting new TennCare patients. This act took effect August 1, 2020.

**Radiologic Imaging and Radiation Therapy Board and Polysomnography Committee –**  
without further legislative action, will close as of June 30, 2021.

*Dr. Blake left the meeting.*



## **Conduct New Business (continued)**

- a. **Discuss possible waiver/extension for CE requirements due to Covid-19**
  - i. The Board discussed issuance of a CME waiver in light of the Covid-19 pandemic. Dr. Christiansen was in favor of this considering practitioners are over worked right now and many people learn better by in-person CEs and many of those have been cancelled. Ms. Baca-Chavez stated the Board does not have the statutory authority to grant blanket waivers or extensions on CME requirements. Executive Order 50 suspended the in-person and live CE requirement for healthcare providers and directed the Commissioner of Health to adopt a policy to that effect. The last sentence of EO 50 does indicate that it does not suspend the requirements of CEs. The only authority the Board has at this time is to use their waiver rule but those requests are to be submitted by the licensee. It was required that this item be added to the Development Committee agenda for further discussion.
  
- b. **Inquiry from Virginia Board of Medicine regarding reciprocal agreement**
  - i. The Board reviewed an inquiry from Virginia Board of Medicine regarding a reciprocal agreement. The Board has permitted Ms. Lawrence to respond indicating the Board is not interested in entering into a reciprocal agreement.
  
- c. **Attendance at virtual Case Review**
  - i. Virtual Case Review Update – Mr. Ellis, Dr. Handorf and Dr. Christiansen provided their perspective on the Virtual Case Review experience. Dr. Handorf brought to light that one case in review was old due to delays in the investigative side, delays in finding experts to review cases and the Office of General Counsel and Office of Investigations are in discussion with finding ways to improve the process and minimize the delays. The consensus is that the review team works diligently and for long hours conducting great discussions on the case(s) and possible outcomes and they put a lot of consideration into determining what the will of the Board would be.

*Ms. Cole left the meeting.*

## **IX. Consider and Approve Consent Agenda**

Dr. Beckford motioned to accept the consent agenda. Dr. Christiansen seconded the motion and it passed by roll call vote. The Consent Agenda contained the following:

1. Approval of May 26-27, 2020 Board meeting minutes
2. Approval of May 26, 2020 Development Committee meeting minutes
3. Ratification of new licenses, reinstatement and renewals of Medical Doctors, MD X-Ray Operators, Genetic Counselors and Physician Assistants
4. Review of Office of Investigations Statistical Complaint Report and Currently Monitored Practitioners Report
5. Review of Administrative Office Statistical Licensing Report
6. Review of the Office of General Counsel Report
7. Review and approve continuing medical education Agreed Citations – Jarrod Dillion Roussel, PA, Michael Anthony Bryant, PA, Shishir Batajoo, PA and Jeffrey Alan Jones, PA

X. **Public Comment – None.**

The board recessed at 4:23pm CT.



**Tennessee Board of Medical Examiners  
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**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners  
Wednesday, July 29, 2020**

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Board members present: W. Reeves Johnson, MD, President  
Melanie Blake, MD, Vice President  
Charles Handorf, MD, Secretary  
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Robert Ellis, Consumer Member  
Phyllis Miller, MD  
Deborah Christiansen, MD  
Jennifer Claxton, Consumer Member  
Stephen D. Loyd, MD  
Samantha McLerran, MD  
John Hale, MD  
Julianne Cole, Consumer Member

Board member(s) absent: Jennifer Claxton, Consumer Member

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

Ms. Lawrence made opening remarks to the Board and provided an overview of the requirements for a special meeting by teleconference. All of the requirements were satisfied. The electronic meeting was scheduled for the purpose of considering time sensitive matters in light of the covid-19 pandemic. Dr. Handorf motioned for approval to conduct the meeting electronically for this purpose and Dr. Beckford

seconded the motion. A roll call vote was taken and it passed. By roll call, all members present confirmed they received all meeting materials prior to this meeting. The teleconference was then turned over to the President of the Board, Dr. W. Reeves Johnson.

