



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

**Tuesday, November 12, 2019  
Wednesday, November 13, 2019**

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**MINUTES**

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The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:35 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. W. Reeves Johnson, Board President.

Board members present: W. Reeves Johnson, MD, President  
Melanie Blake, MD, Vice President  
Charles Handorf, MD, Secretary  
Neal Beckford, MD  
John Hale, MD  
Robert Ellis, Consumer Member  
Phyllis Miller, MD  
Deborah Christiansen, MD  
Stephen D. Loyd, MD  
Samantha McLerran, MD

Board member(s) absent: Julianne Cole, Consumer Member  
Jennifer Claxton, Consumer Member

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel  
Rene Saunders, MD, Medical Consultant, BME  
Angela Lawrence, BME Executive Director  
Stacy Tarr, Administrative Director  
Candyce Wilson, Administrative Director

**I. Federation of State Medical Boards (FSMB) Presentation by Dr. Joseph Willett & Lisa Robin**

Dr. Joseph Willett provided a brief overview of the following:

- Current FSMB leadership structure
- 2019 Actions adopted by the House of Delegates
- New FSMB Policy Initiatives – Special Committee on Strategic Planning, Artificial Intelligence Task Force and Advisory Council on Physician Professionalism in Medical Practice

- Continuing Initiatives – Workgroup on Board Education, Service & Training, Workgroup on Sexual Boundary Violations and Board Action Content Evaluation Task Force
- New and improved DocInfo – increased focus on providing public with information on where and how to file a complaint against a doctor
- FSMB Census of Licensed Physicians in 2018 – 985,026 licensed physicians, 16% increase in physicians since 2010 but still more mid-levels are taking care of the patient population
- Policy on Physician Wellness and Burnout
- Re-entry to Practice Special Committee – 33 boards have requirements for re-entry and 2 years of inactivity is a common trigger of a re-entry policy

Ms. Lisa Robin provided a brief overview of the following:

- Working closely with NPDB to have the report added to the physician profile
- Annual FSMB meeting at the end of April
- Online education
- Uniform Application for State Licensure
- Legislative Summaries & State Comparisons
- FSMB Advocacy and Policy Update – addressing the opioid epidemic, veteran’s affairs, telemedicine, criminal justice reform, CMS rulemaking and occupational license reform
- Interstate Medical Licensure Compact

#### I. CONSIDERATION OF APPLICATIONS

##### **Medical X-Ray Operator Applicant Interview(s):**

**Kevin King, MDXL** – appeared before the Board without legal representation. Mr. King has a history of convictions for driving under the influence. He has already met for an evaluation with the Tennessee Medical Foundation (hereinafter “TMF”). Dr. Michael Baron, Medical Director of TMF, recommends a three (3) year monitoring agreement in which he will abstain from alcohol, provide proof of completion of the twenty-six (26) weeks of DUI School and for Mr. King to enroll in the Vanderbilt Work/Life Connections Program. Dr. Deborah Christiansen motioned to grant licensure conditional on maintaining TMF advocacy for the three (3) year abstinence program. This motion is being made based on the recommendations by TMF and not based on the DUI convictions. Dr. Phyllis Miller seconded the motion and it passed.

**Anna Chapman, MDXL** – appeared before the Board without legal representation. Ms. Chapman has a history of convictions for driving under the influence. She met for an evaluation with TMF and signed a two (2) year monitoring contract. She reports her date of sobriety is 04/19/2016; she voluntarily entered intensive outpatient treatment, attends 12 step meetings and celebrate recovery meetings periodically. She also reports to be active in church. Dr. Baron stated Ms. Chapman appears to be working a recovery program. Given her choice to voluntarily enter treatment, current recovery program and length of sobriety Dr. Baron recommends the board grant licensure contingent on TMF monitoring with the contract she has already signed. The Board led a discussion on whether or not to grant licensure contingent or conditional based on her circumstances. Dr. Reeves Johnson reminded the Board of how this Board is working towards drawing the line between illness and impairment when making these licensure decisions. Dr. Baron commented that Ms. Chapman still has the illness but it is not active thus there is no impairment present. Dr. Charles Handorf motioned to grant licensure. Dr. Stephen Lloyd seconded the motion and it passed with Dr. Neal Beckford and Dr. Christiansen abstained.

