



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

Tuesday, September 27, 2022

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:36 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Melanie Blake, Board President.

Board members present: Melanie Blake, MD, President
Stephen Loyd, MD, Vice President
Robert Ellis, Consumer Member, Secretary
Phyllis Miller, MD
Jennifer Claxton, Consumer Member
Randall Pearson, MD
Keith Anderson, MD
John McGraw, MD
James Diaz-Barriga, Consumer Member

Board member(s) absent: Deborah Christiansen, MD
John Hale, MD
Samantha McLerran, MD

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Stacy Tarr, BME Executive Director
Candyce Wilson, Administrative Director
Brandi Allocco, Board Administrator
Samantha Green, Board Administrator

I. CONSIDERATION OF APPLICATIONS

Medical X-Ray Applicant Interview(s):

Tristian Caplinger, MDXL – appeared before the Board without legal representation. Ms. Caplinger has been out of clinical practice since 2019. The clinic Ms. Caplinger was working for at the time removed all of the Xray machines from the facility as the radiography processor went down and there was no funding to upgrade the processor. Ms. Caplinger worked in the office for twenty years and only failed to renew her Xray license in Florida after all the equipment was removed as she no longer was shooting X-rays. In 2021, Ms. Caplinger moved to Tennessee and began working at an urgent care clinic. With there being a need for an Xray technician at that clinic, Ms. Caplinger is looking to enter back into the field. Dr. John McGraw motions to grant a license contingent on Ms. Caplinger completing ten (10) shifts, at twelve (12)

hours a shift, where she will be precepted by the Xray technician on staff at the facility who will sign off on competency of skills along with the Medical Director of the facility. Dr. Keith Anderson seconds the motion, and it passes.

Heather Miller, MDXL – appeared before the Board without legal representation. Ms. Miller holds an active LPN license in TN and is looking to reinstate her MDXL license. Ms. Miller has been out of clinical practice as an Xray Operator since 2018. Ms. Miller obtained her MDXL license while working in a family practice clinic. She left the clinic after a year and did not renew her MDXL license as she no longer was required to have one by the new clinic. Ms. Miller has a job opportunity which requires her to obtain her MDXL license again. Ms. Miller is working with two Xray Operators who are willing to precept her. Ms. Jennifer Claxton motions to grant a license contingent upon Ms. Miller completing one-hundred twenty (120) hours of a preceptorship, where her competency of skills will be signed off by both the Xray technicians and the Medical Director of the facility. Dr. Phyllis Miller seconds the motion, and it passes.

Medical Doctor Applicant Interview(s):

Caroline Hawes, MD – appeared before the Board without legal representation. Dr. Hawes is an applicant for initial licensure with no board certification, no malpractice history, no criminal history, and no prior board action. Dr. Hawes is currently a Tennessee Medical Foundation (hereinafter “TMF”) participant. Dr. Hawes self-reported to the TMF in 2019 after she was matched to her Pediatric Residency in Chattanooga, TN. Dr. Hawes has been on contract with the TMF since she moved to Tennessee in June 2019. Dr. Hawes has been in full compliance with her contract and initially sought help to hold herself accountable during training. Dr. Hawes completed her residency program in June 2022 and has a job opportunity in Developmental and Behavioral Pediatrics. Dr. Michael Baron, Medical Director of the TMF, spoke on behalf of Dr. Hawes. The TMF fully advocates for Dr. Hawes and recommends the Board grant a license contingent on completion of her contract. Dr. Randall Pearson motions to grant a license contingent on the completion of the TMF contract in 2024. Dr. Anderson seconds the motion, and it passes.

Shikha Bhatia, MD – appeared before the Board without legal representation. Dr. Bhatia is an applicant for initial licensure with no board certification, no malpractice history, no criminal history, and no prior board action. Dr. Bhatia is a compulsory participant in Pennsylvania’s Physician Health Program (hereinafter “PAPHP”). Dr. Bhatia was completing her residency in Pennsylvania when she missed a shift and was subsequently made to undergo fitness for duty testing where she tested positive for marijuana. The residency program recommended Dr. Bhatia enter into a contract with the PAPHP. Dr. Bhatia’s initial evaluation did not show evidence of a substance-use disorder and she underwent a one-year rule out monitoring agreement where she was subject to random testing. All tests were negative, and her one-year rule out monitoring agreement was completed. Subsequently, Dr. Bhatia entered into a two-year mental health monitoring agreement. Dr. Bhatia completed residency in June 2022 and has a job opportunity at St. Thomas as a hospitalist. Dr. Bhatia is transferring her contract from the PAPHP to TMF, and her contract is set to be completed in October 2023. Dr. Baron spoke on behalf of Dr. Bhatia. Dr. Baron feels there is no reason Dr. Bhatia needs further monitoring, however if she does not complete her contract, it will result in an unsuccessful completion. Dr. Miller motions to grant a license contingent on completion of the monitoring agreement with TMF and PAPHP in October 2023. Dr. McGraw seconds the motion, and it passes.

