



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

**Tuesday, November 28 2017
Wednesday, November 29, 2017**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:40 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Subhi Ali, Board Chair.

Board members present: Michael Zanolli, MD
Subhi Ali, MD
Charles Handorf, MD
Neal Beckford, MD
Melanie Blake, MD
Deborah Christiansen, MD
Reeves Johnson, MD
Julianne Cole, Consumer Member
Phyllis Miller, MD
Robert Ellis, Consumer Member
Jennifer Claxton, Consumer Member

Board member(s) absent: John Hale, MD

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel
Rene Saunders, MD, Medical Consultant, BME
Stacy Tarr, Administrative Director
Candyce Waszmer, Administrative Director
Courtney Lewis, Board Administrator

I. CONSIDERATION OF APPLICATIONS

Medical Doctor Applicant Interview(s):

Juan Arroyo, MD – appeared before the Board, without legal representation, having not completed three (3) years residency in one (1) discipline of a U.S. residency program. Dr. Arroyo informed the Board that he changed specialties after his one (1) year surgery internship. The Board interviewed Dr. Arroyo regarding his practice intentions in Tennessee and he conveyed an interest in a chief resident opportunity at Vanderbilt. Dr. Arroyo will be ABMS Board eligible in June of 2018. Dr. Johnson made a motion to

grant licensure upon successful completion of one (1) year of fellowship in June 2018. Dr. Deborah Christiansen seconded the motion and the motion passed.

Yuanning Cao, MD – appeared before the Board without legal representation. Dr. Cao attended an unapproved medical school in China and is not ABMS Board Certified. The Board asked questions in regards to education and employment opportunities in Tennessee. The Board also asked about discussions with the Board consultant on eligibility due to the applicant's medical school not being approved. Dr. Cao plans to take the specialty board exam, after having recently failed his first attempt, in August of 2018. Dr. Johnson advised on the reasoning for the medical school not being approved and advised for him to reapply after he takes the exam and becomes board certified. Ms. Mary Katherine Bratton advised the Board on the policy for foreign medical schools. The Board advised they could not grant the license due to the policy and Dr. Cao would need to be board certified.

Dr. Johnson asked counsel questions in regards to the policy stating that Dr. Cao could also show proof that the medical school met the same standards as approved foreign medical schools. The Board discussed the application and advised Dr. Cao that they could either deny the application or he could withdraw his application. Dr. Cao asked for the Board to discuss his application. Dr. Saunders advised that he was given the opportunity to take the exam and did not pass. He was then granted the opportunity to come before the Board. Counsel advised on the Board granting a license contingent on him passing the Board. The Board discussed licensing the applicant. Dr. Charles Handorf made a motion to deny the application. Dr. Zannoli seconded the motion. Dr. Subhi Ali advised Dr. Cao on the process of denying an application. Dr. Cao withdrew his application.

Amarjeet Sareen, MD – appeared before the Board without legal representation. Dr. Sareen failed Step 3 of the USMLE greater than three times and is not ABMS Board Certified. Dr. Sareen spoke with the Board in regards to his license being unencumbered and having job opportunities in Tennessee. Dr. Sareen has taken the Board certification exam and the results are not complete. Dr. Saunders advised on documents gathered by the Federation of State Medical Boards (hereinafter "FSMB") and not having the Board exam results. Counsel advised tabling the application until the results are known. Dr. Christiansen motioned to grant licensure contingent upon Dr. Sareen having passed the ABMS exam taken October 31, 2017. Dr. Johnson seconded and the motion passed.

Mohammed Jaleel, MD – appeared before the Board without legal representation. Dr. Jaleel failed one part of the USMLE more than three times and is not ABMS Board Certified. Dr. Jaleel spoke on not taking the Board certification exam due to ill health and he does have job opportunities in Tennessee. Dr. Jaleel previously applied for full licensure in Tennessee and appeared before the Board in January of 2016. The January 2016 minutes indicate that Dr. Jaleel was informed he could apply for licensure after he became ABMS Board Certified. Dr. Zannoli motioned to deny application and Dr. Handorf seconded. Dr. Jaleel withdrew application.