Dr. Rene Saunders requested the Board consider having further discussion on how they wish to consider applicants with similar circumstances. She suggests it is not clear if the Board wishes to receive TMF evaluations on applicants prior to them appearing before the Board and whether or not they will follow the recommendations of TMF. Dr. Melanie Blake agreed further discussion on this needs to take place especially considering the safe haven movement, fresh start act, to ensure the Board protects the citizens and follows the recommendations of TMF. Dr. Blake requested this discussion be added to the Development Committee agenda and the Board agreed.

**Christian Raby, AMDX** – appeared before the Board without legal representation. Ms. Raby has been out of clinical practice since 2011. She has been an educator of Radiologic Technologists since leaving clinical practice. Ms. Raby described her duties in that position and the Board considered this position as involving clinical practice. Dr. John Hale motioned to grant licensure and Dr. Beckford seconded the motion. The motion passed.

**Laura Fuller, AMDX** – appeared before the Board without legal representation. Ms. Fuller by her own admission has been out of clinical practice since 2009. She has reportedly been participating in the Chattanooga State Radiologic Technology Program. Her credentials are not clear in her application. She reports, from January 2018 to January 2019, she worked as a clinical coordinator with her students at Chattanooga State and she described her duties in that position. Prior to that year, the last time she was an x-ray technician in a hospital setting and shot her last x-ray was in June 2009. Dr. Handorf motioned to grant unrestricted licensure. Dr. Miller seconded the motion. Dr. Lloyd abstained and Dr. Hale opposed.

**Kellie McClintock, AMDX** – appeared before the Board without legal representation. Ms. McClintock has been out of clinical practice since June 2015. She has been advised that clinical remediation is required and elected to interview before the Board for alternate options. She appeared before the Board in May 2019 in which her application was tabled in order for her to obtain remediation. Ms. McClintock explained her failed efforts in trying to find a remediation option. Dr. Johnson proposed she attempt to obtain employment in a hospital since she is ARRT certified but she avers that has not been a viable option for her either. Dr. Miller motioned to table the application for up to six (6) months from today to allow more time for Ms. McClintock to secure a remediation plan. Dr. Christiansen seconded the motion. Ms. McClintock proposed the option of returning to California to practice, since she holds a state license there, and asked the Board how many hours she would need to complete in order for the Board to consider her competent and remediated. Dr. Blake stated she would still need to complete the required number of remediation hours as outlined in the Board's policy. The motion passed.

#### **Medical Doctor Applicant Interview(s):**

**Mahmoud Mahmoud, MD** – appeared before the Board without legal representation. Dr. Mahmoud is an international medical school graduate who has not completed three (3) years of a US residency in one (1) discipline and is not ABMS Board Certified. He will be eligible to sit for the Internal Medicine Board Examination once he has completed 24 months of residency training. He will be given credit for one (1) year through the American Board of Internal Medicine (hereinafter "ABIM"). He is able to sit for the Board exam in August 2020 and he will qualify for licensure at the completion of his three years of US residency. The Board and applicant led a discussion about the option of a temporary license. However, based on the Board's policy he does not currently meet the requirements for temporary licensure. The Board presented the option of the declaratory order process to the applicant considering there is currently no way to consider licensure at this time. Dr. Christiansen motioned to table the application until July 2020, at which time licensure may be granted contingent with proof of completion of his residency training, proof from ABIM that they have given him credit for one (1) year and an updated criminal background check. Dr. Beckford seconded the motion and it passed.

**Luma Kharabsheh, MD** – appeared before the Board without legal representation. Dr. Kharabsheh has been out of clinical practice since June 2015. She is currently ABMS Board Certified and participating in Maintenance of Certification. Dr. Kharabsheh avers she’s been providing her expert medical opinion regarding rheumatology patient concerns after reviewing charts, labs and x-rays via telemedicine to patients located in Jordan. She explained this is free of charge and she has been providing this service since 2014. She explained that the patient is available through the video chat so she may ask the patient questions. She provides this service an estimated five (5) times per week. Also, she stated she provides medical care in the clinics during her visits to Jordan and her last visit was in August 2019. During that visit she saw about thirty (30) or more patients per week. Dr. Beckford motioned to grant unrestricted licensure. Dr. Lloyd seconded the motion and it passed.

