



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

**Tuesday, November 2, 2021
Wednesday, November 3, 2021**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:33 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
Deborah Christiansen, MD
Samantha McLerran, MD
Jennifer Claxton, Consumer Member
Randall Pearson, MD
W. Reeves Johnson, MD
Phyllis Miller, MD

Board member(s) absent: Neal Beckford, MD
Julianne Cole, Consumer Member
John Hale, MD

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Rene Saunders, MD, Medical Consultant, BME
Angela Lawrence, BME Executive Director
Stacy Tarr, Administrative Director
Candyce Wilson, Administrative Director
Brandi Allocco, Board Administrator
Samantha Green, Board Administrator

I. CONSIDERATION OF APPLICATIONS

Medical Doctor Applicant Interview(s):

Maruf Sarwar, MD – appeared before the Board without a legal representative. Dr. Sarwar resigned from his residency program as a PGY-2 due to competency questions. He was given full credit for the first year. He is currently not eligible for ABMS Board Certification with this history. Dr. Sarwar

provided the Board with an in-depth explanation on the personal factors which contributed to him leaving his residency program. Currently, he reports taking time off from residency to work on these personal factors and medical research. He reports having job opportunities in Tennessee if he obtains licensure. The consensus of the Board is that he has met the minimum statutory requirements for licensure but there is a concern regarding his clinical competency based on the postgraduate training verification form received where the program director does not recommend the applicant for licensure. Dr. Sarwar contends he was competent in all areas barring professionalism. The Board is interested in receiving further information from the program director regarding this matter. This discussion has been paused until later to allow staff time to consult with the program director.

Abdul Haji, MD – appeared before the Board without legal representation. Dr. Haji was terminated from a Veterans Administration clinical position after an investigation into a workplace complaint from a subordinate. Although the current policy addresses only the physician-patient relationship, the Board's most recent discussions have been directed toward consideration of other physician-based relationships. Dr. Haji asserts the actions reported against him are being taken out of context, but the Veterans Administration has a zero-tolerance policy. Dr. Haji reports he has no prior board action in any other state and has obtained unrestricted licensure in North Dakota since the incident. While there is no current policy to address the matter, it is against the code of ethics followed by this Board. The Board discussed potential coursework on professional boundaries which the applicant could take. Dr. Michael Baron, Tennessee Medical Foundation (TMF) Medical Director, presented before the Board. Dr. Baron reports he is not aware of the applicant's history, however the TMF would be able to obtain records and refer the applicant for an evaluation. Dr. Johnson consulted Dr. Barron on next steps. Dr. Christiansen motioned to table the application for up to six (6) months for the applicant to contact TMF for an evaluation and for the evaluation to be available to the full Board for further licensure consideration. Dr. Johnson seconded the motion and it passed. It was discussed that the applicant may go ahead and begin to follow the recommendations of that evaluation before appearing before the Board again.

Dr. Stephen Loyd joined the meeting during the last applicant interview.

Peter Driscoll, MD – appeared before the Board without legal representation. Dr. Driscoll has been disciplined by four (4) medical boards over the past twelve (12) years, as well as having settled as many as seven (7) medical malpractice lawsuits. He has submitted no evidence of appropriate training or certification in cosmetic and plastic surgery, and the author of one of his letters of recommendation has suggested he attend a Fellowship in this area. Dr. Driscoll remains under practice monitoring in NC until December 2022 and requires monitoring reports to ensure compliance. Dr. Driscoll has undergone a fellowship in Cosmetic Surgery, however that fellowship is not recognized by ABMS. Dr. Driscoll states he does not plan to practice Cosmetic Surgery, and instead intends to return to the practice of Otolaryngology. On the application materials submitted by the applicant, he indicated his intended primary specialty practice in Tennessee is Otolaryngology and Cosmetic Surgery.

Dr. Driscoll gave a summary of his malpractice claims and disciplinary orders. The Texas Medical Board reprimanded Dr. Driscoll's license in 2015. Dr. Driscoll closed his practice and left Texas for California. California placed Dr. Driscoll's license on probation, based on the Texas action from 2015. Dr. Driscoll left California for New Jersey, where they reprimanded his license and required chart monitoring. The applicant reports he has completed one round of chart monitoring for the New Jersey Board. Dr. Driscoll had received a job offer in North Carolina and obtained a restricted license in North Carolina, however, upon further investigation the credentialing committee was unable to provide Dr. Driscoll with staff privileges. The Applicant has an offer for monitoring by Dr. Marvel in Tennessee. Through the monitoring and mentorship, Dr. Driscoll hopes to reenter the practice of Otolaryngology. Dr. Saunders had emailed the applicant prior to his appearance yet did not receive a response from the applicant. Dr. Driscoll covered his work history in North Carolina, and briefly went over his monitoring agreement with

New Jersey. Dr. McLerran questioned the Applicant on his ability to complete any of the consent orders. Dr. Driscoll indicated he surrendered his California medical license and cancelled his Texas medical license, prior to completion of the Consent Orders. Dr. Pearson motions to deny the license. Dr. McLerran seconds the motion. Dr. Johnson further questioned the applicant about the mentorship program with Dr. Marvel. The Board offered the applicant to withdraw his application based on the consensus of the Board. The applicant requested to withdraw his application.