Stephen Carter, MD – appeared before the Board without legal representation. Dr. Carter is an applicant for initial licensure with board certification, no malpractice history, no criminal history, and no prior board action. Dr. Carter resigned his clinical privileges while under investigation for a matter of competency. This was reported to the National Practitioner Data Bank (hereinafter “NPDB”) and the

Virginia Medical Board which declined to act after investigation of the issue. Dr. Carter is a general surgeon. In September 2019, Dr. Carter's patient experienced a bowel-duct injury during a cholecystectomy. The hospital conducted a root-cause analysis, and the conclusion was the complication is a known, uncommon complication that can occur in patients with unusual anatomy. Dr. Carter reports he was urged by a hospital administrator to resign and was told there was no investigation pending. Dr. Carter agreed to resign thinking the hospital no longer saw him as a good fit for the hospital. Dr. Carter states he learned there were three instances indicated in the report sent to the NPDB, of which he had no knowledge of until a month after he resigned. Dr. Carter has since become the Medical Director and a wound care physician at a company that has recently expanded to Tennessee. Dr. Anderson motions to grant a full and unrestricted license. Dr. Pearson seconds the motion. The motion passes.

Alisha Trent, MD – appeared before the Board without legal representation. Dr. Trent is an applicant for licensure reinstatement. Dr. Trent is board certified, has no malpractice history, no criminal history, and no prior board action. Dr. Trent has had a suspension of OB privileges at her current work facility. She is preparing to appeal this suspension. In 2021, Dr. Trent was placed on a performance improvement plan by her hospital of employment. The plan included completion of a continuing medical education course which addressed vacuum deliveries and expected blood loss (hereinafter “EBL”). Dr. Trent reports the course was canceled due to Covid, and the hospital would not extend the improvement plan past the signed date to allow Dr. Trent to sign up for the next available course. As a result, Dr. Trent was brought before the hospital's Board and her obstetrical privileges were suspended. Dr. Trent had a hearing with the independent panel at the hospital and made several recommendations. The hospital would not reinstate the obstetrical privileges after Dr. Trent completed the recommendations made by the independent panel. As such Dr. Trent has submitted an appeal and the hearing has been scheduled for November 16, 2022. Dr. Trent plans to complete a preceptorship in Obstetrics in Tennessee so she may comply with the panel's recommendation. Dr. Trent reports having no action from the Arkansas Medical Board, however a complaint was filed following the suspension of hospital privileges. Dr. Pearson motions to table the application for up to six (6) months to allow Dr. Trent to submit a letter from the Arkansas Board affirming the investigation of the complaint has been closed with no further action by the Arkansas Board. Dr. Miller seconds the motion and the motion passes.

Upasana Bahure, MD – appeared before the Board without legal representation. Dr. Bahure is an applicant for initial licensure with no malpractice history, no criminal history, and no prior board action. Dr. Bahure is an International Medical School graduate who has no US ACGME Residency training program credit and is not ABMS certified or eligible. There is an alternate Board certification pathway in Dr. Bahure's chosen specialty that has not been previously recognized by the Board. Dr. Bahure completed her Fellowship in Abdominal Transplant Surgery at Methodist University Hospital in Memphis, Tennessee. The program is accredited by the American Society of Transplant Surgeons and the United Network of Organ Sharing, which are in charge of regulation of Transplant Surgeons in the United States. Mr. Ellis motions to table the application for up to six (6) months to allow Dr. Bahure to go through the Declaratory Hearing process. Dr. Stephen Loyd seconds the motion and it passes. Mr. Ellis motions to grant the petition for Declaratory Order. Ms. Claxton seconds the motion and the motion passes.

Nidah Khan, MD – appeared before the Board without legal representation. Dr. Khan is an applicant for initial licensure with no malpractice history, no criminal history and no board action. Dr. Khan is board certified in Family Medicine by the College of Family Physicians of Canada (hereinafter “CFPC”). The CFPC has not been previously recognized by the Board. Dr. Khan graduated from an unapproved international medical school, has no ACGME accredited US postgraduate training, is not ABMS board certified, has not completed all three (3) steps of the USMLE, has not completed four (4) years of RCPSC postgraduate primary specialty training. Dr. McGraw motions to deny the application for licensure. Dr.

Pearson seconds the motion. Dr. Blake extended the opportunity for Dr. Khan to withdraw her application prior to denial. Dr. Khan withdrew her application for licensure.

David Salerno, MD – appeared before the Board without legal representation. Dr. Blake and Dr. Miller recused. Dr. Salerno is an applicant for special volunteer licensure. Dr. Salerno is not ABMS board certified, does not have criminal history nor prior Board Action. Dr. Salerno has been out of practice since 2016. Dr. Salerno has the opportunity to serve as the Medical Director at a free faith-based clinic in Chattanooga, should he be granted the special volunteer license. The clinic is serviced by Nurse Practitioners who are supervised remotely by physicians. The clinic already staffs three (3) licensed physicians to supervise the Nurse Practitioners and take call when needed. Dr. Salerno would be almost exclusively practicing administrative medicine in his role. Dr. Anderson motions to grant a special volunteer license. Dr. McGraw seconds the motion. Ms. Claxton raised concern about granting licensure without a re-entry pathway. Dr. Anderson amends his motion to grant a special volunteer license contingent upon completion of twenty (20) hours of primary care continuing medical education within six (6) months. Dr. McGraw seconds the amendment, and the motion passes with Dr. Blake and Dr. Miller recused.

Melvin Jones, MD – appeared before the Board without legal representation. Dr. Loyd recused. Dr. Jones is an applicant for licensure reinstatement with no board certification, no malpractice history, no criminal history, and no prior Board Action. Dr. Jones has been out of clinical practice since 2009. He admits to “curbside” practice including diagnosis and treatment since expiration of his medical license. Dr. Jones resigned in 2009 for medical reasons. Dr. Jones reports he is current with continuing medical education. Dr. Jones is familiar with the Board’s re-entry diagram and has done research on the different pathways. Dr. Jones is seeking licensure in order to provide physicals for the community sports teams. Dr. Anderson motions to grant licensure contingent upon completion of a preceptorship of sixty (60) hours over six (6) months with a letter of competency from the preceptor sent to the Board. Dr. McGraw seconds the motion, and it passes with Dr. Loyd recused.