Joshua Donegan, MD – appeared before the Board without legal representation. Dr. Zannoli recused himself. Dr. Donegan is currently participating in a physician health program (hereinafter "PHP") administered by the Tennessee Medical Foundation (hereinafter "TMF") due to impairment issues during residency. Currently, he is three and half (3.5) years into a five (5) year monitoring contract. Dr. Donegan spoke on his history with substance abuse. Dr. Michael Baron, with TMF, advocated for the applicant and recommended he be required to complete his five (5) year monitoring contract with TMF if licensed. The Board and counsel led a discussion on contingency and conditional licensure options. Dr. Beckford motioned to grant unencumbered licensure and Dr. Christiansen seconded. The motioned passed with one recusal by Dr. Zannoli.

Ali Suliman, MD – appeared before the Board without legal representation. Dr. Suliman has a history of substance abuse disorder and is being monitored by a PHP in Connecticut. Dr. Suliman addressed the Board about his substance abuse history. Dr. Baron addressed the Board by stating that TMF is not currently monitoring Dr. Suliman. Dr. Baron recommends, if Dr. Suliman is licensed, for TMF to monitor him for one (1) year which will run congruent with his Connecticut monitoring and contract. If he were to violate the monitoring contract in Connecticut then TMF would be notified. Dr. Christiansen motioned to grant licensure contingent on signing a one (1) year contract with TMF. Dr. Johnson seconded and the motioned passed.

Andy Adusei, MD – appeared before the Board without legal representation. Dr. Adusei has a history of malpractice and board action by the Oklahoma Medical Board relating to self-prescribing and fraud. Dr. Saunders informed the Board that the applicants' explanation regarding the Oklahoma matter was not completely forthcoming and only through a National Practitioner Databank report did she identify that he voluntarily surrendered his D.E.A. certificate in June of 2017.

Dr. Adusei explained that upon trying to renew his D.E.A. certificate, this year, he was notified that the prior board action should have imposed a restriction on this certificate and yet there never had been a restriction placed on it. He states he was then encouraged to surrender his D.E.A. certificate at that time and informed he could apply for it again in 2018.

Dr. Adusei addressed the Board offering an explanation of his malpractice and board action history. Dr. Christiansen brought to light in his brief explanation he stated he self-prescribed but had not yet stated that he forged a name on the prescription.

Dr. Johnson asked on intentions of gaining a license in Tennessee and whether Dr. Adusei would be performing major surgery. Dr. Adusei stated that he had no intention of performing major surgery and has an opportunity to practice primary care in Tennessee. On the application, Dr. Adusei marked yes that he intends to perform level two office based surgery and that he may wish to review the Boards' rules that outline the different levels of office based surgery.

Dr. Adusei provided explanations for several malpractice cases. Dr. Ali asked if the Oklahoma license is currently active and/or unencumbered. Dr. Adusei's Oklahoma license is currently active and unrestricted. However, Dr. Adusei explained again that he had to surrender his D.E.A. registration due to the restriction that should've already been imposed and he does not currently hold a narcotics license at this time. At this time, Dr. Adusei is practicing in Oklahoma but is unable to prescribe any schedule II or I.

Dr. Saunders informed the Board that upon her initial review of the application it seemed clear that some of the answers provided on the competency questions of the application were likely incorrect. This prompted her to seek further explanations from the applicant at that time. She further states that after hearing Dr. Adusei's explanations today she still feels that some of the questions marked on the competency questions have been answered inaccurately. More specifically question 8 (in reference to his suspended D.E.A. registration) and question 11c (in regards to his pending malpractice). Also, there are written explanations missing as required for affirmative competency questions. Dr. Melanie Blake motioned to deny the application based on inaccurate information provided in the application. Dr. Handorf seconded the motion. Dr. Adusei offered an explanation for inaccurate information. Dr. Adusei withdrew his application.