Kristin Dobay, MD – appeared before the Board with his legal representation, Ms. Kimberly Silvus. Dr. Dobay chose to voluntarily surrender his Tennessee medical license while under investigation in 2019. The basis for the cause of action included substance use disorder and inappropriate prescribing of controlled substances. The Order had several requirements that needed to be satisfied prior to submitting an application for new license. Additionally, Dr. Dobay has been out of clinical practice since surrendering his license. Dr. Dobay provided the Board with a brief overview of events that have occurred since his Tennessee license was revoked. He has been under contract with TMF for about a year and a half. Dr. Dobay has not clinically practiced since May 2019. The recommendation from VCAP is that the applicant should not be a solo practitioner. Dr. Dobay intends to practice locum tenens or private practice.

Dr. Baron provided an overview of the applicant's compliance with TMF and fully advocates for him to obtain licensure. Dr. Baron reports the applicant has shown wonderful progress towards an attitude change over the last year and a half. The Board, with Dr. Baron, discussed options towards practice monitoring if licensed. Ms. Silvus presented before the Board. Ms. Silvus reminded the Board there has not been a patient complaint against Dr. Dobay. There was a DUI matter, and professional and personal boundary issues, and she provided an overview of what Dr. Dobay has completed and participated in to overcome those issues. She addressed the Board's concern regarding the VCAP's concern of solo practice. She stated the reason provided for that recommendation is based on the need for him to be in a practice situation where he can have mentorship and reporting to TMF. However, if he has a contract with TMF, then the TMF is checking in with him regularly.

Dr. Johnson expressed concerns regarding the practice monitoring of Dr. Dobay due to previous issues with overprescribing. As an OBGYN, Dr. Dobay will need to prescribe controlled substances, but should the Board restrict Dr. Dobay's ability to prescribe he will need to be apart of a practice where there are other providers to monitor his prescribing. Ms. Silvus directed Dr. Johnson to the most recent VCAP recommendation from May 2021, which does not suggest restricted prescribing abilities. Dr. Loyd addressed Ms. Silvus's request for unrestricted licensure with concern regarding Dr. Dobay's previous noncompliance with TMF suggestions until the Board action in 2018. Ms. Silvus countered that Dr. Dobay had gone to TMF following a 2011 DUI conviction. TMF recommended at that time that Dr. Dobay should be evaluated by Cumberland Heights to determine whether or not he needed inpatient services. Dr. Dobay was evaluated, and Cumberland Heights determined that he did not need inpatient services. In 2018, Dr. Dobay was charged with a second DUI which led to the 2018 Consent Order. At the time of the charge, St. Thomas recommended Dr. Dobay seek another evaluation from TMF. Dr. Dobay did not comply with the recommendation until the Board order. Dr. McLerran expressed the Board has underlying concerns that he had a lengthy history of issues before treatment and help from TMF was received and that the treatment was not sought until after the Board required him to.

Ms. Baca-Chavez indicates the applicant did file a petition for order of compliance to the 2018 order. In consideration of the documents provided, the Board can consider that he is compliant with his previous order. Ms. Baca-Chavez stated the Board will need to act on this petition. Also, as the Board crafts a decision towards licensure, they will need to address the VCAP recommendations, which includes lifetime monitoring by the TMF, individual psychotherapy, and possible license restrictions. The Board will also need to consider the re-entry pathway for licensure.

Dr. Christiansen motioned to accept the order of compliance. Dr. Johnson seconded the motion and it passed. Dr. Blake stated there is a need to develop a re-entry pathway and requests that Dr. Miller and Dr. Saunders will work together to craft that. It was stated the reentry plan will be devised by Dr. Saunders and Dr. Miller based on the re-entry diagram and process and is not up for debate by the applicant, but staff may keep the applicant apprised. The board led a lengthy discussion on factors to consider in granting licensure as contingent versus conditional licensure, re-entry requirements and practice monitoring. The possibility of limited licensure versus full licensure was discussed as well. Dr. Christiansen motioned to grant a license conditioned on lifetime TMF monitoring, with advocacy, agreement that if deemed appropriate by the TMF, after a minimum of ten (10) years the monitoring may be dissolved with a report back to the medical board with appearance before the board and board approval, conditional on completing a board approved re-entry pathway within twelve (12) months, which is to be devised and approved by Dr. Saunders and Dr. Miller, conditioned on not being in independent/solo practice for a minimum of five (5) years and his practice should be exclusively limited to OBGYN practice, quarterly reports will be sent to the disciplinary coordinator. Dr. Pearson seconded the motion and the motion passed.

Dr. Miller joined the meeting halfway through the prior discussion.

Maruf Sarwar, MD (continued) – Dr. Sarwar’s program director, Dr. Trabue, would like to discuss the matter with the program’s administrative staff prior to speaking with the Board. Dr. Pearson motioned to table the application until the Board may speak with Dr. Trabue. Mr. Ellis seconded, and the motion carried.

II. FISCAL REPORT FROM MS. ALICIA GRICE, FISCAL DIRECTOR OF THE OFFICE OF HEALTH LICENSURE AND REGULATION

Ms. Grice presented the Board’s fiscal year 2021 report. She reports that the Board is no longer in the red, which is a positive change. A contributing factor, according to Ms. Grice was the decrease in travel due to Covid-19. She expects this to change as in-person meetings have resumed.

