



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

**Tuesday, July 30, 2019
Wednesday, July 31, 2019**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:34 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
 Charles Handorf, MD, Secretary
 Neal Beckford, MD
 Julianne Cole, Consumer Member
 Robert Ellis, Consumer Member
 Phyllis Miller, MD
 Deborah Christiansen, MD
 Jennifer Claxton, Consumer Member
 Stephen D. Loyd, MD

Board member(s) absent: John Hale, MD
 Melanie Blake, MD, Vice President

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

I. INTRODUCTION OF DR. STEVEN LOYD, NEW BOARD MEMBER

RULEMAKING HEARING, 8:30 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. Charles

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

This rulemaking hearing proposes new rules and rule amendments to Board rules 0880-02-.02, 0880-02-.05, 0880-02-.06 and 0880-02-.25.

Rule 0880-02-.02 Fees is amended by adding new subparagraphs (1)(m), (1)(n), and (1)(o), which shall read:

- (m) Limited Licensure Conversion Fee..... \$ 225.00
- (n) Surgical Assistant Registration Fee..... \$ 50.00
- (o) Surgical Assistant Renewal Fee..... \$ 80.00

Rule 0880-02-.05 Licensure of Out-of-State and International Applicants is amended by adding new paragraph (13).

Rule 0880-02-.06 Training Licenses and Licensure Exemptions is amended by adding new paragraphs (7), (8) and (9).

Further, this rulemaking hearing proposes new rule 0880-02-.25, Surgical Assistant Registration.

The public comments sheet had four (4) entries. The first three (3) named individuals stated they erroneously signed the form. The fourth entry was Ms. Katherine Moffat from TAPA. Ms. Moffat provided the Board with a written statement. She addressed the Board concerning the new Surgical Assistant Rule 0880-02-.25. Her concern is that the term licensee and licensure are used as opposed to the more proper terms being registrant and registration since surgical assistants are not licensees. Dr. Johnson responded to this comment in stating he had listed the same proposed revision on his notes and thanked Ms. Moffat for addressing the matter. Dr. Christiansen motioned to amend those rules to state register and registrant where it currently states licensee and licensure. Dr. Beckford seconded the motion and it passed.

In reference to the proposed rules stating a temporary licensee must apply for a full license when desired and a limited licensee may convert to a full license when desired, Dr. Johnson inquired if the application would be the same in each instance. Ms. Bratton reported the conversion application would be a condensed form used to upgrade a limited license to a full license. However, the temporary licensee would need to submit the full and unrestricted application but any primary source documents the office already has on file can be pulled forward to the new application.

A discussion regarding Rule 0880-02-.06(8)(d), suggested the language should be amended to state administrative medicine licensees also cannot collaborate with healthcare practitioners. Dr. Handorf motioned to accept this proposed amendment. Dr. Christiansen seconded the motion and it passed.

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

The Board voted to approve all of the rule amendments by roll call vote: Ms. Jennifer Claxton – aye, Dr. Stephen Loyd – aye, Dr. Phyllis Miller – aye, Ms. Julianne Cole – aye, Dr. Deborah Christiansen – aye, Dr. Neal Beckford – aye, Dr. Reeves Johnson – aye, Dr. Charles Handorf – aye and Mr. Robert Ellis – aye.

The rule amendments passed and the rulemaking hearing concluded.

II. CONSIDERATION OF APPLICATIONS

The Board discussed applicant interview, Shirley Trentham, MD. Erroneously, the Board members were not provided her application materials ahead of time but she was present for an interview. The Board decided it would be best to individually review her application materials over their afternoon break and for the applicant to be provided with the re-entry policy information prior to her interview with the Board.

Medical X-Ray Operator Applicant Interview(s):

Robin Stover, MDXL – appeared before the Board without legal representation. Ms. Stover appeared due to a gap in her educational, examination and clinical practice history. Ms. Stover obtained her limited radiological technician education in 2008, sat for her examinations between 2008 and 2010 but never became licensed. Additionally, she reports no clinical practice since graduating from the program until 2019. Dr. Saunders pointed the Board to the statement of clinical experience and a letter of recommendation, from the same physician, which contradict the attestation of training. The Board led a discussion on the discrepancy between the numbers of clinical hours Ms. Stover has recently completed. The Board's consensus is they need clarification, on how many clinical training hours she has completed, from the physician who signed off on the hours. Dr. Christiansen motioned to table the application for up to four (4) months to permit time for administrative staff to receive confirmation on the correct number of clinical training hours Ms. Stover completed. Furthermore, if the applicant has completed the required two hundred and twenty (220) hours then the license may be granted. If the two hundred and twenty (220) hours cannot be verified then she will be required to present proof of having obtained those hours under supervision. Mr. Ellis seconded the motion and it passed.

Medical Doctor Applicant Interview(s):

Ifeoma Ogbuka, MD – appeared before the Board without legal representation. Dr. Ogbuka has attended an unapproved international medical school. She has completed a 3 year US residency program in a single discipline and passed Step 3 of the USMLE on the first attempt, but is not currently ABMS Board Certified. She is eligible to sit for the American Board of Internal Medicine (hereinafter “ABIM”) board certification exam and is eligible for licensure once certification is attained. Dr. Beckford motioned to grant a temporary license which is valid for one (1) year, is nonrenewable, it cannot be converted into a full license, all regulations of a full and unrestricted license must apply to include continuing education hours and she may not serve as a supervising or collaborating physician with physician assistants or nurse practitioners. In order to obtain full licensure, she must obtain her ABIM Board Certification and then apply for licensure at that time. Dr. Christiansen seconded the motion and it passed.