Timothy Swain, MD – appeared before the Board without legal representation. Dr. Swain has a disciplinary action with the Texas Medical Board, which was reciprocated by Illinois and Pennsylvania, involving unprofessional conduct and allowing hospital privileges to expire during investigation. The

Texas board action has been lifted and Dr. Swain currently holds an unencumbered license. The Board questioned the applicant to further understand the unprofessional conduct which previously occurred and the applicant's history of board action. Dr. Swain advised that his behavior has improved and has had no recent incidents and Dr. Zanolli questioned the applicant in regards to how he manages stress. Currently, Dr. Swain has been practicing cardiovascular surgery as a solo surgeon. After board discussion, Dr. Zanolli motioned to grant a license contingent on a TMF evaluation within the next two months. Dr. Blake seconded. There were six in favor, four no's, and one abstention. The motion passed.

Aiyappan Menon MD – appeared before the Board without legal representation. Dr. Menon received inpatient treatment for substance use disorder and psychiatric illness which resulted in the suspension of his Ohio medical license. Dr. Menon was required to participate in practice monitoring and mandatory drug testing with the Ohio license being placed on probation. Dr. Menon violated that order; the probation was extended and then completed in 2015. Prior to this interview, Dr. Menon was referred to TMF and participated in an Acumen Assessment. Dr. Baron recommended a two (2) year TMF monitoring contract. Dr. Johnson made a motion to grant license conditional of three (3) year monitoring contract with TMF. Dr. Beckford seconded the motion and the motion passed.

II. CONDUCT NEW BUSINESS

TMF Request for Funding Increase – follow-up on TMF funding discussion. Dr. Zanolli presented a report on the importance of Physician Health Programs. Dr. Baron addressed the Board with a request to increase TMF funding.

- The Board discussed the funding approval process and possible support options.
- Dr. Ali made a motion to approve increasing TMF funding by \$150,000 for the fiscal years 2018 and 2019 that will equal a total of \$400,000. Dr. Johnson seconded the motion. The motion passed.

Medical Doctor Applicant Interview(s) (continued):

Steven Manoukian, MD – appeared before the Board without legal representation. Dr. Manoukian's previous license expired in August of 2014. Dr. Manoukian is currently board certified, has been active in Administrative Medicine and wishes to return to the practice of clinical medicine, thus seeking full medical licensure. The Board questioned Dr. Manoukian's intentions on practicing medicine in Tennessee. The Board discussed the re-entry process with Dr. Manoukian. Under the authority of TCA § 63-6-207 (h), Dr. Zanolli motioned to grant a limited license with the consensus from the Board that Dr. Manoukian will fulfill a re-entry program that was approved by the consultant and one member of the Board. Furthermore, at the time he completes the re-entry plan he would then be licensed with a full unrestricted medical license. Dr. Johnson seconded and the motion carried.

Seth Yoser, MD – appeared before the Board without legal representation. Dr. Beckford recused himself. Dr. Yoser's license was revoked in Tennessee due to criminal conviction involving fraud and having being disciplined and/or surrendered his license in the state of Arkansas, Illinois, and Mississippi. Dr. Yoser applied in 2014 for a Tennessee license and withdrew the application. Dr. Yoser is reapplying after having satisfied the requirements of his criminal conviction. Dr. Yoser has not clinically practiced since 2010. Dr. Yoser addressed the Board on intentions of regaining a license in Tennessee. The Board discussed the previous conviction with Dr. Yoser. Dr. Johnson motioned to issue a limited license with a re-entry plan in place by Dr. Zanolli and the Board consultant. Upon successful completion of the re-entry plan, Dr. Yoser will be granted an unrestricted medical license. It is understood that this limited license

will not be issued until a re-entry plan is agreed upon and ready to be executed. Dr. Handorf seconded the motion. The motion passed with one recusal by Dr. Beckford.

III. DISCUSSION ON MEDICAL LICENSURE COMPACT

Dr. Thomas from FSMB gave a presentation on the Medical Licensure Compact. He outlined the process to obtain licensure through the compact. This compact licensure is an effort to expedite the licensing process.