The Board recessed for lunch.

III. PRESENTATION BY MARY KATHERINE BRATTON, CHIEF DEPUTY GENERAL COUNSEL AND NATHANIEL FLINCHBAUGH, SENIOR ASSOCIATE COUNSEL FROM THE OFFICE OF GENERAL COUNSEL

Ms. Bratton discussed the new discipline process. She reports that the Disciplinary Coordinators are now under the Office of General Counsel. Previously, the Disciplinary Coordinators were under the Office of Investigation. This move is to help streamline the discipline process. Future reports from the Disciplinary Coordinators will be included in the Office of General Counsel Reports. Ms. Bratton introduced Nathaniel Flinchbaugh, who will oversee the Disciplinary Coordinators within the Department of General Counsel. Mr. Flinchbaugh introduced himself to the Board and gave a brief overview of his background.

IV. PRESENTATION BY DAVID SILVUS, DEPUTY OF THE OVERPRESCRIBING TEAM IN THE OFFICE OF GENERAL COUNSEL

Mr. Silvus presented the parameters for issuing the minimum disciplinary guidelines for opioid prescribing cases. He clarified that the minimum is the threshold by which the charging panel may not rule below, however should a case warrant a greater level of discipline, then it is to the discretion of the

charging panel what discipline should be issued. The Administrative Law Judge should be presenting these guidelines, when applicable, to the charging panel in hearings. Also, attorneys will address the disciplinary parameters when making their recommendations for discipline. Although the minimum discipline may be used in other prescribing cases, the rule only applies to opioid prescribing cases. Dr. Loyd requested further clarification of the minimum discipline and when it should be applied. Mr. Silvus summarized the rule and listed the minimum discipline outlined by the rule.

V. REQUEST FOR SPONSORSHIP TO RETAKE THE USMLE BY DR. ABAYOMI E. OSO

Dr. Oso reports in February 2014 he was unsuccessful at his first attempt of Step 1 of the USMLE. He retook the exam in September of 2014 and learned he had passed through the ECFMG website. Dr. Oso went on to take Step 2 of the USMLE and eventually passed both the Clinical Knowledge and Clinical Skills sections. He later discovered during his residency program interview, in 2017, that he had not passed Step 1. Dr. Oso reached out to ECFMG regarding his scores and was asked to send a copy of his score report. Upon sending the score report to ECFMG, an investigation was launched by the USMLE's Committee for Individualized Review (CRI) regarding the authenticity of the score report. The CRI determined from their investigation that the score report was falsified, resulting in a three (3) year bar from taking future examinations. All future score reports for Dr. Oso will contain the annotation of irregular behavior. Dr. Oso was also excluded for three years from qualifying for ECFMG certification. The three years ended in August 2021, however the USMLE would not lift the bar without sponsorship from a state medical board.

Dr. Oso attests he would never forge this document and risk his career. The Board requested to review a copy of the score report Dr. Oso had on hand, which he reports was printed from the ECFMG website. Dr. Blake questioned how Dr. Oso was able to sit for Step 2 if he had not successfully completed Step 1. Dr. Saunders clarified that there is no particular order in which you have to take Steps 1 and 2, only that Steps 1 and 2 must be successfully completed before an applicant may sit for Step 3. Dr. Pearson motioned to not recommend this sponsorship and Dr. McLerran seconded the motion. Ms. Claxton questioned what the harm would be in granting the sponsorship for him to complete the step again. The motion failed. Dr. Johnson motioned to approve the request to sponsor Dr. Oso to complete the step again. Ms. Claxton seconded the motion. The motion passed with Dr. McLerran, Dr. Christiansen, and Dr. Pearson opposed.

VI. DISCIPLINARY ORDERS – ORDERS OF COMPLIANCE

Wayne Yakes, MD – appeared before the board with legal representation, Mr. Matthew George. Ms. Baca-Chavez presented the order of compliance. 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, from September 2017, aside from having monitoring reports sent regularly. Mr. George reports it was their understanding that Colorado Physician's Health had been transmitting the required reports. It was not until a final letter of release from the monitoring agreement was requested by Mr. George that he discovered a release had not been filed with Colorado to have monitoring reports sent to Tennessee. Mr. George requests that the board does not fault Dr. Yakes for this as he had still completed the monitoring, and he has completed all the Colorado probationary order without any infractions. Dr. McLerran motioned to accept the order of compliance. Mr. Ellis seconded the motion and it passed.

Joseph Montgomery, MD – appeared before the board without legal representative. Ms. Baca-Chavez presented the order of compliance. 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, from September 2016. The Board led a brief discussion with the Petitioner regarding supervision of mid-levels as it pertains to

prescribing. Dr. Christiansen motioned to accept the order of compliance. Dr. Miller seconded the motion and it passed.

Louis Koella, MD - appeared before the board without his legal representative, Ms. Wells Trompeter. Dr. Loyd recused. Ms. Baca-Chavez presented the order of compliance. 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, from March 2016 and May 2017. Dr. Johnson motioned to accept the order of compliance. Ms. Claxton seconded the motion and it passed with Dr. Loyd recused.