**Dean Wickel, MD** - appeared before the Board without legal representation. Dr. Wickel’s Kentucky Medical License was restricted after he was found to have alcohol use disorder. He has attended inpatient treatment and participated in the Kentucky PHP and Indiana PHP for monitoring. He has had medical board action in KY and IN relative to this diagnosis. After two (2) recent relapses and inpatient treatment he has signed a ten (10) year monitoring contract with Indiana. Dr. Wickel reports May 20, 2019 as his sobriety date. He reports his IN license is full and unrestricted and his KY license is on probation pending a hearing later this month. Dr. Wickel states he has an interest in providing locum tenens work and in the future to obtain full employment in Tennessee. Dr. Baron recommends a ten (10) year monitoring agreement. Dr. Christiansen motioned to grant licensure conditioned on lifetime TMF advocacy and contingent on receiving verification from all other state boards that any license he may hold has no restrictions other than the requirement to maintain monitoring. Dr. Miller seconded the motion and it passed.

**Marc Rothman, MD** - appeared before the Board without legal representation. Dr. Rothman has been out of clinical practice since December 2011 and does not wish to have an Administrative license issued. Dr. Rothman outlined his last clinical practice experience for the Board. He reports having practiced for about ten (10) years prior to being out of clinical practice. Dr. Handorf motioned to grant unrestricted licensure and Dr. Miller seconded the motion. Dr. Handorf expressed his rationale for his motion is because Dr. Rothman passed his board recertification in 2019. The motion passed.

## **II. Discuss, Consider and Approve Consent Agenda**

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

1. Approval of September 17 – 18, 2019 Board meeting minutes
2. Approval of August 29, 2019 Physician Assistant Summary Suspension minutes
3. Approval of September 16, 2019 BME retreat minutes
4. Approval of September 17, 2019 Office Based Surgery meeting minutes
5. Approval of October 28, 2019 Safe Haven Taskforce meeting minutes
6. Ratification of new licenses, reinstatement and renewals of Medical Doctors, MD X-Ray Operators, Genetic Counselors, Acupuncture and Polysomnography.
7. Review of Office of Investigations Statistical Complaint Report and Currently Monitored Practitioners Report
8. Review of Administrative Office Statistical Licensing Report
9. Review of the Office of General Counsel Report
10. Review and approve continuing medical education Agreed Citations – Jason Haslam, MD and Jessica Laws, AMDX
11. Review and approve practicing on a lapsed license Agreed Citation – Wendy Wedekind

### III. Updates from Taskforces & Committees

- a. **Development Committee (Dr. Blake, Dr. Johnson, Dr. Beckford and Ms. Jennifer Claxton) –**
  - i. They have not met. The Committee wishes to meet in January 2020. There is a request to change the consumer member of the Committee and the Board accepted the request. At this time, Mr. Robert Ellis will now be the consumer member on the Committee rather than Ms. Claxton.
- b. **Office Based Surgery Committee –** scheduled to meet November 12<sup>th</sup> at 4pm CT, an update will be provided during the day 2 Board meeting.
- c. **Advanced Practice Professionals Taskforce (Dr. Blake, Dr. Handorf, Mr. Greg Cain and Ms. Leslie Akins) –** scheduled to meet in December 2019.
- d. **Amphetamine Taskforce (Dr. Christiansen and Dr. Michael Baron) (scheduled to meet November 13, 2019 at 7:30am CT) –** an update will be provided during the Boards day 2 meeting.
- e. **CSMD (Dr. Blake and Mr. Ellis) – met on October 8<sup>th</sup>**
  - i. Received several reports
  - ii. Voted to approve continuation of the staff position (originally a temporary position) which plays a key role in the CSMD operations

### IV. CE Broker Presentation by Marcia Mann

- a. Founded in 2003, currently tracking continuing education (hereinafter “CE”) for over two (2) million licensees
- b. CE Broker has a contract with the Tennessee Department of Health but it is up to Board’s whether or not they wish to participate
- c. Four (4) Tennessee Boards currently CE Broker and three (3) Boards are in the process of joining
- d. Providers and licensees can enter CE information with easy uploading on a mobile app
- e. Easy access for Boards to check CE compliance
- f. CE Broker can connect to the renewal process to simplify CE audits in two different ways: 1) the licensee attempts to renew their license and their renewal is unable to process if they are noncompliant with their CEs or 2) the licensee attempts to renew their license and an alert appears to licensee if they are non-compliant stating they are allowed to renew but we have not received the required CEs.
- g. Licensees with multiple licenses can manage their CEs in one account
- h. CE course search option available on CE Broker website
- i. CE Broker support is available Monday through Friday by phone, live chat and e-mail
- j. Licensees have the option to choose between three (3) different CE Broker accounts
  - i. Basic Account – free
  - ii. Professional Account – shows the licensee what their requirements are and how far along he/she is with meeting those requirements and provides a compliance transcript
  - iii. Concierge Account – account holder is assigned a dedicated personal reporting assistant who will help them find the right CME courses, report the CME and follow up to make sure the account holder is ready to renew their license on time