- Dr. Johnson expressed concerns regarding physicians being licensed through the compact that have been out of clinical practice for greater than two (2) years; which violates the Boards' current re-entry policy. At this time, Dr. Thomas states the only way to handle this situation would be to license a physician through the compact and after the fact to then issue a form of discipline or restriction on their license. Dr. Thomas stated an alert could be made available to those who apply through the compact are aware of the Tennessee Boards' re-entry requirement. Dr. Zanolli questioned how many physicians would end falling into this re-entry issue. Dr. Thomas reported that the requirements to be eligible for licensure through the compact system were designed with a compromise and census of the most stringent requirements among all state medical boards' current licensing requirements. As an example, one state requires board certification for licensure therefore the compact requires board certification.
- Ms. Bratton commented that the medical licensure compact application does not require a list of work history. Therefore, an applicant can be licensed through the compact and we would be unaware if they have been out of clinical practice with the information provided on that application. Also, that the Board would be required to issue a license through the compact and then request additional information as needed after a license has been issued. More importantly, the Board cannot make requirements on compact licensees without imposing the same requirements on all licensees.
- Ms. Bratton expressed concerns regarding the complaints and investigative sharing of information between state medical boards.
- Dr. Zanolli proposed the Board focus on making changes to the Boards' current rules and policy rather than focus on legislative changes.
- Dr. Ali suggested tabling the discussion until a taskforce can be put in place to bring back information to the Board.
- Mr. Yarnell Battey with the Tennessee Medical Association (hereinafter "TMA") addressed the Board. Mr. Battey reported that the TMA is concerned about Board Certification being a requirement to obtain licensure through the compact yet a physician is not required to maintain maintenance of board certification.
- Dr. Johnson offered a motion for counsel, executive administration, and the Department of Health to develop a caption bill that will address the re-entry matter and sharing information of concern. Mr. Ellis seconded the motion. Ms. Bratton stated she would need to speak with the legislative team with the Department of Health to determine what the Department's position will be. Ms. Bratton proposed a report and overview of the compact can be presented to the Board at the January meeting. The motion passed with nine (9) in favor, one (1) against, and one (1) abstention.

Medical Doctor Applicant Interview(s) (continued):

Robert Locklear, MD – appeared before the Board without legal representation. Dr. Locklear has a history of disciplinary action with the Tennessee Medical Board. Initially, his license was suspended by the Board due to substance use disorder. Later, a criminal conviction led to his Tennessee license being

revoked due to unprofessional behavior and based on that action Dr. Locklear's Virginia license was suspended. Dr. Locklear has since completed the terms of his criminal conviction. Dr. Locklear has been out of clinical practice since 2013 and wishes to return to clinical practice with the intention of practicing Addiction Medicine. Mike Todd, with TMF, advocated for Dr. Locklear. TMF recommended a monitoring contract in place for the life of Dr. Locklear's license. The Board asked Dr. Locklear questions about his professional experience. Dr. Johnson motioned to table the application for up to six (6) months to allow the applicant to complete a PLAS evaluation then for Dr. Saunders to work with Dr. Christiansen in reviewing the evaluation and devising an appropriate re-entry plan to possibly include monitoring. It is understood that this plan will be presented to the full Board for consideration. Dr. Zanolli seconded the motion and it passed.

Medical X-Ray Applicant Interview(s) –

Casey Uttewaal, MDX- appeared before the Board without representation. Mr. Uttewaal has an unrestricted license in Florida and is ARRT certified. He has a criminal history that indicated felony convictions with the last conviction being from the year 2002. The matters involving the convictions were related to marijuana substance use. Mr. Uttewaal explained that he does not feel he was ever convicted but rather adjudication was withheld. Dr. Saunders commented to the Board that this applicant is only before the Board because the convictions were felony convictions. Dr. Zanolli motioned to grant unrestricted licensure. Dr. Beckford seconded the motion and it passed.

IV. APPROVAL OF MINUTES

The Board reviewed the September 2017 meeting minutes previously distributed to the Board. Ms. Stacy Tarr received minor changes requested from Dr. Zanolli. Dr. Zanolli outlined the changes he proposed with the Board. Dr. Johnson motioned to approve the minutes with the revisions proposed by Dr. Zanolli. Dr. Blake seconded the motion and it passed.

CONDUCT NEW BUSINESS (CONTINUED):

Consider re-approval request from Vatterot Educational Center: is a previously approved radiologic educational program for limited license technologists. The program currently has a 0% pass rate and does not appear to guarantee the 220 clinical hours required to qualify for licensure. Ms. Meagan Wilson presented to the Board as a representative for the program. Ms. Wilson indicated that her applicants are passing the exam, but are not being tied back to the school. Dr. Ali made a motion to table until the January 2018 meeting to provide more time for Ms. Wilson to obtain further information and Vatterot's official exam pass rates. Dr. Zanolli seconded and it passed.