VII. CONDUCT NEW BUSINESS

- a. **Consider request to send Administrative Office staff and the Office of General Counsel staff to FARB Forum** – Staff requested approval to send at least three (3) staff members. Dr. McLarren motioned to for approval to send one Ms. Baca-Chavez, Ms. Lawrence, and Dr. Saunders. Mr. Ellis seconded the motion and it passed.
- b. **Discuss and take action regarding screen panels** – Given there are several Board members whose terms have ended it may be considered to see if they could serve on a screening panel for the Board. The statute allows for non-board members to continue to sit on screening panels. Ms. Baca-Chavez requested the Board to consider allowing this as an option. Dr. Christiansen motions to support former Board members to sit on screening panels for up to one (1) year after their time on the Board, and for there to only be up to one (1) previous Board member on a panel at a single time. Ms. Claxton seconded the motion and it passed.

VIII. UPDATES FROM TASKFORCES & COMMITTEE MEETINGS

- a. **Development Committee Meeting Update (Dr. Loyd, Dr. Blake, Dr. Johnson, Dr. Beckford, Mr. Ellis and Dr. Christiansen)** – The committee did not meet yesterday, September 20, 2021. So, the Board will take up that agenda at this meeting.
 - i. Public Chapter 328 – Staff has divided the rules up and will bring sections of rules before the Committee to review each meeting. Dr. Blake has requested that each category to be reviewed be e-mailed to the Board members. Ms. Baca-Chavez requested any suggestions be sent directly to her so she may combine the ideas.
 - ii. Discuss volunteer CME hours – Ms. Baca-Chavez reports to our knowledge no physician has attempted to receive credit for volunteer hours and been denied. T.C.A. § 63-6-712 allows for volunteer hours to be submitted as continuing medical education. The sponsoring organization for the volunteer hours must register with the Division of Health-Related Boards. The Board does not need to promulgate any rules, as there is currently a process in place. The Department is looking at how to make this process more user friendly. Dr. Blake suggests creating a frequently asked question section to navigate submitting volunteer hours. Ms. Baca-Chavez notes that the Department is looking into making the website easier to navigate.
 - iii. Discuss and consider monitoring for disciplinary orders – Dr. Blake reported this discussion was covered by Ms. Bratton’s presentation from earlier in the meeting.
 - iv. Advisory Opinions –
 1. Thomas G. Higgins, MD – Dr. Higgins is requesting an exemption from Rule 0880-2-.14(c) to allow prescribing of amphetamines for hypersomnia. 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 approved

indications, as well as other proposed changes. The proposed rules have not had a rulemaking hearing, so the Board is granting the authority to prescribe amphetamines under the conditions of the proposed changes for the licensee making the inquiry. Dr. Christiansen motioned to approve the drafted response. Mr. Ellis seconded the motion and it passed.

2. Myron Stokes, MD – Dr. Stokes is requesting to serve as a supervising physician for certified nurse practitioners under consideration of his Order of Compliance, dated November 29, 2017. Under section 0880-6-.02, “a supervising physician must possess a current unencumbered license to practice in the state of Tennessee.” Dr. Stokes is contracted to provide wound and foot care to residents of nursing homes and assisted living facilities in the Mississippi area. The company is expanding into Tennessee and would like Dr. Stokes to serve as the supervising physician for certified nurse practitioners. While the medical services provided by the nurse practitioners are allowed under the current licensure restrictions, the Board considers any restrictions on a license to be an encumbrance such that Dr. Stokes is not at this time permitted to serve as supervising physician. Dr. Christiansen motioned to approve the drafted response. Mr. Ellis seconded the motion and it passed.

IX. CONSIDER AND APPROVE CONSENT AGENDA

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

1. Approval of September 21-22, 2021 Board meeting minutes
2. Approval of September 20, 2021 Development Committee meeting minutes
3. Ratification of new licenses, reinstatement and renewals of Medical Doctors, MD X-Ray Operators, Genetic Counselors, Clinical Perfusion
4. Review of Administrative Office Statistical Licensing Report
5. Review of the Office of General Counsel Report
6. Review report from the Office of Investigations
7. Review and approve unlicensed practice Agreed Citations – Heather Aldridge, AMDX (license # 5175), James Powers, AMDX (license # 2524), Kailyn Kuhn, AMDX (license # 9889), and Jacie York, AMDX (license # 10588)
8. Review and approve continuing education Agreed Citations – Sreekumar Subramanian, MD (license # 52259), and Terri Tuemler, AMDX (license # 4682)

Disciplinary Order(s) – Consent Order(s)