Dr. Christiansen and Dr. Beckford spoke in favor of making this option mandatory in the future and to make a hard stop on their renewal if they are not compliant. Dr. Johnson requested to have CE Broker added to the January 2020 meeting to permit time for the Board to receive more information about CE Broker and any conflicts which may exist between FSMB and the ACCME pilot project which is similar to CE Broker.

V. **Update from Dr. Mitchell Mutter, Special Projects Medical Director**

Dr. Mutter presented data from the IQVIA database – data views and insights related to opioid prescribing in Tennessee and the USA:

- a. Decline in opioid prescriptions filled in Tennessee per capita
- b. Overview of opioid prescriptions filled per capita by county in Tennessee over 2017-2018
- c. Change in morphine milligram equivalents per capita in Tennessee by county in 2017-2018
- d. All prescriber specialties continue to decline in writing opioid prescriptions
- e. Chronic Pain Guidelines Symposia locations being offered in 2020 – Washington, Shelby, Dyer, Hardin, Franklin, Sullivan, Roane, Rhea, Sevier, Rutherford and Sumner Counties
  - i. Locations are selected based on: population, child services referrals, drug overdose deaths, non-fatal outpatient overdose, non-fatal inpatient overdose, pain clinic totals and county wide prescriptions

VI. **Introduction of TDOH Assistant Commissioner, Mr. Brent Culberson**

**Disciplinary Order(s)**

**Consent Order(s)**

**Michelle Vasireddy, PA** – did not appear before the Board nor did a legal representative appear on her behalf. Mr. Andrew Coffman represented the State. Mr. Coffman reports this consent order has already been approved by the Committee on Physician Assistants. Respondent was licensed on September 9, 2014 and that license expires on September 30, 2020. In order to support her own use of controlled substances, Respondent forged prescriptions for controlled substances. Respondent also wrote prescriptions for controlled substances to other individuals, without those individuals knowledge, and filled the prescriptions for her personal use. Respondent has surrendered her DEA registration. Respondent has completed residential treatment for alcohol and controlled substance dependence. The facts stipulated are grounds for discipline. This order shall suspend Respondents license until Respondent completes several requirements outlined in the order. Once those have been completed, Respondent must petition for an order of compliance and personally appear before the Committee for the suspension to be lifted. Dr. Handorf motioned to accept this order. Dr. Beckford seconded the motion and it passed.

**Michael Hellman, Sr., MD** – did not appear before the Board nor did a legal representative appear on his behalf. Mr. Marc Guilford represented the State. Respondent was licensed on July 9, 1976 and that license expires on June 30, 2020. From about January 2018 through April 2019, Respondent wrote patients prescriptions, at his clinic in Collierville, for controlled substances outside the scope of professional practice and not for legitimate medical purposes. On about February 7, 2019, Respondent wrote a prescription for 60 Percocet pills for a patient with little to no physical examination. From about January 2018 through April 2019, Respondent wrote about 478 prescriptions for promethazine with codeine to about 376 patients, and the majority of those prescriptions were not for a legitimate medical purpose and were outside the scope of professional practice. Respondent knowingly and intentionally combined, conspired, confederated and agreed with others to distribute and dispense, not for a legitimate medical purpose and outside the scope of professional practice, promethazine with codeine. In exchange for his actions of writing prescriptions not in the course of professional practice and not for legitimate medical purposes, Respondent received proceeds of about \$100,000. In about July 2019, in US v. Hellman, in the US District Court for Western District of Tennessee, Respondent pleaded guilty to one count of unlawful distribution of a schedule II controlled substance and one count of conspiracy to distribute and dispense schedule V controlled substances. Respondent stipulated in federal court that his maintaining a medical

practice or having a DEA number at a time in the future would be against the public interest. The facts stipulated are grounds for discipline. This order shall permanently revoke Respondents license. Respondent must pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Beckford motioned to approve this order. Dr. Christiansen seconded the motion and it passed.