Karen Summar, MD – appeared before the Board without legal representation. Dr. Summar is an applicant for reinstatement licensure with no board certification, no malpractice history, no criminal history, and no prior Board Action. Dr. Summar has been out of clinical practice for greater than two (2) years and has submitted all continuing medical education hours required from 2022 only. The expected time period would have been from January 2015 to December 2021. Dr. Summar has been working for the federal government in health policy for over ten (10) years. In 2022, Dr. Summar retired from the federal government and moved back to Nashville. Dr. Summar intends to work as a physician in the capacity of mission work with her church and in teaching at the area medical schools. Dr. McGraw motions to table the application for up to one (1) year to allow for completion of a six (6) month preceptorship for thirty (30) to forty (40) hours per week, with direct and indirect supervision by an ABMS board certified preceptor. The preceptor shall submit a CV and plan for preceptorship to be approved by the Board’s Medical Consultant, as well as updates on the preceptorship at three (3) and six (6) months. Dr. Anderson seconds the motion, and it passes. Dr. Anderson motions to grant a limited license contingent upon approval of the preceptorship plan by the Medical Consultant. The limited license would be issued for up to one (1) year and would not allow for supervision of mid-level care providers. Dr. Miller seconds the motion, and it passes.

Katherine Ruffner, MD – appeared before the Board without legal representation. Dr. Blake and Dr. Miller recused. Dr. Ruffner is an applicant for licensure reinstatement with no board certification, no malpractice history, no criminal history, and no prior Board Action. Dr. Ruffner has been out of clinical practice since 2007. Dr. Ruffner briefly went over her training and practice history. Dr. Ruffner is looking to go back into the practice of Oncology after working in biotechnology and pharmaceuticals. Dr. Ruffner is employed full-time which would create difficulty in completing a preceptorship. Based on the Board’s

re-entry diagram Dr. Ruffner would need to complete a formal assessment by a PLAS collaborator. Dr. McGraw motions to table the application for up to six (6) months to allow Dr. Ruffner to explore and determine the best pathway for re-entry. Mr. Ellis seconds the motion, and it passes with Dr. Blake and Dr. Miller recused.

Robert Moskop, MD – appeared before the Board without legal representation. Dr. Moskop is an applicant for licensure reinstatement with board certification, no malpractice history, no criminal history, and no prior Board Action. Dr. Moskop has been out of clinical practice for greater than two (2) years. In 2014, Dr. Moskop’s private practice was purchased by Mednax. In November 2019, Dr. Moskop and Mednax entered into joint negotiations with Mednax regarding Dr. Moskop stepping away from their practice. Due to the pandemic, the negotiations were sped up, and Dr. Moskop was allowed to leave the practice as anesthesia cases had significantly decreased. It was Dr. Moskop’s understanding that the practice would maintain his medical licensure in Tennessee for him, however Dr. Moskop’s license lapsed in 2020. Dr. Moskop has an opportunity to enter into a preceptorship in Memphis. Dr. Moskop is also pursuing reinstatement of licensure in Mississippi, where the re-entry pathway is different. Should Dr. Moskop obtain licensure and practice in Mississippi, it would remove the requirement for a re-entry pathway. Dr. Pearson motions to table the application for up to six (6) months to allow time for Dr. Moskop to decide how he would like to proceed with licensure. Dr. McGraw seconds the motion, and it passes.

Henry Herrod, MD – appeared before the Board without legal representation. Dr. Herrod is an applicant for licensure reinstatement with board certification, no malpractice history, no criminal history, and no prior Board Action. Dr. Herrod has been out of practice for three (3) years. Dr. Herrod has the opportunity to serve as the medical director at a blood bank. Ms. Baca-Chavez went over the requirements for the Administrative License. Dr. McGraw motions to table the application for up to six (6) months to allow time for Dr. Herrod to decide if he would like an administrative license. Dr. Loyd seconds the motion, and it passes.

The Board recessed for lunch.

II. CONDUCT NEW BUSINESS

Discuss, consider and take action as needed regarding USMLE sponsorship request for Dr. Abayomi Oso – Dr. Oso did not appear before the Board nor did a legal representative appear on his behalf. Dr. Oso originally appeared before the Board at the November 2021 Board of Medical Examiners Meeting to request sponsorship from the Board in order to retake the USMLE. Dr. Oso is alleged to have falsified his USMLE score report. In November 2021, the Board granted the request for sponsorship so Dr. Oso would be able to retake Step 1 of the USMLE. On June 9, 2022, the USMLE responded to the Board’s sponsorship letter with concerns that the Board may have been misled during the original discussion regarding sponsorship of Dr. Oso. The USMLE provided information to the Board so the Board can make an informed decision on sponsorship of Dr. Oso. The matter is being brought before the Board again to see if the Board wishes to proceed with sponsorship of Dr. Oso. It is the sentiment of many Board members that the USMLE should be the ones to make the decision on this matter. Dr. Anderson motions to withdraw sponsorship for Dr. Oso. Dr. Pearson seconds the motion, and the motion passes unanimously.