**Update from the Office Based Surgery Committee** – the Committee last met yesterday, July 28<sup>th</sup> at 5pm CT. Dr. Beckford, as Chair of the Committee, provided the update. The Committee has made proposed rule changes outlined to the Board. The Committee motions to accept the proposed rule changes. Dr. Blake seconded the motion and the motion passed by roll call vote. Dr. Beckford motioned to begin the rule making hearing process for the agreed upon OBS rule changes. Dr. Christiansen seconded the motion and it passed by roll call vote.

**Quiztime Presentation by Dr. Kim Garvey** – last year’s Quiztime results report they had about 3,300 participants and issued over 13,000 CE credits. Dr. Garvey outlined the mobile learning and space learning process provided by Quiztime. She requested the Board permit Quiztime to send licensees information about enrollment. Dr. Handorf motioned for board staff to assist Quiztime in providing information to licensees. Dr. Christiansen seconded the motion and it passed by roll call vote.

### **Disciplinary Order(s) Consent Order(s)**

**Claude C. Haws, III, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Paetria Morgan represented the State. Respondent was licensed on January 1, 1972 and that license expired July 31, 2018. From September 11, 2017 to December 30, 2019, Respondent routinely prescribed controlled and non-controlled substances to an immediate family member. From September 14, 2017 to December 16, 2019, Respondent routinely prescribed controlled and non-controlled substances to himself. From September 14, 2017 to December 31, 2019, Respondent also wrote non-controlled and controlled substance prescriptions to extended family members. Respondent failed to create a medical record for all prescriptions. Respondent wrote prescriptions after his medical license expired on July 31, 2018. The facts stipulated are grounds for discipline. This order shall require Respondent, prior to reinstating his expired medical license, to enroll in and successfully complete no more than six (6) months prior to submitting a reinstatement application, the three (3) day medical course entitled “Prescribing Controlled Drugs: Critical Issues and Common Pitfalls” offered by Vanderbilt. Respondent must complete the two (2) course entitled “Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers offered at the Case Western Reserve. Respondent must complete the course entitled “Medical Ethics, Boundaries & Professionalism” offered at the Case Western Reserve. Respondent shall pay one (1) Type A civil penalty for a total of one thousand dollars (\$1,000.00). Respondent shall pay twenty-one (21) Type C civil penalties for a total of three thousand one hundred dollars (\$3,100.00). Respondent must pay all actual and reasonable costs of the case not to exceed four thousand dollars (\$4,000.00). Dr. Handorf motioned to approve and Dr. Beckford seconded the motion. The motion passed by roll call vote.

The Board proposed, although it is not necessary to include this in the orders that it may be helpful to the Respondent to ensure he/she is aware that he/she may be requested to obtain an evaluation from TMF and/or complete a remediation program prior to unrestricted full licensure being permitted in the future.

**Ronald Coleman, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Paetria Morgan represented the State. Respondent was licensed on June 30, 1983 and that license expires October 31, 2020. From December 2013 to May 2019, Respondent prescribed controlled substances, including hydrocodone and methylphenidate, at least twenty times, to immediate family members. During the Division’s investigation, the Respondent could not produce the requested medical records. The facts stipulated are ground for discipline. This order shall place Respondents license on probation for three (3) years. Respondent must successfully complete specified continuing medical

education courses. Respondent is restricted from prescribing opioids for six (6) months and until successful completion of the required continuing education courses specified. Respondent is restricted from serving as a supervising physician or a substitute supervising physician until Respondent successfully petitions the Board of an Order of Compliance and the probationary restriction imposed by the Consent Order is lifted. Respondent must notify medical professionals, whom he collaborates with, regarding these restrictions. Respondent shall pay two (2) Type A civil penalties in the amount of one thousand dollars (\$1,000.00) each. Respondent must pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. Beckford motioned for approval. Dr. Loyd seconded the motion and it passed by roll call vote.

**Axel Grothey, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Paetria Morgan represented the State. Respondent was licensed on February 6, 2019 and that license expires September 30, 2020. In March 2020 the Minnesota Board of Medical Practice entered into an Order with Respondent which reprimanded his license, required him to take courses and assessed a civil penalty fee. That discipline stemmed from Respondent engaging in sexual relationships with colleague mentees. The facts stipulated are grounds for discipline. The order shall reprimand Respondents license. Respondent must pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to accept the order. Dr. Beckford seconded the motion and it passed by roll call vote with Dr. Hale abstained.