John McKenna, MD – appeared before the Board without legal representation. Dr. McKenna is currently participating in a 5 year voluntary monitoring contract with the Tennessee Medical Foundation (hereinafter “TMF”). The Board and applicant led a discussion regarding his voluntary self-report of alcohol abuse, current monitoring contract and sobriety date. TMF Medical Director, Dr. Michael Baron, approached the Board and confirmed that Dr. McKenna has completed an appropriate assessment and treatment and is compliant with his TMF monitoring contract. Dr. Baron further reported that Dr. McKenna plans to practice in Alaska for a few years and the physician has already reached out to the Alaska monitoring program for assistance. The Board interviewed the applicant regarding his history of alcohol abuse, the process by which he took to self-report his issue and confirmed that Dr. McKenna never had any patient care concerns. Dr. Christiansen motioned to approve the application with a full and unrestricted license. Dr. Handorf seconded the motion and it passed.

Steven Hamel, MD – appeared before the Board without legal representation. Dr. Hamel holds lifetime Board Certification in Neurosurgery. Dr. Hamel has been retired from the practice of Neurosurgery since 2010. At that time, his employer requested he have an assessment with the Vanderbilt Comprehensive Assessment Program (hereinafter “VCAP”). Dr. Hamel reports during that time he was struggling with alcohol abuse. According to Dr. Hamel, the VCAP assessment recommendations were to complete further evaluations and begin treatment. Instead of following those recommendations he opted to retire from practice. Dr. Baron confirmed that Dr. Hamel was under a monitoring agreement which he completed in the late 1990’s and this time around, on May 7, 2019, he signed a monitoring agreement and has been compliant thus far.

In March 2019, Dr. Hamel underwent another VCAP assessment which provided recommendations due to a possible tremor. In May 2019, Dr. Hamel signed a monitoring contact with TMF. Dr. Hamel reports his sobriety date is six weeks shy of one year. The Board and applicant led a discussion regarding the need for him to complete remediation. Dr. Beckford motioned to approve a two (2) year limited license contingent upon a signed lifetime agreement with TMF and proposal of an acceptable preceptorship, approved by the medical consultant and Board designee. Also, prior to full licensure, the applicant must obtain successful completion of a preceptorship and a positive evaluation from a licensed Board Certified Neurologist, approved by the board designee and medical consultant. This limited license is good for two (2) years and is non-renewable, and the applicant’s scope of practice shall be limited to his preceptorship plan. All rules and regulations of a full and unrestricted license shall apply, to include continuing education and he may not serve as a supervising or collaborating physician with physician assistants or nurse practitioners. Furthermore, when/if full licensure is permitted Dr. Hamel must maintain lifetime monitoring with TMF. Dr. Handorf seconded the motion and it passed.

James Webster, MD - appeared before the Board without legal representation. Dr. Webster is currently voluntarily participating in TMF monitoring. Dr. Webster reported that during the first two (2) years of his residency he faced depression and issues with alcohol which then led to his poor attendance at work. During this time there were no issues related to patient care. Dr. Webster is one (1) year into his five (5) year monitoring contract with TMF and he reports he is fifteen (15) months into his sobriety. Dr. Handorf motioned to grant an unrestricted license. Mr. Ellis seconded the motion and it passed.

Maria Li, MD - appeared before the Board without legal representation. Dr. Li has been reprimanded repeatedly by the Medical Licensing Board of Quebec. There have been recommendations for practice and documentation improvements. There was also a report made to the NPDB by the Illinois State Medical Board regarding license application withdrawal in lieu of licensure denial. Dr. Li reports she has one (1) reprimand in 2012 from the Quebec Board, with a one thousand dollar (\$1,000.00) fine for a delay in answering their question. She further indicates that the Illinois reprimand is a sister-state reprimand. Dr. Li reports, within her application file are complaints made against her that did not result in reprimand. She explained that in Quebec complaints are available to the public regardless if reprimand occurs. Dr. Li further explains a hospital in Quebec reprimanded her for not dating and time stamping when she entered a progress note. Dr. Christiansen motioned to grant unrestricted licensure. Dr. Beckford seconded the motion and it passed.

Susan Boccarossa, MD - appeared before the Board without legal representation. Dr. Loyd recused. Dr. Boccarossa practiced for sixteen (16) years after completing Residency. Her Board Certification expired in 2012 and she has not clinically practiced since 2008. She reports her primary specialty was internal medicine. The Board discussed the need for Dr. Boccarossa to complete a re-entry pathway due to her time out of clinical practice. Dr. Christiansen motioned to table her application for up to six (6) months to complete a formal PLAS assessment, approved by the Board designee and Board’s medical consultant, and request the results be sent to the Board for review. Mr. Ellis seconded the motion. The motion passed with Dr. Loyd recused.

Mary Duncan, MD - appeared before the Board without legal representation. Dr. Duncan has been retired from the practice of medicine since 2010 and desires to return. The Board and applicant led a discussion on her time out of practice and the Board's re-entry policy. The Board was able to determine that she is eligible to sit for her Board Certification exam. However, taking and passing the board certification exam is not a requirement for licensure nor will it meet the re-entry policy requirements. Dr. Johnson motioned to table the application for no more than six (6) months to allow time for the applicant to complete a formal assessment by a PLAS collaborator, approved by the Board's medical consultant and for the results to be sent to the Board for review. Ms. Claxton seconded the motion and it passed with Dr. Christiansen abstained.

Melinda Mallette, MD - appeared before the Board without legal representation. Dr. Mallette has been out of clinical practice since July 2014. She is currently Board Certified, having recertified in 2015. She reports needing a medical license as a requirement to maintain her Pediatric Board Certification. The Board and applicant discussed the Board's re-entry policy and her need to successfully complete a preceptorship before licensure may be granted. Dr. Christiansen motioned to grant licensure contingent upon successful completion of a two-hundred (200) hour preceptorship, within the next six (6) months, approved by the Board designee and the Board's medical consultant. Dr. Miller seconded the motion and it passed.