Discuss, consider and take action if needed regarding approval of University of Memphis Limited Scope Radiography Program – The University of Memphis College of Health Sciences, in conjunction with Methodist LeBonheur Healthcare (MLH), is proposing a Limited Scope Radiography program. This program is being designed specifically for MLH employees that are currently serving as certified medical assistants. Eligible medical assistants will be given the opportunity for education and growth in the field of radiography. The program appeared at the July Board of Medical Examiners meeting, and the decision

was to approve the program contingent on the endorsement of the Board's Medical Consultant. Dr. Rene Saunders has approved the program and the matter is being brought before the Board for ratification. Mr. Ellis motions to ratify the approval. Dr. Anderson seconds the motion and it passes.

Discuss, consider and take action if needed regarding appointment of a member to Collaborative Pharmacy Practice Rule Taskforce – At the July 2022 Board of Medical Examiners meeting, Lucy Shell, PharmD, Executive Director for the Tennessee Board of Pharmacy provided an overview of Public Chapter 908, which requires the Board of Pharmacy to promulgate rules regarding collaborative practice agreements for Ivermectin. Dr. Shell presented the same information to the Board of Osteopathic Examiners who voted to convene a taskforce before final approval. Dr. McGraw was nominated to the taskforce with the suggestion that it convene prior to the regularly scheduled CSMD committee meeting. The motion passes unanimously.

Discuss, consider and take action if needed regarding appointment of a consumer member to the CSMD Committee – Mr. Ellis is the current sitting consumer member on the CSMD committee, however his term with the Board is past expiration. Mr. James Diaz-Barriga was nominated to sit on the CSMD committee, and the motion passes.

Discuss, consider and take action if needed regarding update from Administrative Staff regarding use of CME Passport – Ms. Tarr gave an update to the Board regarding the staff training on the use of CME Passport. The creation of a streamlined report is still being developed at this time, so the administrative staff did not provide reports for each Board member. There are no fees associated with the use of CME Passport.

Discuss, consider and take action if needed regarding Rule 0880-02-.19(2) – The rule requires CME certificates be submitted, and does not have a provision for CME transcripts. During the CME Passport training, administrative staff asked if certificates could be obtained upon request. CME Passport does not have certificates from the courses and in some instances, individuals do not receive a certificate from the CME course. In consideration of the burden requiring certificates may cause in the future, the Board will consider an amendment to the rule. In the meantime, a draft policy was presented to the Board for consideration. Ms. Claxton motions to approve the policy statement amended to include clarification that two (2) hours must be Tennessee specific prescribing guidelines. Dr. Pearson seconds the motion, and it passes.

Discuss, consider and take action if needed regarding ADS Renewal Policy Statement – The Committee on Acupuncture has already adopted this policy and it is being presented to the Board of Medical Examiners for ratification. Dr. Loyd motions to approve the ratification of the policy. Dr. Miller seconds the motion, and it passes.

III. CONSIDER AND APPROVE CONSENT AGENDA

Dr. Miller motions to accept the consent agenda. Dr. Loyd seconded the motion and it passed. The Consent Agenda contained the following:

1. Approval of July 18, 2022 Development Committee Meeting minutes
2. Approval of July 19-20, 2022 Board of Medical Examiners Meeting minutes
3. Ratification of new licenses, reinstatement and renewals of Medical Doctors, MD X-Ray Operators, Genetic Counselors, Acupuncture and Polysomnography
4. Review of the Office of General Counsel Report
5. Review report from the Office of Investigations
6. Review of Administrative Office Statistical Licensing Report
7. Review and approve unlicensed practice Agreed Citations – Tangela Bunting, AMDX (license #11055).
Review and approve continuing education Agreed Citations – Brandy J. Lynn, L.Ac. (license #275) and Shirin Sohrabi, L.Ac. (license #95).

IV. UPDATES FROM TASKFORCES & COMMITTEE MEETINGS

a. **Development Committee Meeting Update (Dr. Loyd, Dr. Blake, and Mr. Ellis) -**

- i. The Committee met yesterday, September 27, 2022.
- ii. Board Member Education – 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.
- iii. 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.
- iv. 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.
- v. 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. The Committee motions to proceed with rule change to make the FCVS profile part of the licensure application process. The motion passes.
- vi. 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.
- vii. Monitoring in Orders and Midlevel Supervision Termination Documentation from a Disciplined Licensee - Elizabeth Danler, Disciplinary Coordinator Board of Medical Examiners, appeared before the Committee to discuss monitoring in orders. Ms. Danler 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. 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.

viii. Advisory Opinions

1. Dotal 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. It is the Board'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 Board'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 Board 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 Board'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. The Committee motions to approve the letter for advisory ruling as drafted and it passes.
2. 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 letter for advisory ruling as drafted and it passes.

3. 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 letter for advisory ruling as drafted and it passes.
4. 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 letter for advisory ruling as drafted and it passes.

- ix. Supervision Rules for Nurse Practitioners and Physician Assistants – The agenda item has been tabled for now while more information on telemedicine legislation is gathered.
- x. Re-entry Task Force – Dr. Blake proposed Dr. Loyd, Dr. McLerran, and Dr. Anderson revisit the re-entry policy and diagram to update it for current board expectations. Dr. Loyd proposes the Task Force should meet prior to Development Committee. The motion passes unanimously.