Kenneth Hayman, MD – did not appear before the Board nor did his legal representative, Brie Stewart, Esq. appear on his behalf. Ms. Paetria Morgan represented the State. Dr. Blake, Ms. Claxton, Dr. Pearson, and Dr. Miller recused. Respondent was licensed on October 13, 1983 which is currently set to expire on November 30, 2021. On or about March 6, 2015, Respondent treated patient R.R. at the emergency department. R.R. had a swollen shut eye, a headache, decreased vision, and abnormal lab values consistent with infection. Instead of providing a more comprehensive emergency department evaluation or admitting R.R. to the hospital, Respondent diagnosed R.R. with temporal arteritis and discharged the patient. R.R. was subsequently diagnosed with meningitis and died. Respondent’s chart documentation for R.R. was significantly inadequate. The facts stipulated are grounds for discipline. This order shall

reprimand Respondent's license. Respondent shall, within six (6) months, complete at least twenty (20) continuing education hours as outlined by the Order. Respondent shall complete, within one (1) year, specific coursework outlined in the Order. Respondent shall pay one (1) Type B Civil penalty for a total of five hundred dollars (\$500.00). Respondent shall pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). There was some discussion over the discipline offered. Some members questioned the procedural process, which occurred because this matter was previously held before a screening panel. It was best explained that if the Board chooses to deny this order, then the matter will go to a contested case hearing. Mr. Ellis motioned to not approve this order. Motion fails for lack of a second. The Board is interested in knowing if the order presented was the exact recommendation of the screening panel. Ms. Morgan will be able to confirm from her notes whether or not this was the panel's recommendation, however she is unable to go into any detail about the discussions that were held to come to that conclusion. Dr. Johnson motions to approve the order. Dr. Christiansen seconded the motion. Mr. Ellis and Dr. McLerran opposed. Dr. Johnson, Dr. Christiansen and Dr. Loyd agreed. The motion passed with Dr. Blake, Ms. Claxton, Dr. Pearson, and Dr. Miller recused.

Francis Letard, Jr., MD – did not appear before the Board nor did his legal representative, Stephen Johnson, Esq. appear on his behalf. Ms. Paetria Morgan represented the State. Dr. Johnson, Dr. Miller, and Mr. Ellis are recused. Respondent was licensed on December 10, 1981 which is currently set to expire on September 30, 2023. In or about 2018, Respondent was employed at Better Health and Wellness in Knoxville, Tennessee. Respondent has never been an enrolled TennCare provider. Respondent's advanced practice registered nurse ("APRN") supervisee was not in the office during or around the week of July 23, 2018. Respondent wrote and issued prescriptions for the APRN's TennCare recipients by using prescription paper that the APRN pre-signed, while his APRN supervisee was out of the office. When the matter was brought to the attention of the Respondent and the practice's medical director, Better Health and Wellness took immediate action by instituting and following a written policy requiring the provider who sees the patient to always be the provider who signs the prescription. The facts stipulated are grounds for discipline. This order shall reprimand Respondent's license. Respondent shall complete specific coursework outlined in the Order. Respondent shall pay one (1) Type A Civil penalty and thirty-two (32) Type C Civil penalties for a total of forty-two hundred dollars (\$4,200.00). Respondent shall pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. McLerran motioned to accept the order. Dr. Christiansen seconded the motion. The motion passed with Dr. Johnson, Dr. Miller, and Mr. Ellis recused.

Ronald McDow, MD – did not appear before the Board nor did his legal representative, Mr. J. Isaac Sanders, appear on his behalf. Mr. Peyton Smith represented the State. Respondent was licensed on February 2, 1982 which is currently set to expire on November 30, 2023. On May 29, 2019, Respondent entered into a Consent Order with the Board, which placed Respondent's medical license on probation for three (3) years. As a term of his probation, Respondent was required to enroll in and successfully complete within one (1) year of the effective date of the Board Order, the two (2) day medical course entitled "Medical Ethics, Boundaries & Professionalism" offered at the Case Western Reserve University School of Medicine. Respondent mistakenly took the Intensive Course in Medical Documentation at the Case Western Reserve University School of Medicine instead, within the time period required by the Board Order. Respondent has completed the required course on September 10-11, 2020 but failed to enroll in and complete the course within one (1) year as required by the Board Order. The facts stipulated are grounds for discipline. Respondent shall pay four (4) Type C Civil penalties for a total of four hundred dollars (\$400.00). 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 the order. Dr. McLerran seconded the motion and it passed.

Andrew Brown, MD – did not appear before the Board nor did his legal representative, Mr. Jimmie C. Miller, appear on his behalf. Mr. Samuel Moore represented the State. Respondent was licensed on

October 25, 2007 which is currently set to expire on August 31, 2022. On or about October 16, 2017, Respondent became the supervising physician for Penny Williams-Cordeiro, APRN. Respondent signed Ms. Williams-Cordeiro's notice and formulary. On or about April 23, 2018, the office of Ms. Williams-Cordeiro at Williams Primary Care in Kingsport, Tennessee was inspected by agents of the Federal Bureau of Investigation. At this time, federal agents collected patient records. On or about April 25, 2019, Respondent added his signature to ten (10) patient records of Ms. Williams-Cordeiro indicating that he had reviewed the prescribing documented therein when in fact he did not. The facts stipulated are grounds for discipline. This order shall reprimand Respondent's license. Respondent must enroll in and successfully complete within ninety (90) days, the three (3) day medical course entitled "*Intensive Course in Medical Documentation*" offered by The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course approved by the Board's Consultant. Respondent shall pay all actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000.00). Dr. Loyd motioned to accept the order. Dr. Christiansen seconded the motion and it passed.