In the future, the Board expressed adding a requirement of a formal evaluation from TMF or another entity to orders which involve sexual boundary or substance abuse issues even in orders where this Board is mirroring other state board discipline and the other state did not make such a requirement.

*Dr. Hale joined the meeting.*

*At 10:10am CT Dr. Blake, Dr. Christiansen and Dr. Loyd left the meeting to begin a contested case hearing with Ms. Paetria Morgan.*

**Lindsey Brooke Nix, PA** – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Tracy Alcock represented the State. Respondent was licensed on March 9, 2004 and that license expired July 18, 2018. From September 2015 until August 2019, Respondent provided treatment as a P.A. to patients at Jason Hall, MD, FACS – Knoxville Plastic and Craniofacial surgery in Knoxville, Tennessee. Respondent admits to practicing on an expired license for a total of at least eight (8) months. Respondents P.A. license was reinstated in April 2019. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent shall pay eight (8) Type B civil penalties for a total of two thousand eight hundred dollars (\$2,800.00). Respondent must pay all actual and reasonable costs of the case not to exceed one thousand dollars (\$1,000.00). Dr. Handorf motioned for approval. Dr. Beckford seconded the motion and it passed by roll call vote.

**Amber Marie Barnard, PA** – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Tracy Alcock represented the State. Respondent was licensed on October 23, 2014 and that license expires September 30, 2021. From January 2020 until February 2020, Respondent provided treatment as a P.A. to patients at Medstar Health Solutions in Knoxville, Tennessee. Around January 2020, Respondent took pills from a patient's prescription bottle of Xtampza from Respondents co-workers desk. Respondent then tested positive for oxycodone in a urine drug screen and the Respondent did not have an equivalent prescription for the substance. In February 2020, Respondent took about five (5) tablets of Oxycodone from a pill bottle brought into the office by a patient for the patients pill count. Respondent tested positive in a urine drug screen for substances she was not prescribed. Medstar Health Solutions terminated Respondents employment due Respondents positive urine drug screen. The facts stipulated are grounds for discipline. This order shall suspend Respondents license. The order outlines

several requirements of the Respondent prior to petitioning for the suspension to be lifted. It further outlines stipulations on the license after the suspension is lifted. Respondent shall pay five (5) Type B civil penalties for a total of nine hundred dollars (\$900.00). Respondent must pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. Handorf motioned for approval. Dr. Hale seconded the motion and it passed by roll call vote.

**John F. Albritton, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the State. Dr. Johnson, Mr. Ellis and Dr. Handorf recused. Respondent was licensed on January 1, 1966 and that license expires May 31, 2021. Respondent wrote prescriptions for controlled substances, namely Adderall, that did not contain the month and day that the prescription was written. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent must successfully complete a course entitled “Prescribing Controlled Drugs”. Respondent shall pay one (1) Type B civil penalty for a total of five hundred dollars (\$500.00). Respondent must pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Miller motioned to accept the order. Dr. Hale seconded the motion and it passed by roll call vote with three (3) recusals.

#### **Agreed Order(s)**

**James William Foster, MD** – did not appear before the Board but his legal representative, Ms. Kaycee Weeter did appear on his behalf. Ms. Lara Gill represented the State. Mr. Ellis recused. Respondent is licensed in Tennessee with number 18742 and it has an expiration date of April 30, 2021. In January 2016, Respondent was disciplined by the North Carolina Medical Board. A copy of that order of discipline has been provided to the Board. The facts stipulated are grounds for discipline. Dr. Handorf is in opposition of mirroring the North Carolina Boards discipline. The Board led a discussion on whether or not the reprimand is appropriate based on his actions of acting as a medical director yet not fulfilling the duties of a medical doctor. The consensus of the Board is that this is not enough discipline and at minimum probation should be included because that would at least prohibit him from supervising mid-levels. The Board wishes to see an order that restricts the Respondent from working in a pain clinic, at least three (3) years of probation, without the probation being lifted early, possible restrictions to license once probation is lifted, and he must appear before the Board when requesting to lift the probation. Dr. Handorf motioned to deny the order. Dr. Miller seconded the motion and it passed by roll call vote with one (1) recusal. The agreed order was denied by the Board.

