



**Tennessee Board of Medical Examiners  
B.O.A.R.D. Member Retreat  
Monday, September 16, 2019**

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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 8:35 a.m. at the Lentz Public Health Center, 2500 Charlotte Ave, Nashville, Tennessee 37209 by Michelle Long, Esq. Assistant Commissioner, Division of Health Licensure and Regulations.

Board members present:	W. Reeves Johnson, MD, Board Chair Melanie Blake, MD Vice President Charles Handorf, MD, Secretary Deborah Christiansen, MD Phyllis Miller, MD Stephen Loyd, MD Jennifer Claxton, Consumer Member Robert Ellis, Consumer Member Julianne Cole, Consumer Member (joined by phone)
Absent members:	John Hale, MD Neal Beckford, MD Samantha McLerran, MD
Special Guest:	Mitchell Mutter, MD, Director of Special Projects Michael Baron, MD, Director TMF
Staff present:	John Tidwell, Director Health Related Boards Diona Layden, Deputy Director Jane Young, Director Office of General Counsel Sara Warner, TDH Legislative Liaison Mary K. Bratton, JD, Chief Deputy General Counsel Rene Saunders, MD, Medical Consultant, BME Angela Lawrence, BME Executive Director

Assistant Commissioner Long opened the meeting with a welcome and overview of the day's agenda at 8:45 a.m. She noted Dr. Johnson's vision for the retreat as, "What we would like BME members to know and what BME members would like to know from us". By the end of the day we would like to revisit if this goal was met. Assistant Commission Long provided a description of the hierarchy of the Tennessee Department of Health, identifying the senior leadership team and Tennessee Department of Health's Mission and Vision statements. Before turning the meeting over to John Tidwell, Director of Health Related Boards, Assistant Commissioner Long touched on the State Health Plan by pointing out the

population of our patients in the local health department sites. All 95 counties have a local health department site: 89 rural and 6 with Metro.

Mr. Tidwell provided some statically information for the fiscal year 2019 concerning the number of new applications as 15,584, renewal 62,972 and licensees 301,165. The Board of Medical Examiners currently is third in the top 5 customers by volume. Mr. Tidwell provided an overview of the board's statutory responsibility, the composition of boards and pointers on being an effective board member. He also stated that this retreat was a pilot for future retreats to come for other board/committees of Health related boards.

Angela Lawrence, Executive Director of the Board of Medical Examiners led the discussion on application processes and the role of administrative staff. Mrs. Lawrence provided an introduction of each staff person in the unit and the board and/or committee they each serve. She gave the hierarchy of administrative staff with two (2) administrative directors, six (6) administrators, three (3) licensing technicians and Dr. Rene Saunders who serves as the board medical consultant. Mrs. Lawrence provided the total number of approved applications for each profession as of September 13, 2019 as being over 3,000 and informed the board that Dr. Saunders had reviewed every one of them to give the board a better idea of the number of applications processed by administrative staff. A detailed outline of the day-to-day activities was provided to the board by Mrs. Lawrence, to include scheduling meetings, processing mail, the protocol and expected timeframes to processing applications as well as other forms and examples of the calls and interactions with our customers. One of the improvements currently being implemented is the online applications and deficiencies. Mrs. Lawrence concluded her presentation by providing an update on how the compact or Interstate Medical Licensure Compact Commission (IMLCC) application pathway was going since being implemented on January 31, 2019. As of September 13, 2019 one hundred forty-four (144) non-SPL applications had been processed and eighty (80) SPL applications had been processed. She provided a few concerns administrative staff has concerning the redesignation process and trusting the information received.

Diona Layden, Interim Director for the Office of Investigations led the discussion on how this office operates. In 2018 the total number of complaints received was 2,510 and the total number of investigations performed was 1, 733. The top customers to this office make up 80% of the workload with the Board of Medical Examiners being the second highest. Ms. Layden provided an overview of the complaint process stating that all complaints and complaint files are confidential. Phase 1 of the review process is conducted by the Board's consultant and attorney. And if allegations are deemed true, does the complaint constitute a violation of the practice act? To make this determination, the complaint is assigned, worked by gathering evidence and preparing the completed file. Often time's collaboration with outside entities such as law enforcement, pharmacists and insurance carries occurs. Phase 2 begins after the investigation, it is determined if a violation is found or not. If no violation is found, the case can be closed or a letter of concern or warning is issued or further prosecution by the Office of General Counsel occurs. Dr. Mitchell Mutter and Dr. Rene Saunders provided their prospective of the role they serve in case review and both encouraged the board members to consider coming and being a part of the case review process. Ms. Layden also discussed the disciplinary outcomes and level of disciplinary action that can be taken and how the disciplinary coordinator tracks practitioners to ensure compliance. Ms. Layden concluded her presentation with advice on how board members should handle complaints made to them, by instructing the person to contact the Office of Investigations.