V. DISCIPLINARY ORDERS

Consent Order(s)

Matthew Katz, MD – did not appear before the Board nor did his legal representative, Ms. Kimberly Silvus, appear on his behalf. Ms. Paetria Morgan represented the State. Mr. Ellis recused. Respondent was licensed on February 5, 2018, which is currently set to expire on July 31, 2023. While working at Eye Health Partners of Middle Tennessee (hereinafter “EHP”), Respondent prescribed opioids to patients G.L., B.G., W.N., V.L., C.W., and S.C., without notating the prescription in the medical records. Respondent has taken the 21.25 hour continuing education course “Prescribing Controlled Drugs: Critical Issues and Common Pitfalls in Misprescribing” offered by the University of Florida College of Medicine. Respondent entered into a monitoring agreement with the Tennessee Medical Foundation (hereinafter “TMF”) in or around December of 2019, and he has TMF advocacy. Respondent was the subject of a twenty-three (23) count indictment for criminal offenses, most of which involved controlled substances. Twenty (20) of the counts have been dismissed. The criminal court of Davidson County, Tennessee, entered Orders of Deferral (Judicial Division) on the remaining three (3) counts of the indictment. These three (3) counts relate to obtaining controlled substances by fraud. Due to the allegations in the indictment, pursuant to T.C.A. § 63-1-170(a), the Respondent lost his authorization to prescribe Schedule II controlled substances in this state until the criminal cases against him reach final disposition. Although Respondent disputes the above facts, he wishes to save time and expense associated with litigating these issues. The facts stipulated are grounds for discipline. This order shall place Respondent’s medical license on probation for three (3) years. During the probationary period, Respondent is restricted from serving as a collaborating physician and a substitute collaborating physician, which includes collaborating with any advanced practice registered nurses or physician assistants. Respondent is restricted from prescribing Schedule II controlled substances for twelve (12) months. Respondent is also restricted from prescribing Schedule II controlled substances pursuant to T.C.A. § 63-1-170(a) until final disposition of the charges for which the Orders of Deferral (Judicial Diversion) were entered. If these charges reach final disposition in fewer than twelve (12) months from the date of entry of this Consent Order, Respondent’s restrictions on prescribing Schedule II controlled substances shall continue for the duration of twelve (12) month

restriction imposed above. After one (1) year has passed and if the prescribing restriction imposed is lifted and prior to Respondent prescribing Schedule II controlled substances, Respondent shall immediately obtain practice monitoring through Affiliated Monitors, or another practice monitoring program preapproved by the Board's Medical Consultant. Respondent shall comply with all recommendations of the practice monitor program. Respondent must maintain the advocacy of the TMF for at least three (3) years. Respondent must enroll in and successfully complete within one (1) year of the effective date of this Order, the three (3) day medical course entitled "*Intensive Course in Medical Documentation*" offered at The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine, or an equivalent course approved by the Board. Respondent shall pay two (1) Type A civil penalties for a total of one thousand dollars (\$1,000.00). Respondent shall pay all actual and reasonable costs of the case not to exceed fifteen thousand dollars (\$15,000.00). At the expiration of the probationary period, Respondent may file a Petition for Order of Compliance demonstrating compliance with all terms and conditions in this Order. Respondent must appear personally before the board as part of his Petition for Order of Compliance. Dr. Miller motioned to approve the order. Dr. Loyd seconded, and the motion passed with Mr. Ellis recused.

Venkatachalam Ayyagari, MD – did not appear before the Board nor did his legal representative, Mr. Samuel P. Helmbrecht, appear on his behalf. Mr. Michael Varnell represented the State. Respondent was licensed on September 3, 1974, which is currently set to expire on August 31, 2024. Respondent is the former medical director of Advanced Medical Care in Bartlett, Tennessee. Respondent asserts that Advanced Medical Care failed to pay Respondent for any medical director duties. Respondent also asserts that Advanced Medical Care failed to pay Respondent for any medical director duties. Respondent also asserts he did not have any ownership interest in Advanced Medical Care. Advanced Medical Care employs Cassandra Vaughn, a Certified Nurse Assistant (hereinafter "CNA"). CNA Vaughn provides treatments such as ultrasounds with biofreeze, application of a transcutaneous electrical nerve stimulation (hereinafter "TENS") unit, mechanical massage, and soft tissue massage. CNA Vaughn is not a licensed physical therapist or a licensed massage therapist. Ms. Vaughn represented to Respondent that she had the appropriate state licensing to conduct her duties at Advanced Medical Care. Respondent did not confirm staff's credentials. Respondent did, however, co-sign CNA Vaughn's treatment notes. On May 17, 2016, Respondent's medical license was placed on probation for five (5) years for improper practices as the medical director of a pain management clinic. Respondent's medical license was also previously placed on probation for a period of six (6) months for his failure to keep appropriate medical records. Respondent's medical license was again placed on probation for six (6) months in 2007 for an inappropriate breast examination of a patient and an inappropriate comments or questions of a sexual nature made to the patient. The facts stipulated are grounds for discipline. This order shall reprimand Respondent's medical license. Respondent shall pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Pearson motioned to approve the order. Dr. Anderson seconded and the motion passed with Dr. McGraw abstained.

Ira Ellis, MD – did not appear before the Board nor did his legal representative, Mr. James Sperring, appear on his behalf. Mr. Michael Varnell represented the State. Dr. Loyd, Mr. Ellis, and Dr. McGraw recused. Respondent was licensed on December 19, 2003, which is currently set to expire on June 30, 2023. Respondent admits to engaging in a sexual relationship with two (2) resident physicians under his supervision in the Family Medicine Residency Program at the University of Tennessee Health Science Center. Respondent was an attending physician in the program from about 2005 to about 2022. Specifically, Respondent admits he engaged in a consensual romantic relationship with Dr. A. T. one year from about 2019 to about 2020 while she was a resident physician in the program. Respondent further admits to engaging in a consensual romantic relationship with Dr. C. C. for approximately one from about 2016 to about 2017 while she was a resident physician in the program, and he was the attending physician in the program. Respondent contends that the aforementioned relationships had no negative impact on the provision of medical services by Respondent or the aforementioned residents. Respondent is unaware of