Kathryn Glass, MD – appeared before the Board with legal representation by Mr. Robert Kraemer. Dr. Glass' privileges were revoked at the Veterans Medical Center in Marion, IL due to issues related to professional conduct and/or competence. She had been reprimanded prior to this action. Her employment was subsequently terminated. Dr. Glass cited problems associated with a diagnosis of ADHD that contributed to her problems at the facility. Dr. Glass reports the issues she faced at her employment related to record keeping matters. The applicant confirmed that during her practice at the Veterans Center she did not face any clinical outcome issues. She further reports to be receiving treatment for ADHD and that she is about to begin working with a job coach once a week for one (1) hour. Dr. Christiansen motioned to grant an unrestricted license. Dr. Beckford seconded the motion and it passed.

Shirley Trentham, MD – appeared before the Board without legal representation. Dr. Trentham has been out of clinical practice since 2013. She has no current licenses, is not Board Certified, has no malpractice or criminal history and her intended specialty is psychiatry. The Board and applicant discussed her time out of clinical practice and need to follow the Board's re-entry policy. Dr. Christiansen motioned to table the application for up to six (6) months to complete a formal assessment by a PLAS collaborator, approved by the Board's medical consultant and for the results to be sent to the Board for review. Dr. Handorf seconded the motion and it passed.

Agreed Order

Douglas Jones, MD – did not appear before the Board but Mr. Samuel Helmbrecht appeared as legal representation. Mr. David Silvus represented the State. Dr. Handorf recused. Respondent has been licensed in Tennessee with medical license number 18524. From January 18, 2012 until January 31, 2014 Respondent held a Tennessee Pain Management Clinic certificate number 87 and practiced in a pain management clinic in Memphis, Tennessee. From June 6, 2014 until June 30, 2016, Respondent held Tennessee Pain Management Clinic certificate number 482 and practiced in a pain management clinic in Memphis, Tennessee. Following an investigation of the Controlled Substance Monitoring Database and twenty-five (25) patient charts for which the Respondent provided chronic pain management, it is determined that the Respondent failed to meet the applicable standard of care with respect to twenty-one (21) of those twenty-five (25) patients. Respondent prescribed controlled substances without completing a physical examination, prescribed controlled substances without discussing the risks and benefits, failed to

make appropriate diagnoses and/or failed to document adequate support for such diagnoses. Respondent failed to perform drug screens as frequently as required for some high-risk and high-dose patients. Respondent failed to perform mental and psychological testing and screening prior to prescribing controlled substances to patients with a history of addiction and/or suicide attempts. Respondent prescribed narcotics and other medications and controlled substances in amounts and/or for duration's not medical necessary. The facts stipulated constitute grounds for discipline. This order shall place Respondent's license on probation for two (2) years, effective the date of entry of this order. Respondent is permanently prohibited from owning, operating or working at a pain management clinic. Respondent is permanently prohibited from owning, or serving as the medical director of, a medication-assisted treatment facility but nothing prohibits his employment by a medication-assisted treatment facility. Respondent is permanently prohibited from prescribing controlled substances to any patient except as specifically set-forth in the order. The order further outlines requirements for practice monitoring should the Respondent prescribe buprenorphine and products containing buprenorphine. Respondent must pay actual and reasonable costs of this case not to exceed ninety thousand dollars (\$90,000.00). Dr. Christiansen motioned to approve the agreed order. Dr. Beckford seconded the motion and it passed.

Orders of Compliance

Omar Ahmad, MD – appeared before the Board with legal representation from Mr. Robert Talley. Ms. Mary Katherine Bratton represented the State. Dr. Ahmad's license was summarily suspended in March 2014. In early 2014, he was observed by staff to be delusional and paranoid, and his condition continued through late March 2014 when his license was summarily suspended. He completed an evaluation in September 2014 and in November 2014 received care for his condition. At that time his license suspension was continued. The Board was presented with all evaluations and recommendations along with other supporting documents to prove compliance with the original order. James Jones, LCSW appeared before the Board to attest to the compliance and progress of Dr. Ahmad's treatment. Dr. Baron advocated for and attested to Dr. Ahmad's compliance with TMF monitoring. Approval of this order of compliance would lift the suspension on his license and place his license on probation with terms to be set by the Board. Dr. Ahmad has been shadowing another physician for several months and completed several continuing medical education hours as an attempt to show clinical competency due to his time out of clinical practice. Dr. Ahmad's intended specialty is oncology. His February 2019 acumen summary indicates that he may need a clinical competency evaluation and suggested he start out in part-time practice with a preceptor and for the potential to have some supervision post preceptorship or as he goes to full time work. According to Dr. Ahmad's attorney, he wishes to take his specialty Board Certification exam to prove clinical competency however he is not eligible to take the exam while on suspension. It is the Boards understanding that a physician needs an unencumbered license to be eligible to sit for a board examination. Thus, that will not be an option to prove competency. Ms. Bratton advised the Board that they are to determine if Dr. Ahmad as complied with the terms of his original order and if he has complied and is placed on probation what the terms of his probation will be considering his most recent evaluation included recommendations. The consensus of the Board is they first need to see the results of a clinical competency evaluation. Dr. Handorf tabled the matter until he has had a formal clinical evaluation. Mr. Ellis seconded the motion and it passed.

Joshua Kadetz, MD – appeared before the Board without legal representation. Ms. Mary Katherine Bratton represented the State. On January 14, 2015, the Petitioner's license was placed on suspension. The Agreed Order stated that once the restrictions on his Kentucky license are lifted, Petitioner's Tennessee medical license may be placed on probation for a period of not less than five (5) years, with a requirement to maintain advocacy from TMF. Based on the petition and the statements of counsel, the Petitioner has satisfactorily complied with the requirements of the Tennessee Agreed Order. This order shall lift the suspension of his Tennessee license and place the same restrictions on his Tennessee license

that the Kentucky order placed on his license. Dr. Christiansen motioned to accept the order with two (2) amendments. The first amendment is to change the language to state he must sign a contract with TMF. The second amendment is to permit the medical consultant of the Board to approve the restrictions without him having to appear before the Board. Dr. Handorf seconded the motion and it passed.