#### **Petition for Order of Modification**

**Glenn R. Yank, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Mr. Andrew Coffman represented the State. The order before the Board is a modification to the Petitioners current Consent Order. Mr. Coffman reviewed the terms of that Consent Order and the modifications. Dr. Handorf motioned for approval. Dr. Miller seconded the motion and it passed by roll call vote.

**Public Comment** – None

The regular meeting adjourned at 11:45am CT.

#### **Petition for Declaratory Order**

**Michael Hof, MD v. State of Tennessee Board of Medical Examiners**

**Iris Room via WebEx**

**Administrative Law Judge: Shannon Barnhill**

**Panelists: Neal Beckford, MD; John Hale, MD; Julianne Cole, Consumer Member**

**Counsel for State: Francine Baca-Chavez, Deputy General Counsel**

**Counsel for Petitioner: Michelle Marschicano, Esq.**

The Petitioner seeks a determination that the applicable statute and regulations are not applicable to him because of his education, training, experience and professional accomplishments meet or exceed the requirements of the applicable statute and regulations. The Board heard both sides and carefully reviewed the evidence. The consensus of the Board is the Petitioner's medical education and training in Germany, his board certifications in Germany and Europe, his academic and research endeavors, his involvement in the training of other physicians, and the totality of his experience and accomplishments, along with the opinions expressed by physician witness's on his behalf, demonstrate that Petitioner's qualifications meet or exceed the requirements of the cited statute and rules. The Board finds Petitioner's submission of his proof of medical degree compliant with the rules. The Board finds the Petitioner has satisfied the qualifications for a full, unrestricted, medical license in Tennessee. Dr. Hale motioned to approve the discussed and reviewed order and issue a full and unrestricted license to the Petitioner once applicable fees have been paid. Ms. Claxton seconded the motion and it passed by roll call vote.

**Petition for Declaratory Order**

**Susan Schayes, MD v. State of Tennessee Board of Medical Examiners**

**Iris Room via WebEx**

**Administrative Law Judge: Shannon Barnhill**

**Panelists: Neal Beckford, MD; John Hale, MD; Julianne Cole, Consumer Member**

**Counsel for State: Francine Baca-Chavez, Deputy General Counsel**

**Counsel for Petitioner: Michelle Marschicano, Esq.**

The Petitioner seeks a determination that the applicable statute and regulations are not applicable to her because of her education, training, experience and professional accomplishments meet or exceed the requirements of the applicable statute and regulations. The Board heard both sides and carefully reviewed the evidence. The consensus of the Board is the Petitioner's professional background meets or exceeds the requirements of the applicable statute and regulations. The Board finds the Petitioner has satisfied the qualifications for a full, unrestricted, medical license in Tennessee. There was a motion to approve the discussed and reviewed order and issue a full and unrestricted license to the Petitioner. There was a second to the motion and it passed by roll call vote.

**Contested Case**

**Thomas A. Hughes, MD v. State of Tennessee Board of Medical Examiners**

**Iris Room via WebEx**

**Administrative Law Judge: Mattielyn Williams**

**Panelists: Melanie Blake, MD; Deborah Christiansen, MD; Stephen Loyd, MD**

**Counsel for State: Paetria Morgan, Senior Associate General Counsel**

**Counsel for Petitioner: Nathan Bicks, Esq., Larry Laurenzi, Esq. and Ryan Saharovich, Esq**

Respondent is licensed in Tennessee with number 17646 and it has an expiration date of March 31, 2021. In April 2017, Respondent prescribed a ninety (90) day supply of prednisone with three (3) refills to himself. In July 2016, Respondent prescribed a thirty (30) day supply of clomiphene with eleven (11) refills to himself. Respondent created his medical record and defined his Testosterone dosage.

Respondent has ordered and interpreted labs for himself on multiple occasions. No documentation supports involvement of another physician in his care. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent shall pay sixteen (16) Type C civil penalties for a total of sixteen hundred dollars (\$1,600.00). Respondent must successfully complete a specific continuing education course outlined in the order. Respondent must pay all actual and reasonable costs of the case not to exceed fifteen thousand dollars (\$15,000.00). Upon completion of the requirements Respondent may petition the Board for an Order of Compliance. There was a motion to approve this decision outlined in the final order. There was a second to the motion and it passed by roll call vote.

This concludes the Board of Medical Examiners day 2 meeting.