Alexander Alperovich, MD – did not appear before the Board nor did his legal representative, Mr. Stephen Johnson, Esq. appeared on his behalf. Ms. Tracy Alcock represented the State. Dr. Loyd is recused. Respondent was licensed on January 9, 2008 which is currently set to expire on February 28, 2022. From in or around December 2015 to in or around June 2016, Respondent served as the supervising physician Jeffrey Young, R.N., A.P.R.N., who provided treatment to multiple patients, including prescribing controlled substances, at PreventaGenix and GeneXis, in Jackson, Tennessee. As Mr. Young's supervising physician, Respondent was responsible for ensuring Mr. Young complied with the applicable standard of care for prescribing controlled substances. Respondent was responsible for personally reviewing Mr. Young's patient medical records, including those in which he prescribed controlled substances. A criminal indictment was filed on or about April 15, 2019, in the matter of *United States of America v. Jeffrey W. Young, Jr., Alexander Alperovich, M.D., and Andrew Rudin, M.D.*, which names the Respondent as a defendant for felony offenses. Respondent failed to report his federal indictment to the Board within seven (7) calendar days of acquiring actual knowledge of the indictment. On or about May 17, 2019, an order became effective with the New York State Board of Professional Medical Conduct. On or about May 20, 2021, Respondent pled guilty to the felony offense "one count of making a false statement in connection with a health care matter in violation of Title 18, United States Code, Section 1035". The facts stipulated are grounds for discipline. This order shall place Respondent's license on probation for no less than three (3) years. Respondent shall complete specific coursework outlined in the Order. Respondent shall pay six (6) Type B Civil penalties for a total of one thousand two hundred dollars (\$1200.00). Respondent is prohibited from supervising mid-levels, including Advanced Practice Registered Nurses and Physician Assistants. Respondent shall pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). A robust discussion was held regarding the proposed discipline seeming minimal, given the facts stipulated. Dr. Johnson motioned to accept the order. Ms. Claxton seconded the motion. Dr. Christiansen, Dr. Johnson, Ms. Claxton, Dr. Miller and Dr. Pearson agreed. Dr. Blake, Mr. Ellis and Dr. McLerran opposed. Dr. Loyd recused. The motion passed.

Philip Wakefield, MD – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was licensed on June 23, 1983 and that license expired on April 30, 2020. Respondent was also licensed as a medical doctor by the Alabama Board of Medical Examiners. In about February 2021, Respondent voluntarily surrendered his Alabama medical license while under investigation by the Alabama Medical Board. Respondent also entered into a memorandum of agreement agreeing to never seek reinstatement of his Alabama medical license in exchange for the Alabama medical board accepting the voluntary surrender of his Alabama medical license and closing their investigation into Respondent's practice of medicine. The Alabama Medical Board's investigation and Respondent's voluntary surrender were based at least in part on Respondent having engaged in sexual relationships with patients. The facts stipulated are grounds for discipline. This

order shall permanently voluntarily surrender Respondents medical license. Respondent acknowledges that this action shall have the same effect as a permanent revocation. Dr. Pearson motioned to accept this order. Dr. Miller seconded the motion. The motion passed.

Lauren Hunter Cosby, AMDX – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Francine Baca-Chavez represented the State. Respondent was licensed on February 14, 2012 which is currently set to expire on September 30, 2023. From June 2020 through January 2021, Respondent worked as a medical x-ray operator for eight (8) months while her medical x-ray operator certificate was expired. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s 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 two thousand dollars (\$2,000.00). Dr. Johnson motioned to approve the order. Mr. Ellis seconded the motion and it passed.

Jeremiah Mason, MD – did not appear before the Board nor did his legal representative, Mollie Gass, Esq. appear on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was licensed on December 23, 2020 which is currently set to expire on February 28, 2022. On or about December 10, 2020, Respondent submitted an online licensure application and did not disclose that he was being monitored by a physician’s health program (PHP) in North Carolina. Respondent asserts that he voluntarily reported himself to the North Carolina PHP and had been participating in a North Carolina PHP since 2018 for substance use disorder. Respondent asserts that as a result of his voluntary involvement with the North Carolina PHP, his participation was anonymous, and therefore when asked on the Tennessee application, he did not believe he was required to disclose the North Carolina PHP contract. On or about February 9, 2021, Respondent signed a two (2) year contract with the Tennessee Medical Foundation “TMF” to run concurrent with his North Carolina PHP contract. The TMF contract is set to terminate on May 29, 2023. Respondent has maintained TMF advocacy since entering into this contract. The facts stipulated are grounds for discipline. This order shall reprimand Respondents medical license. Respondent shall maintain the advocacy of the TMF and maintain on hundred percent (100%) compliance with all provisions of the TMF monitoring/advocacy contract. Respondent shall authorize the TMF to provide compliance reports to the Board’s medical consultant every three (3) months and shall immediately notify the Board’s medical consultant if at any time Respondent loses TMF advocacy. Respondent complete specific coursework outlined in the Order. Respondent shall pay one (1) Type A Civil penalty for a total of one thousand dollars (\$1000.00). Respondent shall pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Johnson motioned to approve the order. Mr. Ellis seconded the motion and it passed.

Next Development Committee Agenda

1. Public Chapter 328 – Rule review of sections 0880-02-.03 through 0880-02-.08
2. Sexual misconduct policy

X. **PUBLIC COMMENT – None.**

Dr. Johnson reports it is his last meeting to serve on the Board. He provided a brief speech about his time served on the Board and the staff and Board members he has come to know and work with. Board members shared their sentiments on his time served.

