



**Tennessee Board of Medical Examiners  
Development Committee**

**Monday, September 26, 2022**

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**MINUTES**

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The Development Committee meeting of the Tennessee Board of Medical Examiners was called to order at 4:05 p.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Stephen Loyd, Committee Chair.

Committee members present: Stephen Loyd, MD Committee Chair  
Melanie Blake, MD  
Robert Ellis, Consumer Member

Staff present: Francine Baca-Chavez, JD, Office of General Counsel  
Rene Saunders, MD, Medical Consultant, BME  
Stacy Tarr, BME Executive Director  
Brandi Allocco, Administrative Director

The meeting was called to order by Dr. Loyd with a roll call of members and staff present. Having determined a quorum with three members present, Dr. Loyd opened the meeting with the first agenda item.

**I. REQUEST FOR ADVISORY RULING**

**Dontal Johnson, MD** – Dr. Johnson is seeking an exemption to the Rule stating that for a Physician Assistant and Nurse Practitioner supervisory relationship, the supervising physician must visit the remote site once every thirty (30) days. Dr. Johnson is requesting a ruling regarding supervision of physician's assistants and nurse practitioners who are providing indirect, retrospective supervision for school nurses in Tennessee Public School Districts. Public schools are allowed to seek reimbursement from Medicaid for medically necessary health services provided to students by licensed school healthcare workers; as part of this process, indirect, retrospective supervision of the school nurses is provided by mid-level professionals employed/contracted by the School District. The mid-level professional is available for consultation with school nurses but does not directly participate in patient care. Board Rules 0880-06-.02(9) and 0880-02-.18(9) require a supervising physician to visit any remote sites of their supervisees at least once every thirty (30) days. Holly Christopher of Stellar Therapy Services participated in the Committee's discussion via telephone. It is the Committee's understanding from the information provided that students are being treated by RNs and LPNs who are carrying out an order from the child's treating physician. School districts contract with APRNs, PAs and supervising physicians to provide programmatic oversight and review protocols. The situation in which care is being provided is unique. It is the Committee's understanding that APRNs and PAs are not

required to be onsite at the school as they provide no clinical intervention or treatment to children and offer consultative rather than direct services which include, but are not limited to, ensuring proper protocols are in place and performing some level of chart review. The Committee notes that while it is in the best interest of students to have nurses at each school and supervision of these school nurses is also beneficial to people in Tennessee, the physician's supervisory relationship must be in accordance with all applicable rules. It is the Committee's position that remote site visit may not occur via videoconferencing technology and must be conducted in person. In this instance the supervising physician could have in-person face-to-face time with each of their supervisees every thirty (30) days and each school district may be considered one practice site; the required monthly site visit from you may occur at any of the actual practice sites – the school clinics – within each district, and since there are multiple locations where each supervisee might work within the district, it is anticipated that you would randomly rotate the location of your site visits. During these site visits there should be a face-to-face contact with the supervisee or supervisees, and protocols, developed and signed by both Dr. Johnson and the supervisees, should be on site at each location where students are receiving care. This is not intended to supersede or replace any other guidance, policy, rule, or statute of the Board, other than the requirement for remote site visits. This matter will be brought before the full Board for consideration once Ms. Baca-Chavez drafts the advisory ruling letter.

**Mirene Winsberg, MD** – Dr. Winsberg is seeking an exemption to the Rule stating that for a Physician Assistant and Nurse Practitioner supervisory relationship, the supervising physician must visit the remote site once every thirty (30) days. Dr. Winsberg works for Brightside Health, which offers psychiatry and therapy treatment to patients exclusively through a telehealth platform in all 50 states. Board-certified physicians and APRNs specializing in mental health provide these services. Under no circumstances do providers see patients in-person, keep medication at their home, or prescribe controlled substances. In Tennessee, all Brightside providers communicate with their patients via telehealth only from their homes. The supervisory relationship must be in accordance with all applicable rules governing a physician's supervision of a nurse practitioner. Regarding supervision, Board Rule 0880-06-.02 requires a supervising physician to visit any remote sites of their supervisees every thirty (30) days. This is true even if the nurse practitioner or physician assistant is practicing telemedicine and whether or not they are practicing in a location geographically distant from their supervising physician. A remote site visit may not occur via videoconferencing technology. The Committee motions to approve the advisory letter ruling as written and it passes.