Consider re-approval request from X-Ray Instruction Programs: submitted request for re-approval per requirement of Rule 0880-5-.05(1). The submitted information does not demonstrate that the program provides the required clinical training hours for students and the program has not maintained a first time pass rate of at minimum 65% per 0880-5-.05(3). Mr. Owen London is the representative for the program and was unable to attend the Board meeting. Dr. Blake motioned to table until the January 2018 Board meeting. Dr. Zanolli seconded and the motion passed. It is understood that Mr. London must appear before the Board at their January meeting and have the January 2017 through June 2017 pass rates for the Board to review.

V. OFFICE OF GENERAL COUNSEL

Petition for Order of Compliance:

Myron Stokes, MD – appeared before the Board without legal representation. Dr. Beckford recused himself. Ms. Bratton represented the state. Dr. Stokes was placed on indefinite suspension, on March 7, 2017, and was to remain in suspension until the Mississippi Board lifted his suspension and was deemed fit to safely practice. Dr. Stokes has a lifetime monitoring agreement with a Mississippi PHP. The Office of General Counsel does not oppose lifting the suspension subject to the same restrictions set in place by the Mississippi Medical Board. Dr. Christiansen made a motion to accept the order and Dr. Johnson seconded the motion. The motion passed with eight (8) in favor, two (2) abstentions and one (1) recusal from Dr. Beckford.

Charles Brooks, MD – appeared before the board with legal representation by Mr. Joe Costner. Ms. Bratton represented the state. Dr. Brooks has been monitored by the disciplinary coordinator and has been in partial compliance with the order. Dr. Brooks has not been compliant with the deadlines placed in the order.

Mr. Costner gave a statement from the Atlanta Psychiatric Consultation Center report that Dr. Brooks was compliant with treatment recommendations and that Dr. Brooks does not pose a safety threat to patients. Dr. Brooks does recognize that he has not had a full five (5) years of monitoring with TMF and is willing to continue the monitoring in order to fulfill the five (5) year commitment. Dr. Brooks addressed the Board and spoke on what he has learned about the dangers of dual relationships. Dr. Brooks stated that he has learned improvements in offering patient care. Dr. Brooks offered an explanation of death in the family and financial hardship as reasoning to why he has not fully been complaint with the deadlines of the order. Dr. Brooks has participated in group therapy and has met once a month with a psychiatrist. Dr. Brooks stated that he has two (2) years left on his monitoring contract with TMF and that he plans on fulfilling those terms.

Ms. Bratton addressed the Board stating that the Office of General Counsel is opposed to lifting the probation. Ms. Bratton presented that Dr. Brooks entered into an order in September of 2012 that placed his license on probation for a period not less than five (5) years and that he completed all requirements of the order. Dr. Brooks did not complete his evaluation in the ninety day time frame specified in the order. The evaluation was not complete until March of 2013. The order specified that if the evaluation recommended further treatment, Dr. Brooks was to obtain a monitoring contract with TMF within thirty days. Dr. Brooks did not enter into a monitoring contract with TMF until June of 2015. Dr. Brooks did receive a call that he was not in compliance and that is when he took action in becoming complaint with the order.

Counsel for Dr. Brooks argued that there was a conflict in the timeframe that the terms were met. However, he has completed the treatments, assessments, and has been compliant with monitoring. The Board discussed the order. Mr. Todd, from TMF, addressed the Board about communication issues with Dr. Brooks over minor compliance concerns which prohibited TMF from advocating for the petitioner. Mr. Todd would not make a recommendation. Dr. Zanolli made a motion to deny the Order. Dr. Ali seconded the motion. Eight (8) voted to approve the motion, two (2) voted no, and Dr. Johnson recused himself. The Order of Compliance was denied.

Ms. Jennifer Claxton left the meeting at this time.