any allegations to the contrary. As indicated below, Respondent has agreed to undergo an evaluation by the Tennessee Medical Foundation (hereinafter “TMF”). However, Respondent and the Department agree there is no suggestion, allegation, or proof of drug or alcohol abuse by Respondent and that said evaluation is for the sole purpose of evaluating and enhancing professional boundaries for the conduct described above. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s medical license. Within one (1) year, Respondent must enroll in and successfully complete the two (2) day medical course entitled “Medical Ethics, Boundaries & Professionalism” offered at The Case Western Reserve University Continuing Medical Education Program, or an equivalent course approved in advance by the Board’s Medical Consultant. Within ninety (90) days, Respondent agrees to undergo an evaluation coordinated through the TMF for the purpose of evaluating the conduct described above. Respondent shall comply with any and all recommendations by TMF. Respondent shall cause a copy of this evaluation to be forwarded to the Board’s disciplinary coordinator by TMF. If the recommendations of the TMF-coordinated evaluation include follow-up or continuing treatment, Respondent agrees to enter into an aftercare agreement with TMF within thirty (30) days. During any period in which Respondent has an aftercare agreement with TMF, they must comply with the requirements listed in the Order. Respondent shall pay all actual and reasonable costs of the case not to exceed one thousand dollars (\$1,000.00). Dr. Miller motioned to approve the order. Dr. Pearson seconded and the motion passed.

Nathan Smith, MD – did not appear before the Board nor did his legal representative, C.J. Gideon, Jr., appear on his behalf. Mr. Michael Varnell represented the State. Dr. McGraw, Ms. Claxton, and Dr. Pearson recused. Respondent was licensed on April 15, 2020, which is currently set to expire on August 31, 2023. Respondent, a board-certified surgeon, fellowship trained in cardiothoracic surgery, began practicing at Bristol Regional Medical Center in July 2020. The CEO of Bristol Regional Medical Center, Greg Neal, was a friend of Respondent and the two were well-acquainted. Mr. Neal participated in the recruitment of Dr. Smith to Bristol, Tennessee. On or about August 17, 2020, Respondent was scheduled to perform a 3-vessel coronary artery bypass graft on a patient. Prior to the scheduled surgery, Respondent invited Mr. Neal to scrub in to observe the surgery. Dr. Smith understood that Mr. Neal had scrubbed into other surgical procedures previously. Mr. Neal agreed, and as a result was present in the operating room for the beginning of the surgery, gloved and gowned. Respondent knew that Mr. Neal was not licensed as a medical doctor and was not aware that Mr. Neal had any formal medical training or education. Dr. Smith assumed, based on Mr. Neal’s agreement to scrub in, and his skill in doing so properly, that Mr. Neal had appropriate credentials to be present and participate in the case. At the beginning of the surgery, Respondent performed a surgical timeout, drew a line on the patient’s chest, and invited Mr. Neal to make the initial, superficial incision. Mr. Neal agreed. Respondent handed Mr. Neal a scalpel and showed him how to hold it. Mr. Neal made a shallow, superficial incision of the patient’s chest over the sternum. Witnesses described the incision as superficial and as drawing very little blood. Respondent then took the scalpel back from Mr. Neal and took over the procedure, opening the patient’s sternum the rest of the way while Mr. Neal held a suction device and a pair of forceps. Mr. Neal then stood aside, and other staff assisted with the remainder of the procedure. A physician assistant who helped with the surgery is a relative of Respondent’s. Mr. Neal took several photos of Respondent and his relative in the operating room as a component of a public relations event for the Hospital which had been planned prior to this surgical procedure. Mr. Neal later left the operating room, and the surgery was completed without further incident. At the end of the surgery, Respondent asked a registered nurse to take photos of him and his relative standing in the OR with Respondent’s cell phone. Portions of the patient’s body were visible in at least some of the pictures Respondent had taken, but not the patient’s face. The patient is not identifiable in any of the photographs taken in the operating room. The patient did not experience any complications or require any additional medical care as a result of Mr. Neal’s involvement in the surgery. Following these events, Respondent asserts that he agreed not to exercise his surgical privileges while an investigation by Bristol Regional Medical Center was undertaken. Respondent further asserts that he negotiated a mutually agreeable termination of his employment in Bristol, Tennessee. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s medical license.

Within six (6) months, Respondent must enroll in and successfully complete the two (2) day medical course entitled “*Medical Ethics, Boundaries & Professionalism*” offered at The Case Western Reserve University Continuing Medical Education Program, or the course entitled “*Maintaining Proper Boundaries*” offered at Vanderbilt University Medical Center, or an equivalent course approved in advance by the Board’s Medical Consultant. Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Anderson motioned to approve the order. Dr. Miller seconded and the motion passed with Dr. McGraw, Ms. Claxton, and Dr. Pearson recused, and Dr. Loyd opposed.

Darin Hale, MD – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Elta Breen represented the State. Respondent was licensed on November 15, 2011, which is currently set to expire on September 30, 2022. Respondent was the medical director of the medical spa, Snooty Anti-Aging and Wellness (now, Ageless Medical), for approximately twenty-four (24) months, from about 2016 to 2018. During this time, Respondent visited the spa weekly to see patients, supervise the nurse practitioner, and sign medical records. Additionally, although spa staff provided cosmetic medical services, including injecting dermal fillers and Botox, the spa was not registered with the Board. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s medical license. Respondent shall pay twenty-four (24) Type C civil penalties for a total of one thousand two hundred dollars (\$1,200.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Loyd motioned to approve the order. Mr. Ellis seconded, and the motion passed.