**Veronica Slootsky, MD** – Dr. Slootsky is seeking an exemption to the Rule stating that for a Physician Assistant and Nurse Practitioner supervisory relationship, the supervising physician must visit the remote site once every thirty (30) days. Dr. Slootsky works for Brightside Health, which offers psychiatry and therapy treatment to patients exclusively through a telehealth platform in all 50 states. Board-certified physicians and APRNs specializing in mental health provide these services. Under no circumstances do providers see patients in-person, keep medication at their home, or prescribe controlled substances. In Tennessee, all Brightside providers communicate with their patients via telehealth only from their homes. The supervisory relationship must be in accordance with all applicable rules governing a physician's supervision of a nurse practitioner. Regarding supervision, Board Rule 0880-06-.02 requires a supervising physician to visit any remote sites of their supervisees every thirty (30) days. This is true even if the nurse practitioner or physician assistant is practicing telemedicine and whether or not they are practicing in a location geographically distant from their supervising physician. A remote site visit may not occur via videoconferencing technology. The Committee motions to approve the advisory letter ruling as written and it passes.

**Phillip Nichols II, MD** – Dr. Nichols is seeking an exemption to Rule 0880-2-14(c) to allow for the utilization of amphetamines or methylphenidate in patients with idiopathic hypersomnia. The Board

reviewed the rules and found that the prescription of amphetamines for hypersomnia to be contrary to the requirements of the rules; however, the Board has proposed changes to the current rules which when they become effective would allow the prescription of amphetamines for treatment of Food and Drug Administration, (hereinafter “FDA”) approved indications. Any other off-label use may be justified by documentation of appropriate medical rationale and evidence-based research. Other proposed changes to the current rule state that when prescribing stimulant medication doses which are greater than the FDA approved maximum daily dosage, the medical record shall indicate the justification for this dose. Additionally, the proposed rule change indicates that prior to treatment with amphetamines, amphetamine-like substances, or central nervous system stimulants, a complete history and physical examination shall be performed by the prescriber or a primary care provider within the preceding 12 months and documented in the medical record. The initial history shall contain at a minimum: medical conditions, psychiatric conditions, substance use, social history, and family history. The medical history shall contain at a minimum: cardiac function and arrhythmias. A physical examination shall include at a minimum: vital signs, mental status, and cardiac exam. Ongoing monitoring shall include at a minimum: height (in pediatric patients), weight, pulse, blood pressure and mental status exam as well as ongoing response to medication. While these proposed changes to the rules are not yet effective, the Board is granting you the authority to prescribe amphetamines under the conditions of these proposed changes which have been articulated above. The Committee motions to approve the advisory letter ruling as written and it passes.

## **II. DISCUSS AND TAKE ACTION AS NEEDED REGARDING MONITORING IN ORDERS**

Elizabeth Danler, Disciplinary Coordinator Board of Medical Examiners, appeared before the Committee to discuss monitoring in orders. Ms. Danler has been in her current position for one-year and since starting has helped in implementing a thirty, sixty, ninety rule. This rule was created to help ensure appropriate monitoring of Board Orders and to ensure the Orders are being adhered to in a timely manner. Within thirty (30) days of non-compliance, Ms. Danler will notify the licensee in writing of the non-compliance. The licensee will then have thirty (30) days from the time of the letter to comply with the Order. Within sixty (60) days of non-compliance, the Chief Disciplinary Coordinator/Senior Associate General Counsel will notify the licensee that they must be in compliance within thirty (30) days of the letter. Within ninety (90) days of non-compliance, a Board Order Violation packet is prepared and sent to the Office of Investigations and/or the applicable attorney that handled the case. This is applicable to all Boards in an effort to standardize the process. Ms. Danler finds that she has had success with licensee compliance by just having a phone call to explain what the repercussions of non-compliance look like. Licensees are generally motivated by keeping their license in good-standing if they are reprimanded, or if they have restrictions on their license, they are motivated to have the restrictions lifted. Should a licensee not comply with the fees assessed to them in the Order, the information is sent to the Attorney General’s Office for collection.