Commissioner Lisa Piercey stopped by during lunch and spoke to the board about the Tennessee Department of Health's 4 year strategic plan. The plan focuses on prevention and access. Commissioner Piercey also discussed her experience during a case review and encouraged the board members to schedule some time to participate.

Mary Katherine Bratton, Chief Deputy General Counsel led the discussion on the role of the board attorney. Ms. Bratton explained the two main roles of advisory and advocacy. In the advisory role, the

attorney provides legal advice to the board and staff, conducts rulemaking and parliamentary procedure. In the advocacy role, the attorney represents the State at disciplinary hearings. Examples of legal advice are; What authority does the Board have with respect to reinstating a license? Or can we consider this matter, even though it is not on the agenda. During a rulemaking procedure the responsibilities of the attorney are to draft the rules making sure that they are clear, justified and prepared in the right format. They will also moderate the public rulemaking hearing and ensure that the hearing complies with the Uniform Administrative Procedures Act. The majority of the discussion was specific to the contested cases procedures and screening panels. Ms. Bratton explained the difference between the two and provided examples of contested cases they had heard previously and answered several questions. A contested case is a formal hearing where the board members sit as a “jury” and an Administrative Law Judge presides and makes evidentiary rulings and instructs the board members on procedure. The attorney represents the state, presenting the evidence and advocating for the imposition of discipline against the licensee. The attorney does not advise the board during a contested case. The licensee may represent themselves or be represented by an attorney. At the conclusion of the hearing, the board members will decide upon findings of fact, conclusions of law and assessment of discipline. Screening panels are an alternate dispute resolution in which facts are not in dispute and include the following: panel composed of at least three people, informal discussion with licensee, whose participation is voluntary and confidential, panel will recommend disciplinary action, which the licensee or the State may accept or reject. If the licensee accepts the recommendation, then a consent order is prepared and the Board attorney presents it to the full board for ratification. Board members serving on the Panel may not participate in the full Board’s discussion. Ms. Bratton also provided an overview of how settlements are reached, the assessment of discipline and orders of compliance. Ms. Bratton concluded her discussion with other legal considerations such as Board members should not participate in discussions of a matter in which they have an interest and the Sunshine law requires that actions and deliberations taken by the Board occur in an “open meeting”.

Dr. Michael Baron, Medical Director of the Tennessee Medical Foundation (TMF) provided an overview of when the foundation was established and the services they provide. The mission of the Physician’s Health Program (PHP) is to protect patients through identification, intervention, rehabilitation and the provision of advocacy and support for physicians impaired by addictive disease, mental or emotional illness. Important considerations provided by Dr. Baron are as follows: The TMF-PHP does not treat or evaluate physicians in-house, PHP records are not treatment records and do not belong to the participant, PHP process is afforded protections as a peer review process called a Quality Improvement Committee, Records are protected under state statute and the very restrictive federal 42 CFR part 2 and the TMF does not protect or hide sick physicians. TMF currently has more than 200 physicians under a monitoring contract and since 2000 the TMF has helped more than 2500 physicians in Tennessee. Dr. Baron concluded his presentation with the future directions of TMF-PHP as decreasing stigma and resistance for getting help by updating the Medical Licensure Application questions to focus on current function or impairment not on past impairments.

Dr. Mitchell Mutter, Director of the Office of Special Projects was the final presenter during the retreat. Dr. Mutter provided an overview that the chronic pain guidelines committee will be meeting to update recommendations presented for approval by boards as policy and providing education to licensees pertaining to the chronic pain guidelines. Dr. Mutter discussed how he and his team are continuing the work of reviewing complaints for potential investigations and/or discipline, as well as reviewing evidence with the consultants and lawyers for disposition and assist in finding expert witnesses.

Mr. John Tidwell wrapped up the retreat by thanking everyone for their participation and Assistant Commissioner Long asked if the overall goal of the day was met and everyone concluded unanimously that it was. The BME retreat adjourned at 5:20 p.m.