VI. REPORT FROM THE SEXUAL MISCONDUCT TASKFORCE

Dr. Beckford gave an updated of the last two meetings between himself, Ms. Cole, Dr. Miller, and Dr. Baron. The taskforce made revisions to update the policy. Ms. Bratton provided the Board members with

copies of the revised draft policy for review. The Board members will review the policy this evening and reconvene on this matter during tomorrow's meeting.

VII. REPORT FROM THE DEVELOPMENT COMMITTEE MEETING

Dr. Johnson provided an overview of the development committee meeting.

1. **Wiesen Advisory Opinion request:** Can the twenty percent (20%) review of charts be performed by one (1) physician? And does the same physician have to be the physician completing the site visit? The recommendation from the Committee:
 - Multiple physicians that are supervising can review the chart, as long as the charts are signed off on. Remote site visits can be performed by any physician that supervises the mid-levels.
 - Nurse Practitioners working in a skilled nursing facility will have a site visit every thirty (30) days by the supervising physician.
 - At the Committee meeting there was a motion and a second to approve this response. The Board approved the motion.
2. **Review of Board Rule 0880-02-.04(5):** The review of the rule is specific to residency requirements for international medical graduates that must complete three (3) years of U.S. residency in one (1) discipline and defining what one (1) discipline means. There are some residency programs (e.g. Preventative Medicine) that do not have three (3) years of residency in one (1) discipline. In order to clarify the meaning of one (1) discipline:
 - The committee presented a policy and a document in the form of a spreadsheet that outlined the three (3) year requirements of all the ACGME programs. The Board discussed the review. This will be placed on the agenda for the Development Committee to bring back to the Board once they have a final draft of the policy.

The Board of Medical Examiners day 1 meeting recessed until tomorrow morning.



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

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners
Wednesday, November 28, 2017**

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:40 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Subhi Ali, Board Chair.

Board members present: Subhi Ali, MD
Neal Beckford, MD
Melanie Blake, MD
Phyllis Miller, MD
Deborah Christiansen, MD
Reeves Johnson, MD
John Hale, MD
Robert Ellis, Consumer Member
Charles Handorf, MD
Jennifer Claxton, Consumer Member
Michael Zanolli, MD

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

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel
Andrea Huddleston, JD, General Counsel
Rene Saunders, MD, Medical Consultant, BME
Stacy Tarr, Administrative Director
Candyce Waszmer, Administrative Director
Courtney Lewis, BME Administrator
Tammy Davis, Board Administrator

CONDUCT NEW BUSINESS (CONTINUED)

The Board reviewed the newly licensed and reinstated individuals.

- Dr. Handorf motioned to ratify the list of medical doctors, genetic counselors, medical x-ray operators, acupuncturists, and polysomnographic technologists. Dr. Beckford seconded the motion and it passed.

REPORT FROM THE BUREAU OFFICE

Noranda French from Bureau Office presented the 2017 financial report. Dr. Ali motioned that the report be placed on hold until the January 2018 board meeting.

REPORT FROM THE SEXUAL MISCONDUCT TASKFORCE (CONTINUED)

Ms. Bratton and Dr. Beckford provided an update on the modifications to the policy regarding sexual misconduct:

- Discussion by the Board on the modifications.
- Dr. Zanolli motioned to accept the revisions. Claxton seconded and the motion passed.
- The Board discussed an additional taskforce to be put in place to discuss policy.
- Dr. Ali asked that it be placed on the agenda to define the mission of the taskforce.

VIII. ADMINISTRATIVE OFFICE REPORTS

Statistical Licensing Report:

- Ms. Stacy Tarr presented the statistical licensing report.

The Board reviewed the statistical report and made recommendations that the benchmark percentage be added to the next board meeting report.

- 186 new medical doctor applications were received
- 260 new medical doctor licenses were issued
- 69 full and 9 limited x-ray operator applications were received
- 73 full and 14 limited x-ray operators were licensed
- 1,619 renewals were processed for medical doctors
- 1,304 of those renewals were processed online (81%)
- 148 medical doctors failed to renew
- 74 medical doctors retired their license
- There are 22,380 active medical doctor licenses as of October 31, 2017
- There are 3,868 full and 1,307 limited x-ray operators licensed as of October 31, 2017

Conference Request(s): A request has been made for Ms. Bratton, Dr. Saunders and Ms. Maegan Martin to attend the FSMB upcoming conference. Dr. Beckford, Dr. Johnson, Dr. Blake, and Dr. Ali requested to attend the conference as well. If only three (3) members may be funded by the Board then Dr. Ali agreed to attend without the expense imposed on the Board. Dr. Ali nominated Dr. Johnson to attend as a delegate of the Board. Dr. Ali made a motion to approve this request. Dr. Zanolli seconded the motion and it passed.