Matthew Stone, MD – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Elta Breen represented the State. Dr. Pearson recused. Respondent was licensed on August 27, 2014, which is currently set to expire on December 31, 2022. Respondent was the medical director of the medical spa, Snooty Anti-Aging and Wellness (now, Ageless Medical), for approximately forty-eight (48) months, from about 2018 to 2022. During this time, Respondent supervised spa staff and visited the spa at least once per month to sign charts and was available by phone for any questions or consults. Additionally, although spa staff provided cosmetic medical services, including injecting dermal fillers and Botox, the spa was not registered with the Board. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s medical license. Respondent shall pay forty-eight (48) Type C civil penalties for a total of two thousand four hundred dollars (\$2,400.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Ms. Claxton motioned to approve the order. Dr. Miller seconded the motion, and the motion passed with Dr. Pearson recused.

Ning Wang, LAc – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was certified on October 27, 2011, which is currently set to expire on June 30, 2024. At all times pertinent hereto, Respondent practiced acupuncture as the owner of Nashville Acupuncture and Herbs located in Nashville, Tennessee. On or about August 11, 2021, Patient G.K. obtained acupuncture treatment from Respondent at Nashville Acupuncture and Herbs. Patient G.K. reported that Respondent instructed her to remove her shirt and made inappropriate comments while providing the acupuncture treatment. From in or about July 2020 until November 2021, Respondent’s certificate to practice acupuncture lapsed. During this time period, Respondent practiced acupuncture on a lapsed certificate. Respondent stated that he inadvertently forgot to renew his license due to COVID pandemic. The facts stipulated are grounds for discipline. This order shall place Respondent’s certificate to practice acupuncture on probation for a period of not less than twelve (12) months on the terms and conditions outlined in the Order. During the period of probation, Respondent shall obtain a total of ten (10) additional hours of Committee approved continuing education in ethics and sexual boundaries. These ten (10) hours are in addition to the hours required to maintain current licensure. Respondent must provide proof of completion of the additional ten (10) hours to the disciplinary coordinator within twelve (12) months. Respondent shall pay fifteen (15) Type C civil penalties in the

amount of seven hundred and fifty dollars (\$750.00). Upon completion of probation, continuing education hours, and payment of civil penalties, Respondent's certificate shall be returned to unencumbered status. Dr. McGraw motioned to approve the order. Dr. Loyd seconded and the motion passed.

VI. **ORDERS OF COMPLIANCE**

Shelton Hager, MD – did not appear before the Board nor did his legal representative, Mr. Jimmie C. Miller, Esq., appear on his behalf. Ms. Francine Baca-Chavez presented the Order of Compliance. The original Consent Order did not require Dr. Hager to appear before the Board to petition for an Order of Compliance. The petition requests the Board lift the restriction on prescribing opioids. The licensure probationary period and practice monitoring agreement delineated in the Order are still in effect. It is the position of the Disciplinary Coordinator and the Office of General Counsel that he is compliant with the terms of his previous order. Mr. Ellis motioned to accept the order of compliance to lift Dr. Hager's restriction on prescribing opioids. Dr. Anderson seconded the motion and it passed.

VII. **PRESENTATION FROM DR. PETER PHILLIPS, TDOH CSMD DIRECTOR**

Peter Phillips, DPh, TDOH CSMD Director, presented to the Board the new Gateway servicer extension and the enhanced prescriber report. The Gateway service integrates the CSMD web portal with electronic medical records to allow providers to view the CSMD patient data within the clinical workflow of their electronic medical records. At present there are over 400 users of the Gateway service with over 300 users still pending integration of their electronic medical records. All prescribers may still utilize the traditional CSMD web portal. Not all electronic medical records have the ability to support the integration at this time, so they are working with larger care networks on updating their software. With the Gateway service integration there is still an internal audit system to determine who is accessing the information. The integration is largely funded by grants. The grant funding is set to run out in December 2022. Dr. McGraw motions to table the decision for funding until the November 1, 2022, Board of Medical Examiners meeting. Mr. Ellis seconds the motion, and it passes.

Next Development Committee Agenda

- a. Supervision rules for mid-level care providers
- b. Minimum discipline for sexual misconduct
- c. Re-entry Task Force

VIII. **PUBLIC COMMENT** – No public comment.

The Board recessed at 3:40 pm CT.



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

Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners

Wednesday, September 28, 2022

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:43 a.m. in the Iris and Poplar Room Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243.

Board members present: Stephen Loyd, MD, Vice President
Robert Ellis, Consumer Member, Secretary
Phyllis Miller, MD
Jennifer Claxton, Consumer Member
Randall Pearson, MD
Keith Anderson, MD
John McGraw, MD
John Hale, MD
James Diaz-Barriga, Consumer Member

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Tracy Alcock, JD, Office of General Counsel
Jessica Turner, JD, Office of General Counsel
Gerard Dolan, JD, Office of General Counsel
Jae Lim, JD, Office of General Counsel
Stacy Tarr, Executive Director
Brandi Allocco, Administrative Director
Samantha Green, Board Administrator

Loran Karlosky, MD – appeared before the Board along with their legal representatives, Stephen Ross Johnson, Esq. and Karin Anderson, Esq., to submit a petition for Declaratory Order. Ms. Tracy Alcock represented the State. Dr. Loyd recused. The petition concerns the applicability of the Tennessee statute, T.C.A. § 63-1-170, to Dr. Karlosky. This statute became effective on May 18, 2021, but is not applicable to licensee matters first noticed to the Tennessee Board of Medical Examiners prior to that date. Dr. Karlosky was indicted on April 18, 2019, and immediately notified the Tennessee Board of Medical Examiners following the indictment. Pursuant to T.C.A. § 63-1-170, Dr. Karlosky would be subject to an automatic revocation of his medical license for any criminal conviction that involves a controlled substance violation. Dr. Karlosky is requesting a Declaratory Order establishing that T.C.A. § 63-1-170 does not apply to his medical license. Ms. Alcock briefly went over the difference between indictment and sentencing in relation to convictions. The statute specifically references criminal conviction, which

did not occur for Dr. Karlosky until September 2022. Ms. Claxton motioned to deny the petition. Dr. McGraw seconded the motion, and the motion passed with Dr. Loyd recused.