The Board recessed at 4:56pm CT.



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

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

Wednesday, November 3, 2021

Two panels of the Tennessee Board of Medical Examiners were called to order at 9:30 a.m. in the Iris and Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243.

Board members present: Melanie Blake, MD, President
Stephen D. Loyd, MD, Vice President
Robert Ellis, Consumer Member, Secretary
Samantha McLerran, MD
Randall Pearson, MD
Phyllis Miller, MD

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Rene Saunders, MD, Medical Consultant, BME
Angela Lawrence, BME Executive Director

Disciplinary Order(s)

Consent Order(s)

Whitaker M. Smith, MD – Dr. Smith’s presence was waived and his legal representative, Mr. Robert J. Kraemer Jr., appeared on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was licensed on June 28, 1999 which is currently set to expire on November 30, 2023. In or about May 2014, Respondent’s employer, Mountain Regional Family Medicine Group, required respondent to obtain evaluation from the Tennessee Medical Foundation (TMF) because of a noticeable patter of cancelling or missing scheduled work days. In or around January of 2015, Respondent underwent a comprehensive evaluation with the Center for Professional Excellence at the request of TMF secondary to a complaint that he was abusing alcohol. On or about January 27, 2015, Respondent signed his first contract with TMF. Respondent signed his second contract on or about March 3, 2017. Respondent is currently compliant with all terms of his TMF contract. Respondent’s contract terminates on March 17, 2022. Respondent wrote several prescriptions for his son from approximately April 2010 through April 2014. Respondent maintained a medical record for their son, although the record does not contain periodic visits to coincide with the prescriptions written. From approximately March 2010 through June 2014, Respondent wrote several prescriptions for his daughter. Respondent maintained a medical record for his daughter, although the record does not contain periodic visits to coincide with the prescriptions written.

Respondent had a relationship with T.Q. outside of the office that was sexual in nature prior to seeing her as a patient. From approximately August 2013 through February 2014, Respondent wrote T.Q. approximately ten (10) prescriptions for a schedule IV controlled substance, and approximately eight (8) prescriptions for a scheduled II controlled substance. On or about February 20, 2014, Respondent sent T.Q. a patient discharge letter stating that she was in violation of her controlled substance agreement. The facts stipulated are grounds for discipline. This order shall reprimand Respondent's license. Respondent shall maintain the advocacy of TMF. Within ninety (90) days of this Order, Respondent must submit proof to the Board's medical consultant that he has notified any physicians, podiatrists, advanced practiced registered nurses, or physician assistants with whom he collaborates of the discipline. Respondent shall complete specific coursework outlined in the Order. Respondent shall not prescribe opioids for at least six (6) months, and until successful completion of required course work. Respondent shall pay five (5) Type A Civil penalty for a total of five thousand dollars (\$5000.00). Respondent shall pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. McLerran motioned to accept the order. Mr. Ellis seconded the motion and it passed.

The regular Board business concluded.

Contested Case – Iris Room

Frank Gaetano Rao, MD v. State of Tennessee Board of Medical Examiners

Iris Room

Administrative Law Judge: Rachel Waterhouse

Panelists: Melanie Blake, MD, Randall Pearson, MD, and Stephen D. Loyd, MD

Counsel for State: Paetria P. Morgan, Senior Associate General Counsel

Counsel for Respondent: Alan D. Hall, 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:

Respondent was granted a Tennessee medical license on August 27, 2013 and this license is currently set to expire on June 30, 2022. On or about April 6, 2018, Respondent prescribed oxycodone/acetaminophen 10-325mg #30 to his wife. Respondent failed to create a medical record for this prescription. On or about August 8, 2018, Respondent prescribed Valium 10mg #90 with two refills to his wife. Respondent failed to create a medical record for this prescription. On or about September 21, 2018, Respondent prescribed Provigil 200mg #180 with two refills to his wife. Respondent failed to create a medical record for this prescription. On or about December 29, 2018, Respondent prescribed Provigil 200mg #180 to himself. Respondent failed to create a medical record for this prescription. The conclusions of law are outlined in the order. This order shall reprimand the Respondent's medical license. The Respondent shall pay one (1) Type A Civil Penalty, and one (1) Type B civil penalty for a total of fifteen hundred dollars (\$1500.00). Respondent shall complete the course entitled *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*. Respondent is restricted from prescribing opioids for six (6) months. Respondent is restricted from collaborating with any advanced practice registered nurses or physician assistants for prescribing opioids during the six (6) month period. Within ninety (90) days of the effective date of this Order, Respondent must submit proof to the Board that he has notified any physicians, podiatrists, advanced practiced registered nurses, or physician assistants with whom he collaborates of the discipline issued by this Order. Respondent must pay actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000). 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.

Hearing for Declaratory Order – Poplar Room

**Mahmoud Hassouba, MD v. State of Tennessee Board of Medical Examiners
Poplar Room**

Administrative Law Judge: Phillip Hilliard

**Panelists: Robert Ellis, Consumer Member, Phyllis Miller, MD, and Samantha McLerran, MD
Counsel for State: Francine Baca-Chavez, Deputy General Counsel**

Counsel for Respondent: James C. Bradshaw III, Esq

A panel of the Board heard the position of the Petitioner and the State and reviewed any evidence presented. After discussion and consideration, the panel motioned and seconded, which was followed by an approval of the following Final Order with all findings of fact and conclusions of law considered and agreed upon.