David Larsen, MD – appeared before the Board without legal representation. Ms. Mary Katherine Bratton represented the State. Before the Board is a petition for Order of Compliance, to include an affidavit from the disciplinary coordinator attesting that he has complied with the terms of his disciplinary orders and an affiliated monitors report. During the meeting the Board was provided with a letter from Case Western. The Petitioner has had two (2) consent orders before the Board once in 2009 and another in 2013. Ms. Bratton reviewed the requirements outlined in each of those orders. Ms. Bratton reports, although, the Petitioner has substantially complied with the consent orders the Office of General Counsel does not have a proposed order of compliance before the Board. The Petitioners' discharge records in his last affiliated monitors report indicate that the diagnostic testing resulted in recommendations that have been repeated in some of the reports. The Office of General Counsel deferred the matter to the Board. The Board reviewed and discussed the recommendations and heard the Petitioners response. Dr. Christiansen motioned to accept the Order of Compliance, which will lift the probation on the Petitioner's license. Dr. Miller seconded the motion and it passed.

Agreed Order

Brooks Graham Morelock, MD – did not appear before the Board nor did legal representation appear on his behalf. Ms. Paetria Morgan represented the State. Respondent has been licensed since July 24, 1998 and his license expires on September 30, 2020. On January 11, 2017, the Respondent entered into a Consent Order which placed the Respondents license on probation for inappropriately prescribing controlled substances. Additional terms of the 2017 order required the Respondent pay the actual and reasonable costs of the case, pay a civil penalty assessment, and take two (2) continuing education courses. The Respondent has violated the 2017 order by failing to pay the cost assessment of \$1,196.48, failing to pay the remaining \$1,800.00 civil penalty assessment and failing to submit proof that he completed the two (2) required continuing education courses. In November 2018, Respondent submitted a reinstatement application and answered "yes" to being in poor physical and/or mental health. Respondent's health status will not allow the Respondent to safely treat patients. The facts stipulated are grounds for discipline. This order shall suspend the Respondents license. Respondent's suspension shall not be lifted until he becomes compliant with the 2017 order and obtains an evaluation with the Vanderbilt Comprehensive Assessment Program (VCAP) regarding his ability to safely practice medicine. Respondent must also follow all recommendations from the VCAP assessment including adhering to practice restrictions. Respondent must pay the actual and reasonable costs of this case not to exceed twelve thousand dollars (\$12,000.00). Dr. Christiansen motioned to accept the agreed order. Dr. Beckford seconded the motion and it passed.

Consent Order

Odie Lee Battles, Jr., MD – did not appear before the Board nor did legal representation appear on his behalf. Dr. Handorf and Dr. Beckford recused. Ms. Paetria Morgan represented the State. Respondent had been licensed on October 8, 1993 and has an expired license as of April 30, 2019. On September 12, 2018, the Board entered a Final Order mostly stemming from the Respondent violating the standard of care as it related to the treatment he gave to opioid addicted patients. Respondent has violated the 2018 order by failing to surrender his DATA waiver designation within forty-five (45) days of the effective date and by failing to pay the \$24,139.34 cost assessment. The facts stipulated are grounds for discipline. This order shall suspend the Respondents license within fourteen (14) days from the effective date of this

Order. The suspension shall not be lifted until the Respondent becomes compliant with the terms of the 2018 order. The order outlines further restrictions during his suspension and future probationary periods. Respondent shall pay one (1) Type "A" civil penalty for a total of one thousand dollars (\$1,000.00). Respondent must pay actual and reasonable costs of this case not to exceed eight thousand dollars (\$8,000.00). Dr. Christiansen motioned to accept this order. Mr. Ellis seconded the motion and it passed with Drs. Handorf and Beckford recused.

Agreed Order

Carl A. Linblad, MD - did not appear before the Board nor did legal representation appear on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was granted a Tennessee license on November 5, 1980 which currently expires on January 31, 2019. Respondent's license is currently on probation. In July 2014, Respondent's license was disciplined by this Board. Respondent was subsequently disciplined in September of 2016 for failure to comply with the terms of the July 2014 order. This order outlines several stipulated facts regarding the manner in which the Respondent practiced while employed with Choice MD from about January 2015 through July 2015. On or about April 11, 2018, Respondent was charged with one (1) felony count of conspiracy to commit healthcare fraud in the Southern District of California. Respondent signed a plea agreement, pleading guilty to conspiracy to commit healthcare fraud and swearing under penalty of perjury that the "Factual Basis" contained in the plea agreement were true. Respondent has not been sentenced. Respondent has surrendered for cause his DEA certificate of Registration in Tennessee. The facts stipulated are grounds for discipline. This order shall modify the Respondents license from probationary status to suspended status for a period of at least three (3) months. The order outlines several requirements of the Respondent while his license is suspended. Respondent is required to establish practice monitoring through Affiliated Monitors, or another pre-approved practice monitoring program. Upon successful completion of the conditions during suspension, he may petition for an order of compliance which will then place his license on probation for at least five (5) years and the order outlines further requirements during the probation. Respondent shall pay six (6) Type "B" civil penalties for a total of three thousand dollars (\$3,000.00) and pay actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Christiansen motioned to accept the order. Dr. Handorf seconded the motion. Dr. Beckford spoke against the motion stating a three (3) month suspension is lenient compared to the Respondents pattern of behavior. Dr. Miller recused, Dr. Beckford opposed and the motion passed.

Dr. Johnson addressed a concern about previous orders, in which suspend a license for a period of time, not indicating that the physician may be subject to the Boards re-entry policy if they are out of clinical practice for more than two (2) years.