Consideration of endorsement for candidates for FSMB elected office:

- Dr. Zanolli expressed that he will not pursue election.

IX. REPORT FROM THE OFFICE OF INVESTIGATIONS

Ms. Lori Leonard, disciplinary coordinator for the Board, presented the following information to the Board in regards to licensed medical doctors:

- Year-to-date, there have been 805 complaints opened
- Year-to-date, 802 complaints have been closed
- 235 physicians are currently being monitored
- The most common complaints received fall into the malpractice and negligence categories

Ms. Leonard presented the following information to the Board in regards to licensed x-ray operators:

- Year-to-date, there have been 31 complaints opened
- 21 complaints have been closed
- 13 x-ray operators are currently being monitored

Ms. Leonard presented the following information to the Board in regards to licensed special training medical doctors:

- Year-to-date, there have been 2 complaints opened
- 2 complaints have been closed
- 0 special training medical doctors are currently being monitored.

Dr. Zanolli requested for additional information covering the past two (2) years listed on future reports.

X. OFFICE OF GENERAL COUNSEL

Ms. Bratton presented the report from the Office of General Counsel to include the following updates:

1. Medical spa registry rules, the intractable pain repeal rules, and the fee increase rules are in the internal review process.
2. There are three (3) pending appeals from board action and zero (0) civil suits.
3. As of November 14th, there were one-hundred and twenty (120) disciplinary complaints against seventy (70) respondents pending in the Office of General Counsel.

Dr. Zanolli asked for information listed from the previous year on the report.

POLICY FOR POLYSOMNOGRAPHY PROFESSIONAL STANDARDS COMMITTEE:

- Ms. Tracey Alcock presented the revised policy to the Board. The modification to the policy is raising fines from \$50.00 to \$100.00.
- Dr. Christiansen motioned to approve the revised policy as presented. Dr. Hale seconded and motioned passed.

Agreed Order(s):

Edwin Hulse, MD – Dr. Hulse did not appear before the Board nor did he have legal representation. Dr. Hulse was delinquent 13.75 continued medical education hours, to include the Tennessee specific controlled substance hours. Dr. Hulse was cited and paid his fees. Dr. Hulse has sent in the continuing

education hours to satisfy the delinquency. Dr. Christiansen motioned to approve the order. Dr. Hale seconded and motion passed.

Orders of Compliance:

Curtis Beauregard, MD – Ms. Bratton presented to the Board. The Office of General Counsel is not opposed to lifting the probation. Dr. Beauregard is in compliance with his Order. Ms. Alice Fisher represented as counsel for Dr. Beauregard. Dr. Johnson asked questions about Dr. Beauregard’s re-entry program in a fellowship in Florida. Dr. Baron spoke on Dr. Beauregard’s behalf. Dr. Christiansen motioned to accept the Order. Dr. Hale seconded and it passed.

Colleen Brophy, MD – Ms. Bratton presented to the Board. Dr. Brophy was present without counsel. Dr. Brophy has been monitored by the disciplinary coordinator and is in compliance with the Board Order. Dr. Brophy has been monitored by TMF, as well as, received treatment from her psychiatrist. During her treatment, Dr. Brophy began seeing a new psychiatrist and the quarterly reports stopped. There was no Board Order violation brought against Dr. Brophy. At the suggestion of TMF, Dr. Brophy had Dr. Greg Keiser review her records from the physician wellness program, her medical records, and interview with the petitioner. Dr. Keiser then gave his report with an assessment. Based on recommendations from the Board consultant and advocacy from TMF, the Office of General Counsel is not opposed to the probation being lifted. Dr. Brophy is in agreement with the stipulation of facts except having ever submitted quarterly reports from the psychiatrist. Dr. Brophy stated that she did not recognize that was a requirement until she submitted the Order of Compliance. Dr. Baron spoke on Dr. Brophy’s behalf. Dr. Christiansen motioned to accept the Order. Ms. Claxton seconded and the motion passed.