The regular Board business concluded.

Informal Hearing for Summary Suspension – Iris Room

Mary Baldwin, MD v. State of Tennessee Board of Medical Examiners

Iris Room

**Panelists: Randal Pearson, MD, Robert Ellis, Consumer Member, and Stephen Loyd, MD
Counsel for State: Jessica Turner, Deputy General Counsel**

Dr. Baldwin did not appear before a panel of the Board, nor did a legal representative appear on her behalf. Ms. Jessica Turner relayed to the Board that Dr. Baldwin had notified her via text message just prior to the meeting that she was unable to attend due to illness. The panel has decided to postpone the informal hearing until the November 2022 Board of Medical Examiner’s meeting to allow Dr. Baldwin to appear.

Contested Case – Poplar Room

Brian Waggoner, MD v. State of Tennessee Board of Medical Examiners

Poplar Room

Administrative Law Judge: Rachel Waterhouse

Panelists: John Hale, MD, John McGraw, MD, and Jennifer Claxton, Consumer Member

Counsel for State: Gerard Dolan, Senior Associate General Counsel

Counsel for Respondent: Thomas A Wiseman, Esq. and Jordan Couch, Esq.

After consideration of the Notice of Charges, the evidence presented by both parties, and the record as a whole, the Board finds as follows:

The Board issued its Final Order in the Matter of Brian Waggoner, M.D., on March 1, 2019. Pursuant to T.C.A. § 63-1-144, the Board’s Final Order assessed the actual and reasonable costs of prosecuting the case to extent allowed by law, including all costs assessed against the Board by the Department’s Bureau of Investigations in connection with the prosecution of this matter. The Board’s Final Order stated that the costs assessed shall not exceed one hundred thousand dollars (\$100,000.00). The Department subsequently issued an Assessment of Costs in the amount of ninety-seven thousand seven hundred thirty-eight dollars and five cents (\$97,738.05). Respondent appealed the Board’s Assessment of Costs to the Chancery Court of Putman County. On December 7, 2021, the Chancery Court remanded the Final Order to the Board to determine the reasonableness and necessity of the attorney’s fees and expenses incurred by Department in prosecuting the case. The Board held a hearing to determine the reasonableness and necessity of the attorney’s fees and expenses incurred by the Department in prosecuting this matter on September 28, 2022. At the hearing on September 28, 2022, the Department submitted evidence supporting the Assessment of Costs, including a spreadsheet prepared by the Department’s Office of General Counsel, invoices from the expert witness and court reporters retained in this matter, the Certifications of Costs from the Department’s Bureau of Investigations and the Secretary of State’s Administrative Procedures Division. The conclusions of law are outlined in the order. After discussion and questions, the panel motioned and seconded, which was followed by an approval of the Final Order with all findings of fact and conclusions of law considered and agreed upon.

DISCIPLINARY ORDERS

Agreed Order(s)

Carroll Odem, MD – did not appear before the Board nor did his legal representative, Mr. Gregory Brown, Esq, appear on his behalf. Mr. Jae Lim represented the State. Respondent was licensed on September 9, 1993, which is currently set to expire on December 31, 2022. While Respondent neither admits nor denies the following allegations, for purposes of settling this matter without further litigation and cost, Respondent acknowledges that the Department’s proof at the contested hearing would establish the following facts as alleged. The Department reviewed the medical records of thirty (30) of Respondent’s patients from approximately 2014 to 2017 as part of its investigation of this matter. From at least January 2014 through December 2017, Respondent improperly prescribed to his patients various controlled substances, including opioids, muscle relaxants, and benzodiazepines – frequently in combinations. The records indicate that Respondent prescribed controlled substances without adequate medical justification for their amounts, combinations, and durations. The records also suggest that Respondent did not properly discuss with the patients the risks and benefits of long-term opioid treatment and failed to adequately counsel patients regarding the dangers of taking combinations of certain controlled substances. Additionally, the records show that Respondent failed to use pain contracts or drug screens to monitor patients for drug use and/or diversion. Respondent asserts that during the period of time at issue, he attempted to titrate many of his patients to lower amounts of opioid medication to become more in line with current practice standards. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s medical license. Respondent is prohibited from prescribing opioids for six (6) months. During this six (6) month period, Respondent is also prohibited from collaborating with any advanced practice registered nurses or physician assistants for prescribing or issuing opioids. Respondent must enroll in and successfully complete within ninety (90) days, all required coursework outlined in the Order. Respondent shall pay five (5) Type A Civil penalties for a total of two thousand five hundred dollars (\$2,500.00). Respondent shall pay all actual and reasonable costs of the case not to exceed thirty-eight thousand dollars (\$38,000.00). Dr. McGraw motioned to approve the order. Ms. Claxton seconded the motion and it passed.

This concludes the Board of Medical Examiners Day 2 meeting.