Consent Order

Joseph D. Forbes – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was audited regarding his continuing medical education compliance. Respondent was unable to produce the required continuing education hours from the appropriate completion time frame. Per Board policy, administrative staff sent the Respondent an Agreed Citation for his deficient hours. Respondent declined to sign the Agreed Citation, therefore the matter moved over to the Office of General Counsel (hereinafter "OGC"). It is OGC's opinion that miscommunication between the Respondent and Administrative staff may have led the Respondent to being unclear about the procedural steps and an extension which was granted to him. This order shall require the Respondent to pay a fine equivalent to the fine stated in the proposed Agreed Citation. This order shall require the Respondent to submit his ten (10) penalty hours within one (1) year. This requirement was proposed at two (2) years in the Agreed Citation. Lastly, this order requires the Respondent to pay all actual and reasonable costs of the case not to exceed five hundred dollars

(\$500.00). This is a term which was not present in the proposed Agreed Citation. It is the OGC's opinion that this Respondent should not be reported to the National Practitioner Databank. The medical consultant, Dr. Rene Saunders, stated her case as to why she disagrees with OGC and states the Respondent should be upheld to the regular punishment which would include a reporting to the databank because regardless of a miscommunication Respondent was still provided with letters explaining the procedures and requirements and the responsibility falls on the physician to complete their continuing medical education in accordance with applicable laws. The Board held a lengthy discussion regarding the two opinions. Dr. Christiansen motioned to accept the order. Mr. Ellis seconded the motion. The motion passed with one (1) opposition from Dr. Handorf.

Amphetamine Taskforce Update – Dr. Christiansen provided an update on the progress of this taskforce. She reports all members were present at their meeting held on July 29, 2019. The taskforce reviewed the current rules which were promulgated in 1991. It was decided that the entire set of rules would need to be updated. Although the taskforce is called the Amphetamine Taskforce, their review is really on Amphetamines, Amphetamine-like substances, and CNS stimulants. They will concentrate on schedule II drugs but will also look at schedule III and IV drugs. The taskforce will be looking over CSMD and prescribing data available specific to Tennessee. Comprise a list of actual medications currently used, look at corresponding diagnoses to those medications, consider the minimum prescribing amounts for those diagnoses, and review neighboring state laws and information from key organizations.

Office Based Surgery Committee Update – Dr. Beckford provided an update to the Board regarding the Office Based Surgery Committee. He avers that Dr. Hale, Dr. Miller and he were all present at their last meeting which was held on July 29, 2019. At that meeting, all members were introduced to the rules and regulations on building codes and issues that were not being attended to during the current inspection cycle. From now until the next meeting the members will be reviewing the rules and regulations and concerns brought forth before the Committee deliberates.

The Board reviewed the Consent Agenda. The Consent Agenda contains the following items which were disseminated to the Board members ahead of the meeting: May 28-29, 2019 Board meeting minutes, new licensee ratification list, the report from the Office of Investigations, the Office of General Counsel and the Administrative Manager's report. With the Board acknowledging having no discussion or concerns, Dr. Christiansen motioned to approve the Consent Agenda. Dr. Beckford motioned and it passed.

FSMB Conference Request to Attend

Dr. Christiansen motioned for the Board to send one (1) attorney to the November FSMB annual meeting. Dr. Handorf seconded the motion and it passed.

FSMB Director to Attend the November 2019 Board meeting

Every three (3) years an FSMB member presents before the Board. Dr. Johnson informed the Board that Dr. Joseph Willet with the FSMB will be present at their November meeting.

Consideration to repeal the Boards USMLE 7-year Limit Policy

Dr. Saunders informed the Board that their statutes and rules currently permit an applicant to pass all of their exams within ten (10) years. This policy is outdated as it still refers to the old seven (7) year time frame. The Board discussed the statutes and rules including some exemptions to this ten (10) year rule. Dr. Christiansen motioned to repeal the USMLE 7-year Limit Policy. Dr. Beckford seconded the motion and it passed.

Review and Discuss Limited X-Ray Examination Results

Dr. Saunders reports the testing service provided the Board with these results. In review of these results, it does appear some organizations may not be meeting the Board's pass rate requirements. At this time, no organization has an active re-approval application in process. In light of several questionable pass rates, Dr. Handorf motioned to accept, not approve, the examination report. Dr. Beckford seconded the motion and it passed. Dr. Johnson commented that although the Board is not taking action on the questionable pass rates, the Board is definitely concerned and this matter may be addressed at a later date.

Update on Fee Increase Rules

Ms. Bratton reports that these rules have been filed and there is a ninety (90) day waiting period before they become effective. These rules should go into effect immediately and before the end of the year.

Discussion on Advisory Ruling

Ms. Bratton provided a brief explanation regarding the advisory ruling for **Dr. Richard C. Morrison**. A Georgia licensed hospital wants to employ a Tennessee licensed physician who holds privileges in Tennessee and at Erlanger Hospital. The Board will revisit this during their day 2 meeting.

Board Retreat

Dr. Johnson reports there will be a Board member retreat on September 16, 2019 at the Lentz Public Health Center. The Board members have been provided with a list of topics up for discussion at the retreat and the members are encouraged to add more items to the list.



Tennessee Board of Medical Examiners Regular Board Meeting

Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners Wednesday, July 31, 2019

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:32 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
Charles Handorf, MD, Secretary
Neal Beckford, MD
Julianne Cole, Consumer Member
Robert Ellis, Consumer Member
Phyllis Miller, MD
Deborah Christiansen, MD
Jennifer Claxton, Consumer Member
Stephen D. Loyd, MD

Board member(s) absent: John Hale, MD
Melanie Blake, MD, Vice President

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

Petition for Order of Modification

Millard Lamb, MD – appeared before the Board without legal representation. Ms. Mary Katherine Bratton represented the State. Pursuant to his 2018 Consent Order, he functioned as a supervising physician for an APRN, he did not establish protocols for the APRN, the APRN was the only licensed practitioner at the clinic, and in July 2016 the APRN left the place of employment but the Petitioner was unaware. This resulted in two unlicensed individuals dispensing phentermine to patients who had not seen a licensed provider. He was placed on probation for not less than one (1) year, assessed a penalty fee and costs of the case. He has complied with the time of probation and paid the penalties and costs. The Office of General Counsel has no objection to this request. Dr. Handorf motioned to accept the order. Dr. Beckford seconded the other and it passed with one (1) recusal by Dr. Loyd.