**Ronald L. Williams, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the State. Respondent was licensed on March 28, 2011 and that license expires on June 30, 2018. Respondent was the subject of a \$708,000 medical malpractice settlement paid on September 27, 2018 related to his treatment of a patient with testosterone replacement therapy. Respondent failed to make his medical records available for inspection or copying by a Department of Health investigator after receiving a written request during an authorized investigation. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent shall pay one (1) Type A civil penalty in the amount of five hundred dollars (\$500.00). Respondent must pay all actual and reasonable costs of this case not to exceed three thousand dollars (\$3,000.00). Dr. Christiansen motioned to accept the order. Dr. Miller seconded the motion and it passed.

**John D. Halcomb, MD** – did not appear before the Board nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the State. Respondent was licensed on January 27, 2016 and that license expires on September 30, 2019. Respondent represents that he has retired and that he does not intend to renew his license in Tennessee. Respondent is a board-certified orthopedic surgeon. In 2016, Tennova Healthcare completed a focused professional practice evaluation of Respondent's practice, which identified quality concerns with respect to technique, clinical judgment, procedure length, blood loss, medical record documentation and medical necessity. On September 22, 2016, Board of Trustees for Tennova suspended Dr. Halcomb's clinical privileges until he completed an educational/assessment course and several proctored cases. Tennova's actions were based in part on Respondent's treatment of three (3) patients. This order outlines several different procedures and outcomes performed by the Respondent. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent must pay three (3) Type A Civil Penalties for a total of three thousand dollars (\$3,000.00). Respondent must pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. Blake motioned to approve this order. Dr. Christiansen seconded the motion and it passed.

**Tonya K. Powers, MD** - did not appear before the Board nor did a legal representative appear on her behalf. Ms. Jennifer Putnam represented the State. Respondent was licensed on August 5, 2014 and that license expired on February 29, 2016. On July 10, 2019, a Special Conference Committee of the Virginia Board of Medicine held an informal conference to inquire into evidence that Respondent may have violated laws and regulations governing the practice of medicine in the Commonwealth of Virginia. Upon consideration of the evidence, the Committee adopted the following Findings of Fact; Conclusions of Law and issued an Order. Respondent failed to meet the requirements of the prescribing regulations for six (6) patients including; not reviewing patient psychiatric, addiction and substance abuse history; not assessing patient history and risk of substance misuse; not requesting complete treatment records from patient's primary care provider who referred the patient, not ordering a timely urine drug screen; failing to prescribe Narcan in violation of the prescribing regulations and failing to check the database every three (3) months in violation of the prescribing regulations. Respondent is no longer providing pain management or practicing in Virginia. She is currently working as a staff anesthesiologist in North Carolina. Respondent submitted evidence of having completed the online PBI prescribing course for three (3) CME credits on June 12, 2019. As a result of this informal hearing, the Virginia Board reprimanded Respondents Virginia medical license and ordered her to provide proof of completion of fifteen (15) hours of Board-approved CME in the subject of proper prescribing within six (6) months of the entry of the order, within thirty (30) days of the date of entry of the order, provide proof that she has completed

the PMP Training Module, within thirty (30) days of the date of entry of the order, provide written proof to the Board that she has read and will comply with the regulations governing the prescribing of opioids and buprenorphine. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license. Respondent must pay all actual and reasonable costs of the case not to exceed one thousand dollars (\$1,000.00). Dr. Handorf motioned to approve this order. Dr. Beckford seconded the motion and it passed.

**Pamela S. Bullock, MD** – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Paetria Morgan represented the State but the order was presented by Ms. Jennifer Putnam. Respondent was licensed on January 9, 1984 and that license expires on November 30, 2020. Results of Respondent’s continuing medical education audit for January 1, 2016 thru December 31, 2017 showed that Respondent failed to obtain twenty-six and a half (26.5) hours of required continuing education credits. Respondent failed to submit documented proof of properly maintaining sufficient continuing education credits upon request by the Department. The facts stipulated are grounds for discipline. Pursuant to the administrative offices receipt of a retirement affidavit, Respondents license is hereby voluntarily retired effective August 23, 2019. If Respondent intends to reinstate her license, Respondent shall complete twenty-six and a half (26.5) hours of continuing education that she was deficient for the 2016 – 2017 licensure cycle and submit proof of the hours along with her reinstatement application, complete ten (10) additional continuing education hours and submit proof of the hours along with her reinstatement application, and pay twenty-six (26) Type B Civil Penalties in the amount of two hundred dollars (\$200.00) each for a total of five thousand two hundred dollars (\$5,200.00). Any continuing medical education course hours earned from attendance and the completion of those courses required shall be in addition to the hours required for licensure. The Board may, in its discretion, order that Respondent meet additional requirements, in addition to those stated in this order. Respondent must pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to approve this order. Dr. Beckford seconded the motion and it passed with one (1) recusal from Dr. Handorf.