Petitioner, Mahmoud Hassouba, MD, holds an advanced Medical Doctorate degree in Plastic Surgery, in addition to his Bachelor's Degree in Medicine and Surgery (MBBS) from Ain Shams University in Cairo, Egypt. Petitioner has not completed a three-year ACGME-accredited residency in the United States. Petitioner has obtained extensive training in plastic surgery, both in the United States and abroad. Petitioner completed a plastic and reconstructive surgery residency at Ain Shams University Hospital in Cairo, Egypt from May 2006-January 2011; a Plastic Surgery observership at the University of Toledo Medical Center from January 2011-March 2012; and a plastic reconstructive surgery fellowship at Ain Shams University Hospital in Cairo, Egypt from January 2015-2016. Petitioner has also completed a one (1) year Fellowship in Pediatric Plastic and Craniofacial Surgery at Cincinnati Children's Hospital Medical Center; a one (1) year Fellowship in Craniofacial and Maxillofacial Surgery from the University of Utah, School of Medicine and Affiliated Hospitals; a one (1) year Fellowship in Microsurgery from the University of Tennessee Health Science Center College of Medicine; and a one (1) year Fellowship in Burn Surgery from the University of Tennessee Health Science Center College of Medicine. Petitioner has been working as a Plastic, Reconstructive and Burn Surgery Consultant at three hospitals in Cairo, Egypt since July 2019. Petitioner has an active, unrestricted medical license in the state of Ohio. There is a critical need in Memphis and surrounding areas for physicians with the type of sub-specialty training completed by the Petitioner. The Petitioner has a provisional employment opportunity in Memphis with the University of Tennessee Health Science Center College of Medicine's Department of Plastic Surgery that will partially address this need. The combined training and experience the Petitioner has acquired in the four (4) specialized fellowships in which he has participated have provided him with a distinct combination of surgical techniques and skills needed to provide surgical support to reconstructive and trauma centers in Memphis and its surrounding area. The Petitioner has satisfied by preponderance of evidence that the training he received meets or exceeds the requirements. The petition for Declaratory Order, for this Petitioner, was approved.

**Wael Hussein, MD v. State of Tennessee Board of Medical Examiners
Poplar Room**

Administrative Law Judge: Phillip Hilliard

**Panelists: Robert Ellis, Consumer Member, Phyllis Miller, MD, and Samantha McLerran, MD
Counsel for State: Francine Baca-Chavez, Deputy General Counsel**

Counsel for Respondent: None

A panel of the Board heard the position of the Petitioner and the State and reviewed any evidence presented. After discussion and consideration, the panel motioned and seconded, which was followed by

an approval of the following Final Order with all findings of fact and conclusions of law considered and agreed upon.

Petitioner, Wael Hussein, MD, attended University of Khartoum Faculty of Medicine and obtained a MBBS degree in 1999. Petitioner has not submitted evidence of the satisfactory completion of a three-year US ACGME accredited residency and is not currently certified by an American Board of Medical Specialties, specialty board. Petitioner has completed a two (2) year ACGME approved program and one (1) year in research not ACGME approved. Petitioner has completed several years of post-graduate training in Sudan, Ireland, the United Kingdom, and the United States. This includes a rotating internship at Ribat University Hospital and Ibrahim-Malik University Hospital in Khartoum, Sudan from September 1999 through May 2002; a clinical observership at Ribat University Hospital in Khartoum, Sudan from June 2002 through November 2002; a clinical observership in respiratory medicine at Alshaab University Hospital in Khartoum, Sudan from January 2003 through May 2003; a clinical observership in renal medicine at St. Helier's Hospital in London, UK from July 2003 through August 2003; a clinical observership at Midland Regional Hospital in Mullingar, Ireland from December 2003 through March 2004; a senior house officer (equivalent to resident) at two hospitals in Ireland from March 2004 through June 2006; a general internal medicine registrar (equivalent to senior resident) at Midland Regional Hospital in Ireland from July 2006 through June 2007; a registrar (equivalent to a resident) in nephrology at St. James Hospital, and the Adelaide and Meath Hospital in Dublin, Ireland from July 2007 through June 2008; a specialist registrar (equivalent to a fellow) in nephrology and general internal medicine in Ireland from July 2008 through July 2012; a fellowship in nephrology at Stanford University Medical Center from July 2012 through June 2014; and an advanced fellowship in nephrology – academic path from July 2014 through June 2015. Petitioner held a faculty position at University of Limerick and University Hospital in Limerick, Ireland from July 2016 through December 2017. Petitioner is currently an adjunct assistant professor at Stanford Medical School and is the Vice President of Clinical Research at Satellite Healthcare in San Jose, California. Petitioner currently holds a full and unrestricted medical license in California. Petitioner is accredited by the RCP in Ireland and is currently an adjunct professor of Nephrology at Stanford University Hospital. The Petitioner has satisfied by preponderance of evidence that he has a sufficient amount of experience and expertise to allow the panel to conclude the petitioner meets or exceeds the usual requirements for licensure. The petition for Declaratory Order, for this Petitioner, was approved.

This concludes the Board of Medical Examiners day 2 meeting.