Request for an Advisory Ruling by Dr. Richard C. Morrison (license # 11550)

The question presented was: may a physician (who is not a radiologist, anesthesiologist, pathologist, or emergency physician) who is duly licensed in the State of Tennessee, be employed by an out-of-state hospital (e.g. a hospital properly licensed in Georgia) or an affiliate of such a hospital to practice medicine in Tennessee?

Ms. Bratton provided the Board with a copy of Opinion No. 94-05, dated April 12, 1994, from the State of Tennessee Office of the Attorney General. Ms. Bratton outlined the advisory ruling, the Attorney General Opinion and the applicable laws to the Board. The Board led a discussion on whether or not they would consider disciplinary action on a physician with this type of employment.

Dr. Christiansen motioned to respond to the request by stating the Board would have no interest in pursuing disciplinary action against the identified employment arraignment to the extent that has been explained in the request. Dr. Beckford seconded the motion, Dr. Miller abstained and the motion passed.

Board Retreat Discussion

The Board members were previously provided with a list of proposed discussion topics for the upcoming Board Retreat scheduled for Monday, September 16, 2019. The Board members reviewed the list and held an open discussion in regards to what topics should be up for discussion. Dr. Christiansen suggested the re-entry process should be discussed and fine-tuned between the Board and staff. Dr. Handorf requested a broad bullet for a discussion on items staff would like the Board to know and items the Board would like staff to know. Dr. Mitchell Mutter suggested the Board discuss legislation which impacts the Board and/or its licensees. Further suggestions should be sent to Ms. Lawrence via e-mail as soon as possible.

Discussion on the Surgical Assistants Registry Rules

Ms. Bratton clarified that the statute for surgical assistants is clear in what is required. The rules created by the Board, not currently effective, are not precluding people from registering and those sections on the registration requirements were verbatim from the statute. However, the rule imposes a fee that will be charged for registering once they are effective. Dr. Johnson questioned if there was notice provided to those which it applies regarding the grace period they have between the effectuated laws and when they must register. Ms. Bratton acknowledged that the information has been in the statute for two (2) years now and the information was posted to the Secretary of States website. The information is also available

on the Boards website. Ms. Bratton further stated that the registry is optional in regards to being able to practice but it is required for those who choose to use the title registered surgical assistant.

Fee Increase Rules

Ms. Bratton reported the fee increase rules will go into effect October 23, 2019.

Consent Order(s)

David Wooding, MD – did not appear before the Board nor did his legal representative appear on his behalf. Ms. Jennifer Putnam represented the State. Respondent was granted a Tennessee license on June 15, 1989 which expired on April 30, 2019. In March 2019, Respondent entered into a Disciplinary Order with the California Medical Board which reprimanded his California medical license for committing gross negligence in his care and treatment of a patient including, but not limited to, failing to obtain an appropriate imaging and diagnostic workup in a patient with head trauma and intracranial hemorrhage risk factors. Respondent was also ordered to complete forty (40) continuing medical education hours related to correcting any areas of deficient practice or knowledge. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent must pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Christiansen motioned to accept the order. Dr. Handorf seconded the motion and it passed.

Matthew Fabian, MD – did not appear before the Board nor did his legal representative appear on his behalf. Ms. Jennifer Putnam represented the State. Respondent was granted a Tennessee license on December 12, 2011 and it currently expires on February 29, 2020. In 2018, a patient propositioned a sexual relationship with Respondent, an offer that the Respondent declined. The order further outlines details regarding inappropriate communications between the Respondent and patient and a threat to file formal complaints against the Respondent if he did not comply with her demands. The Respondent ultimately self-reported to the chief of his department and human resources. He also reported the attempted extortion to the local police department and FBI. On August 3, 2018 he voluntarily admitted himself to Lakeside Behavioral Health and was discharged on August 11, 2018. Respondent resigned from his employment position effective August 31, 2018. This order shall require Respondent to contact TMF for an assessment to be coordinated through TMF within ninety (90) days. Respondent shall have the results of the Lakeside Behavior Health assessment forwarded to TMF and the Board consultant for review. Respondent shall comply with any recommendations made by TMF. Respondent shall enroll and complete a continuing education course related to boundaries. Respondent shall pay six (6) Type C civil penalties for a total of six hundred dollars (\$600.00). Respondent must pay all actual and reasonable costs of the case not to exceed fifteen hundred dollars (\$1,500.00). Dr. Christiansen motioned to accept the order. Dr. Beckford seconded the motion and it passed.

Levan V. Trull, AMDX - did not appear nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the State. Respondent was granted a Tennessee license on April 8, 2002 and it currently expires on October 31, 2019. From January 2018 until August 2018, Respondent worked as a medical x-ray operator for eight months while his medical x-ray operator certificate was expired. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent shall pay six (6) Type C civil penalties for a total of six hundred dollars (\$600.00). Respondent shall pay all actual and reasonable costs of the case not to exceed one thousand dollars (\$1,000.00). Dr. Christiansen motioned to accept this order. Dr. Handorf seconded the motion and it passed.

Veonka N.L. Gourgeot, AMDX – did not appear nor did a legal representative appear on her behalf. Mr. Peyton Smith represented the State. Respondent was granted a Tennessee license on February 3, 2013 and it currently expires on July 31, 2021. From May 2015 until November 2018, Respondent worked as a medical x-ray operator for forty-three (43) months while her medical x-ray operator certificate was

expired. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent shall pay forty one (41) Type C civil penalties for a total of four thousand one hundred dollars (\$4,100.00). Respondent must pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Beckford motioned to accept the order. Dr. Christiansen seconded the motion and it passed.