### **Updates from Taskforces & Committees**

**Safe Haven Taskforce (Dr. Lloyd, Dr. Beckford and Dr. Michael Baron)** – Dr. Johnson provided the following update:

- The taskforce met via teleconference on October 28, 2019
- FSMB published an article a few months ago about depression, burnout and suicide among physicians
- Up to 15% of physicians who commit suicide did not receive proper mental health treatment
- Depressed residents are more prone to making errors
- Physicians are reluctant to self-report due to the stigma on mental health
- There is a need to distinguish impairment from illness
- Several states have started to make changes to their application questions regarding mental health
- In West Virginia, after instituting *safe haven non-reporting* they had a one thousand percent increase in PHP referrals because physicians no longer felt like self-reporting for help would be reflected on their license

**Dr. Baron presented the following proposed application changes –**

#### *Medical Doctor Application Competency Questions*

**Current medical doctor application competency question # 1:** Do you currently have any physical or psychological limitations or impairments caused by an existing medical condition which are reduced or



ameliorated by ongoing treatment or monitoring, or the field of practice, the setting or the manner in which you have chosen to practice?

Dr. Baron proposed this question be revised to state: Do you currently have any condition that is causing impairment that affects your ability to practice medicine with reasonable skill and safety in a competent, ethical and professional manner? (You may answer no if you are being appropriately treated.)

**Current medical doctor application competency question # 2:** Do you currently use any chemical substances which in any way impair or limit your ability to practice medicine with reasonable skill and safety?

Dr. Baron proposed this question be revised to state: Do you currently use any medications or substances (legal, OTC, prescribed or illicit) which in any way impairs or limits your ability to practice medicine with reasonable skill and safety in a competent, ethical and professional manner?

Dr. Beckford asked the Board to consider adding the word “could” before impairs in the revised question # 2. Do you currently use any medications or substances (legal, OTC, prescribed or illicit) which in any way *could* impair or limit your ability to practice medicine with reasonable skill and safety in a competent, ethical and professional manner?

**Current medical doctor application competency question # 3:** At any time within the past two years, have you engaged in the illegal use of illicit or controlled substances?

Dr. Baron proposed the Board remove question # 3 because applicants will lie anyways. The high majority of individuals with mental illnesses have had some legal involvement as a result of poor decision making.

Ms. Mary Katherine Bratton advised the board to consider only asking questions to where receiving the answer matters, as such the answer is used to consider licensure.

The Board led a discussion regarding the removal of competency question # 3. There was a lot of debate on the need to keep such questions despite that an applicant may lie and despite that an applicant may perceive it as hostile.

Dr. Beckford requested to look at the specific language used in the West Virginia applications which led to a significant increase in PHP referrals. Dr. Blake proposed to add a statement of acknowledgment which will educate physicians of the PHP services in TN and they will have to attest to receiving the information. The Board reviewed the comparable North Carolina Medical Board application section.

The Board opted to table this discussion to allow the Save Haven Taskforce to meet once more to make more revisions based on this discussion and to consider the language used by other states who have received positive results from their changes.

#### **Office of the Bureau Financial Report Presented by Ms. Marie McCormick**

- Fiscal Year 2019
  - Total Allocated Expenditures \$2,460,704.11
  - Current Year Net (\$346,205.96)
  - Cumulative Carryover \$2,082,566.21
  - 67.3% of revenue sources comes from renewal fees assessed
  - 15.8% of revenue sources comes from application fees assessed

- It is projected that 2021 will be the first year they will see the impact of the fee increase. At that time they will be able to closely project when the Board should be out of the red.

The Board requested the following information to be provided at a later time:

- Any expense increases over 10% the board would like an explanation
- An estimated projection of when they will be out of the red
- An explanation for what consists of the 28% personnel cost increase

### **Order of Compliance**

**Dan Nicolau, MD** – appeared before the Board without legal representation. Ms. Mary Katherine Bratton represented the State. The Board reviewed the order of compliance packet. Pursuant to the consent order, issued on September 27, 2017, Petitioner has been monitored and the Office of Investigations affirms his compliance. Dr. Christiansen motioned to accept the petition for order of compliance. Dr. Blake seconded the motion and it passed with one (1) recusal by Dr. Lloyd.