## **III. DISCUSS AND TAKE ACTION AS NEEDED REGARDING MIDDLELEVEL SUPERVISION TERMINATION DOCUMENTATION FROM A DISCIPLINED LICENSEE**

In situations where a license is encumbered and the licensee is not able to supervise mid-level providers, Ms. Danler receives documentation of termination of supervision in many forms. Ms. Baca-Chavez presented the Committee with a recent Order where proof of termination of supervision was required. The Committee would like the orders to explicitly state the type of proof going forward, to include proof of removal of the supervisory role from LARS and the CSMD. The Committee will bring this to the full Board for discussion.

**IV. DISCUSS AND TAKE ACTION AS NEEDED REGARDING BOARD MEMBER EDUCATION AS A STANDING AGENDA ITEM**

The Committee feels presenting a topic at each Board Meeting would be beneficial to all members, but especially to newer members. Topics may include a breakdown of different orders, presentations by course providers and monitoring agencies, disciplinary guidelines, and rules. These topics will be brief in nature to refresh Board Members.

**V. DISCUSS AND TAKE ACTION AS NEEDED REGARDING TMF CONTRACTS AND AGREED ORDERS**

The length of the TMF contracts in Agreed Orders have varied in the past, and it is the suggestion of the Committee to standardize these contracts for five years of monitoring. Exceptions to this can be made on a case-by-case basis should Dr. Baron recommend a different length in monitoring. Ms. Baca-Chavez addressed the concern that arose from an Agreed Order where the TMF monitoring was only three years. In standard practice, the probation of a license runs concurrent with the TMF monitoring contract that the licensee signs. In the Agreed Order in question, there was no TMF monitoring contract in place. Ms. Baca-Chavez suggested language for future orders where a TMF contract is in place.

**VI. DISCUSS AND TAKE ACTION AS NEEDED REGARDING CE BROKER**

Elizabeth Minkoff, Senior Associate from the Office of General Counsel appeared at the July Development Committee meeting to discuss the CE Broker contract. Ms. Minkoff reported the concerns raised by the Board regarding the upcoming contract renewal for CE Broker, resulting in the Board's ability to review the "request for proposal" prior to bid.

**VII. DISCUSS AND TAKE ACTION AS NEEDED REGARDING REQUIRING FCVS PROFILE FOR LICENSURE**

In order to require FCVS profiles for licensure, a rule change will need to be made. There are other states which already require FCVS profiles for their application process, including Ohio and Kentucky. The benefit of the FCVS profile is it speeds up the processing time as FCVS gathers transcripts, post-graduate training verifications, and exam scores for the applicants. This information is then sent as one packet to the Board, rather than waiting for each institution to send their own. Some hospitals also require FCVS profiles for their credentialing process.

**VIII. DISCUSS AND TAKE ACTION AS NEEDED REGARDING SUPERVISION RULES**

Several of the advisory opinion requests presented at the beginning of the meeting related to supervisory rules. Legislatively, at this time, there is still a lot of unknown regarding the future of telehealth. Telehealth may be vital in reaching rural communities in the future, especially with specialty care. Due to the current status of telehealth, and with no clear trajectory of future legislation, at this time the Committee does not feel they are able to take action.

**IX. DISCUSS AND TAKE ACTION AS NEEDED REGARDING UPDATE TO SEXUAL MISCONDUCT POLICY**

The current sexual misconduct policy is centered around the patient-physician relationship and the imbalance of power in that scenario. The Committee wishes to explore revision of the policy to include the relationship with others such as mid-level care providers, and other healthcare professionals where

there may be a power imbalance. Dr. Loyd will work with Dr. Baron and Ms. Baca-Chavez to propose revisions to the policy to present to the Board for consideration. The Committee motions to approve the taskforce for revision of the policy and it passes.

X. **PUBLIC COMMENT** - No public comment

The meeting adjourned at 5:48 pm.