Final Order

Marlaine Martin, PA – did not appear before the Board nor did legal representation appear on her behalf. Ms. Tracy Alcock represented the State. Respondent was granted a Tennessee license on July 13, 2015 and it expires on February 29, 2020. In 2017, Respondent was employed as a physician assistant under Lawrence C. Swan, MD. During this employment, Respondent fraudulently wrote herself controlled substance prescriptions (including opioids, benzodiazepines and stimulants), signing the prescriptions with the signature of Lawrence C. Swan, MD without permission or knowledge from Dr. Swan. In 2018, Respondent was employed as a physician assistant at Ford Center for Pain Management and Anti-Aging. During Respondent’s employment at Ford Center, Respondent engaged in unprofessional behavior including engaging in inappropriate conduct with patients. Respondent was terminated from both places of employment. The facts stipulated are grounds for discipline. This order shall suspend the Respondents license. The Respondent is assessed eight (8) Type B civil penalties for a total of eight hundred dollars (\$800.00). Prior to the lifting of the suspension, Respondent must undergo an evaluation with TMF, sign a monitoring agreement and maintain compliance with the agreement. After the evaluation and complying with recommendations, Respondent may appear before the Committee to lift the suspension. The Committee may impose additional restrictions at such time. Respondent must pay all actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000.00). Dr. Miller motioned to accept the order. Dr. Christiansen seconded the motion and it passed.

Petition for Order of Compliance

Kristen Jenson, PA – did not appear before the Board nor did legal representation appear on her behalf. Ms. Andrea Huddleston represented the State. Petitioner was disciplined in 2018; her license was suspended, as a result of testing positive for a drug and alcohol screen while on duty. She was suspended until she obtained an evaluation from TnPAP and complied with their recommendations. Subsequently, the Physician Assistant Committee’s contract with TnPAP changed to TMF. She did eventually obtain an evaluation with TMF and signed a five (5) year monitoring agreement. She has paid all costs that she owed. Before the Board is an Agreed Order of Modification and Compliance that was ratified by the PA Committee at their last meeting. This order shall lift the suspension on her license and place her on probation for five (5) years and she must maintain compliance with her monitoring contract. Dr. Handorf motioned to approve the order. Dr. Beckford seconded the motion and it passed.

CME Agreed Citations –

Dr. Handorf suggested this item be included on the Consent Agenda moving forward.

Dr. Christiansen motioned to accept the following continuing education agreed citations. Ms. Claxton seconded the motion and it passed. – **Charity Taylor, MXRT license #7157, Dean Klug, MD license #19774, Sarah F. Cutshall, AMDX license #9217, Sharon Clark, MX license #3136 and Steven Butler, MD license# 21779**

David Bomgaars, MD – did not appear before the Board. The Board was presented with a written request to waive the CME hours required for his last cycle in light of his non-compliant status of his continuing medical education audit. Dr. Christiansen motioned to deny the waiver. Dr. Beckford

seconded the motion. The consensus of the Board is that he must submit the required CME for the time period required by rule. Also, the request for a waiver was not submitted prior to the end of his CME cycle as permitted by rule. The motion passed.

Unlicensed Practice Agreed Citations

Dr. Beckford motioned to accept the following unlicensed practice agreed citations. Dr. Christiansen seconded the motion and it passed. – **Andrea N. Morris X-Ray license# 7213, Dwayne Hunter X-Ray license# 8458, and Heather Coulson Hale X-Ray license# 7361.**

Update from Special Projects Medical Director, Dr. Mitchell Mutter –

- Completed several symposiums throughout all of Tennessee this year
 - One symposium was completed and recorded in the Spring of 2019 so it could be made available online for individuals to obtain prescribing CME credit, through ETSU
 - Several law enforcement programs – TBI, Attorney Generals and DEA included. These programs were also available to the medical community for individuals to earn CME credit.
 - Focused on smaller communities this year – low-income, high hepatitis C, HIV and many of which were with populations under 50,000.
- Chronic Pain Guidelines meeting is scheduled for September 27, 2019 –
 - Discuss inserting a disclaimer for the guidelines stating that hard copies will not be produced for every change made to the guidelines but the website will remain updated.
 - Discuss appendix on Emergency Rooms – new ideas on how they should be handling overdose and substance abuse situations.
 - Naloxone prescribing update
- Top 50 prescriber letters sent out accordingly
- Top 20 buprenorphine prescriber letters sent out accordingly
- Top 10 prescribers in small counties (under 50,000 people); these likely also were in the Top 50 so they received two letters

Iris Room Panel: Dr. Miller, Ms. Cole and Dr. Loyd

Contested Case

Michael LaPaglia, MD v. State of Tennessee Board of Medical Examiners

Iris Room

Administrative Law Judge: Phillip Hilliard

Panelists: Phyllis Miller, MD; Steven Loyd, MD; Julianne Cole, Consumer Member

Counsel for State: Andrew Coffman, Assistant General Counsel, JD, Esq.

Counsel for Petitioner: Jason R. Hines, JD

All parties presented their evidence and statements before the panel. The State provided the panel with a proposed final order. In consideration of the evidence and statements, their deliberations and after review of the proposed order, the panel motioned to approve the findings of fact and conclusions of law. Dr. Loyd motioned to lift the Respondents license from suspended to probation for no less than five (5) years. Ms. Cole seconded that motion and it passed. Dr. Loyd motioned that TMF advocacy shall be lifetime. Ms. Cole seconded and it passed. Dr. Loyd motioned that Respondent should be required to complete a continuing education boundaries course. Dr. Miller seconded the motion and it passed. Dr. Loyd motioned that the Respondent must complete the chronic pain guidelines continuing medical education hours every licensure cycle. Dr. Miller seconded the motion and it passed. Dr. Loyd motioned that Respondent must appear before the Board when he requests to lift the probation off of his license. Dr.

Miller seconded the motion and it passed. The panel motioned to approve the final order as amended and it passed.