**Request to send staff members to upcoming FARB Meeting** – Dr. Beckford motioned to send Ms. Angela Lawrence and Dr. Saunders to the upcoming FARB meeting. Dr. Christiansen seconded the motion and it passed.

**Request for approval to send staff, attorneys and Board members to the upcoming National Drug Abuse and Heroin Summit meeting** – This meeting is being held locally, in Nashville, Tennessee therefore the Board will not have to pay hotel and airfare costs to send attendees. Given the limited expense for the Board, Dr. Blake motioned to approve funding for five (5) attendees. The selected attendees will be one (1) attorney, Mr. Ellis, Dr. Samantha McLerran, Ms. Lawrence and Dr. Saunders. Dr. Beckford seconded the motion and it passed.

VII. **Public Comment** – Ms. Angela Lawrence confirmed, at this time, the only names on the public comment sheet were the applicant interviews from this morning and none of those interviewees are present at this time.



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

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners  
Wednesday, November 13, 2019**

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:42 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. W. Reeves Johnson, Board President.

Board members present: W. Reeves Johnson, MD, President  
Melanie Blake, MD, Vice President  
Charles Handorf, MD, Secretary  
Neal Beckford, MD  
Robert Ellis, Consumer Member  
Phyllis Miller, MD  
Deborah Christiansen, MD  
Jennifer Claxton, Consumer Member  
Stephen D. Loyd, MD  
John Hale, MD  
Samantha McLerran, MD

Board member(s) absent: Julianne Cole, Consumer Member

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel  
Francine Baca-Chavez, Deputy General Counsel  
Rene Saunders, MD, Medical Consultant, BME  
Angela Lawrence, BME Executive Director  
Stacy Tarr, Administrative Director  
Candyce Wilson, Administrative Director  
Mitchell Mutter, MD Special Projects Director

#### **Updates from Taskforces & Committees**

- i. **Office Based Surgery by Dr. Neal Beckford** (met November 12<sup>th</sup> at 4pm CT) – the Committee previously met and discussed a lack of communication and processing between the time an Office Based Surgery (hereinafter “OBS”) license is applied for, granted and when the survey cycle schedule begins. At their last meeting, the Committee discussed amending the OBS application. Also, the Committee discussed the need to ensure the inspectors are receiving payment for the surveys they are conducting because up until this point they have not been receiving any payment.
- ii. **Amphetamine Taskforce by Dr. Deborah Christiansen** (met November 13<sup>th</sup> at 7:30am CT) – the Taskforce met to continue revising the current rules and they hope to have a final document ready to present to the full Board for discussion and consideration by January 2020.

#### **Order(s) of Compliance**

**Robert Wayne Locklear, MD** – appeared before the Board without legal representation. Dr. Locklear previously appeared before the Board and obtained a conditional license. The Office of General Counsel advised the Board in considering the order of compliant to also consider placing a restriction on his license to require lifetime monitoring with TMF. Petitioner works in an addiction medicine clinic and attests to seeing about eighty (80) patients per week. Dr. Baron reports from a compliance standpoint TMF has had no issues with Dr. Locklear. Dr. Blake motioned to approve the order of compliance. Dr. Christiansen seconded the motion, Dr. Lloyd recused and the motion passed.

#### **Agreed Order**

**Mark Ernest, MD** - did not appear before the Board nor did a legal representative appear on his behalf. Ms. Tracy Alcock represented the State. Respondent was licensed on July 13, 2015 and that license

expires on June 30, 2020. On or about August 1, 2016, Respondent began working as a medical doctor at R.B.I. Wellness Center in Loudon, Tennessee. Respondent admitted that he pre-signed at least ninety-two (92) blank prescriptions, which were used during future telemedicine appointments. At the Respondent's direction, R.B.I. staff members filled in the date, medication, and dosage of controlled substances being prescribed to R.B.I. patients during the telemedicine visit. Respondent placed a serial number on each of the pre-signed prescriptions so that he could keep track of the prescriptions. The Department's investigation included the review of fourteen (14) of Respondent's patients' records for single visits. The single-visit records contain copies of prescriptions for controlled substances with handwritten serial numbers, as Respondent admitted writing on the blank prescriptions that he pre-signed on or about August 9, 2017. The Tennessee Department of Mental Health and Substance Abuse Services Office of Licensure first granted R.B.I. licensure as a Tennessee Non-residential Office-Based Opiate Treatment Facility in or around January 2018, at which time Respondent was listed as R.B.I.'s Medical Director. While serving as R.B.I.'s Medical Director, Respondent failed to be physically present for the required twenty-five percent (25%) of the time R.B.I. was open to the public each week. This order outlines several other stipulated facts. The facts stipulated are grounds for discipline. This order shall place the Respondent's license on probation for a period of no less than one (1) year. Respondent agrees that he shall not serve as the Medical Director of a Tennessee Non-Residential Office-Based Opiate Treatment Facility for a period of five (5) years, effective the date of entry of this Agreed Order. Respondent must complete specific continuing education. Respondent must pay ninety-two (92) Type B Civil Penalties for a total of Eighteen thousand four dollars (\$18,400.00). Respondent must pay all actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000.00). At the expiration of the one (1) year probationary period, and upon completing all requirements of this order, Respondent may file a Petition for Order of Compliance to petition the Tennessee Board of Medical Examiners to lift the probation on his license. As part of his petition, Respondent must physically appear before the Board. Dr. Beckford motioned to approve the order. Dr. Handorf seconded the motion and it passed.

**Special Setting Dates Request** – Ms. Bratton reports a contested case hearing that was scheduled for today's meeting needs to be rescheduled. It is desired to schedule this hearing the Monday before the January 2020 Board meeting or a date prior to then. Dr. Beckford, Ms. Claxton and Dr. Lloyd will be contacted to schedule this special setting and Dr. Christiansen will be an alternate if needed.

The regular meeting adjourned at 9:05am CT.

**Iris Room: Dr. Johnson, Dr. Lloyd and Mr. Ellis**

**Contested Case Petition for Declaratory Order  
Jordi Puente Espel, MD v. State of Tennessee Board of Medical Examiners**

**Iris Room**

**Administrative Law Judge: Madeline B. Williams**

**Panelists: W. Reeves Johnson, Jr., MD; Stephen Lloyd, MD; Robert Ellis, Consumer Member**

**Counsel for State: Mary Katherine Bratton, JD, Esq.**

**Counsel for Respondent: James Bradshaw, Esq.**

Petitioner, Dr. P Jordi Espel, appeared before the full Board in September 2019 with an application for licensure and to request a petition for declaratory order. Mr. James Bradshaw and Ms. Mary Katherine Bratton presented their cases.

Dr. Jordi Espel attended medical school at Universidad Nacional Autonama De Mexico and received his Medical Doctor degree in April 2006. Additionally, he was awarded the degree of Medical Specialist in Plastic and Reconstructive Surgery in January of 2012. Dr. Espel completed a one (1) year fellowship in Craniomaxillofacial Surgery at the International Craniofacial Institute Cleft Lip and Palate Treatment Center, in Dallas, from July 1, 2012 to June 30, 2013. Dr. Espel completed fellowships in Australian Medical Institutions from 2013 to 2015. From July 1, 2017 to June 30, 2018 he completed a fellowship in Pediatric Craniofacial Surgery from the University Of Tennessee Health Sciences Center College Of Medicine. At the same location, he completed a one (1) year fellowship in Craniomaxillofacial Surgery from July 1, 2018 to June 30, 2019. Currently, Dr. Espel is working a one (1) year fellowship in Microsurgery in the Department of Plastic Surgery at the same location which he will complete June 30, 2020. Dr. Espel has an active and unrestricted license to practice medicine in the state of Ohio. There is a critical need in Memphis and surrounding areas for physicians with sub-specialty training. Dr. Espel has an employment opportunity in Memphis that will address this need.

Dr. Espel has not completed a three-year ACGME-accredited residency in the United States as required by T.C.A. 63-6-207(a)(2) and Rule 0880-02-.04(5).

The combined training and experience Dr. Espel has acquired in the four specialized fellowships which he has participated at UTHSC and Dallas has providing 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 Board reviewed the proposed final order. The Board motioned to accept the Findings of Fact, Conclusions of Law and the Policy Statement. The Board motioned to grant licensure effective today and it passed unanimously.

This concludes the Board of Medical Examiners day 2 meeting.