Respondent was licensed on July 24, 2007 and it expires November 30, 2019. Respondent was placed on probation on November 18, 2014 and his license remains on probation. Respondent was required to maintain TMF advocacy. Respondent surrendered his DEA in March 2014 and has not possessed a DEA since March 2014. On March 20, 2018, Respondent worked at Watauga Recovery Center and wrote controlled substance prescriptions to be called into pharmacies under the DEA registration of another physician. In 2018, Respondent opened a practice called L & B Healthcare in conjunction with Charles Brooks, MD. Respondent saw L & B Healthcare patients at his own home or at the patients' residencies. Additionally, Respondent saw two (2) patients at a local McDonalds. Meeting with clients at a home or at a private business is not, by itself, a deviation from the standard of care in itself. During this period, Respondent wrote prescriptions for controlled substances to some of L & B Healthcare's patients. Without a DEA registration he was not authorized to write controlled substance prescriptions. Respondent was able to write these controlled substance prescriptions by using prescription pads pre-signed by Dr. Brooks or by signing Dr. Brooks' name on blank prescriptions. Dr. Brooks was aware Respondent was engaging in this conduct. Respondent pled guilty to two (2) federal felonies as a result of his unlawfully writing prescriptions for controlled substances using the DEA number of Dr. Charles Brooks. There is no allegation that the Respondent wrote the prescriptions with the knowledge that said prescriptions would be diverted or abused or that any of the prescriptions written by the Respondent were actually diverted or abused. As part of his November 19, 2018 guilty plea, Respondent admitted he conspired with another person to violate federal drug laws and accepted responsibility for his actions. This admission related solely to Respondent's writing of prescriptions using Dr. Charles Brooks' DEA registration. On December 5, 2018, the TMF removed advocacy from Respondent. On January 2, 2019, Respondent's license was summarily suspended based on the above conduct. On March 20, 2019, Respondent voluntarily provided truthful testimony regarding his conduct during the contested case hearing of Dr. Charles Brooks in front of this Board.

This order shall place the Respondent's license on probation for not less than five (5) years. Respondent must obtain advocacy from TMF, enter a lifetime monitoring agreement and comply with all requests and recommendations of TMF. Respondent shall cause TMF to submit quarterly reports to the Board's disciplinary coordinator detailing compliance with TMF. Respondent shall cause TMF to notify the disciplinary coordinator in writing of any violation of his TMF contract. Respondent shall pay all costs associated with TMF monitoring. Respondent must complete the three (3) day medical course entitled "Prescribing Controlled Drugs". Respondent must enroll and complete the three (3) day medical course entitled "Maintaining Proper Boundaries". Respondent must attend the Chronic Pain Guidelines Course offered by the Tennessee Department of Health every licensure cycle. After five (5) years of probation, Respondent may appear personally and petition the Board to lift his probation. Respondent's probation shall not be lifted unless he has complied with all the requirements of this order.

Poplar Room Panel: Dr. Johnson, Mr. Ellis and Dr. Handorf

Contested Case

Stephen D. Pershing, MD v. State of Tennessee Board of Medical Examiners

Poplar Room

Administrative Law Judge: Steve Darnell

Panelists: W. Reeves Johnson, MD; Charles Handorf, MD; Robert Ellis, Consumer Member

Counsel for State: Francine Baca-Chavez, Deputy General Counsel, JD, Esq.

Counsel for Respondent: None

Dr. Stephen Pershing was not present and the State requested to proceed in default. Proper notice was provided to the Respondent regarding the charges and the hearing. Dr. Handorf motioned to proceed in default. Mr. Ellis seconded and it passed. The State presented its evidence and an investigator, with the Department of Health, was questioned as a witness.

The panel considered the difference between suspension and revocation and what evidence they would need to pursue revocation. Without an expert witness and/or a psychological evaluation to determine his fitness to practice the panel leaned towards a suspended license. After receipt of such an evaluation, they could impose strict requirements on his license should he ever seek to lift the suspension. The panel also addressed the potential need for remediation if he should seek to lift the suspension. The panel reviewed the proposed final order to include the findings of fact and conclusions of law. Mr. Ellis approved the final order as written. Dr. Handorf seconded the order and it passed.

Respondent was licensed on June 10, 1977. His license expires March 31, 2020. Respondent's medical license is summarily suspended. Respondent is the owner of Celestine Health Systems in Lenior City, Tennessee. His practice includes the use of ultraviolet light therapy and he has used this therapy to treat pressure ulcers, musculoskeletal pain, plantar fasciitis and acute ankle sprains. Respondent does not have any hospital privileges. Respondent was servicing as the supervising physician for five mid-level practitioners who are not employed in his office. In 2009, Respondent completed rehabilitation therapy related to his alcohol dependency and signed a five year monitoring contract with TMF. He completed his contract and voluntarily continued monitoring. In 2018, he informed TMF he no longer wanted monitoring because he planned on phasing out his medical practice. Respondent alleges he is in negotiations with a physician assistant to take over his practice, although this statement could not be corroborated. Beginning in 2019, Respondent intends to go to Panama to assist in the creation of an orphanage because he believes God has called him to do this. Despite a breakup in 2015 with Ms. Wallace, Respondent believes that he has been in a continuous relationship with her. Respondent believes that in 2015, that significant other was kidnapped and has been held hostage since. Respondent indicated her kidnappers were involved in opioid and human trafficking. Respondent believes she has a Bluetooth device around her neck which is used by her kidnappers to monitor her location and communication with others. Respondent has followed Ms. Wallace on a bicycle while she walked on a Greenway because he believes that this is the only place he can communicate with her. Respondent believes that he and she can only speak in whispers in order to prevent her kidnappers from hearing their communication. The final order outlines further behaviors of the Respondent. Subsequently, a police report was filed against the Respondent and a Temporary Order of Protection. After being contacted by his family, TMF Medical Director Dr. Michael Baron attempted to reach the Respondent but was unsuccessful. Dr. Baron believes the Respondent could be having a psychotic break and should be evaluated.

This final order shall suspend Respondents license. Respondent must petition for an order of compliance and personally appear before the Board for the suspension to be lifted. Prior to petitioning for the order of compliance the Respondent must undergo a psychological evaluation to determine his fitness to practice medicine, share or cause the results to be shared with the Board and upon review of the results the Board shall determine if further requirements will be imposed on the Respondent. Respondent shall pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00).

This concludes the Board of Medical Examiners day 2 meeting.