Bradford Chase, PA – Ms. Andrea Huddleston presented to the Board. The Order has already been ratified by the Committee on Physician Assistants. Mr. Chase was not present nor was he represented by legal counsel. Mr. Chase surrendered his license in North Carolina due to ordering controlled substances for his own use. The Committee on Physician Assistants, in May of 2016, granted Mr. Chase a license contingent on Mr. Chase completing a re-entry process, which the petitioner satisfied. The license was then conditioned on certain requirements of maintaining a contract with the Tennessee Professional Assistance program; Mr. Chase would not prescribe controlled substances for at least one year, and not seek to become a D.E.A. registrant. Mr. Chase went before the Committee to ask that the restrictions be lifted. Materials presented are letters from the Tennessee Professional Assistance program stating Mr. Chase is compliant, coursework taken, and the affidavit from the disciplinary coordinator stating he is in compliance. The decision from the Committee on Physician Assistants was based on the petitioner being out of practice for six (6) years prior to getting his license in Tennessee and has not been prescribing controlled substances for over seven (7) years. Mr. Chase will need to provide a more recent psychiatric evaluation stating that he is safe to practice and prescribe controlled substances and will need to complete a minimum of eight (8) hours of continuing education pertaining to controlled substances that would meet the objectives of the Vanderbilt course for prescribing controlled substances. Once the requirements are fulfilled, Mr. Chase would be able to seek D.E.A. registration for schedules 4 and 5 only. The Board questioned counsel. Dr. Christiansen motioned to ratify the Order and Dr. Hale seconded. The motion passed.

Consent Order(s):

Clinton Wight, MD – Mr. Samuel Moore, with the Office of General Counsel, represented the state. Mr. Samuel Helmbrecht represented Dr. Wight. Dr. Wight was not present. The facts stipulated in the stipulation of facts are sufficient to establish that grounds for discipline of Respondent’s medical license exist. The license has been reprimanded effective November 29, 2017. The Respondent must enroll in and successfully complete the two (2) day medical course entitled “*Intensive Course in Medical*

Documentation” offered at The Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent pre-approved by the Board Consultant within one hundred twenty (120) days of this Order. Within thirty (30) days after completion of the course, the Respondent must mail or deliver proof of compliance with the course requirement to the Board designee. Respondent must enroll in and successfully complete the three (3) day medical course entitled “*Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*” offered by Vanderbilt University Medical Center or an equivalent that is pre-approved by the Board’s Medical Director within one hundred eighty (180) days of this Order. Respondent shall mail or deliver proof of compliance with course requirement to the Board’s designee within thirty (30) days after completion of course. Respondent must enroll in and successfully complete, within one (1) year from this Order the one (1) day medical course entitled “*Basics of Chronic Pain Management: Essentials for the Non-Pain Management Specialist*” offered by the University of Colorado or an equivalent course pre-approved in writing by the Board’s Medical Director. Respondent will mail or deliver within thirty (30) days proof of compliance with the course requirement. Respondent must pay (13) type “B” Civil Penalties in the amount of one hundred fifteen dollars (\$115.00). Respondent must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division’s Board of Investigations in connection with the prosecution of this matter. The maximum amount for the assessment of costs shall be five thousand dollars (\$5,000.00). Respondent understands that this formal disciplinary action will be reported to the National Practitioner Data Bank (N.P.D.B.). Any and all costs shall be paid in full within sixty (60) days from the issue of the Assessment of Costs. Counsel Samuel Helmbrecht was in agreement with the Order. The Board discussed. Dr. Christiansen and Dr. Hale asked questions in regards to prescribing patterns. Dr. Christiansen motioned to accept. Dr. Hale seconded. The motion passed.

Melissa Hartwell, PA – Mr. Samuel Moore, with the Office of General Counsel, represented the state. Ms. Hartwell was not present nor was she represented by legal counsel. The Order was previously ratified by the Committee on Physician Assistants on October 6, 2017. The Respondent is in agreement with the Order. The facts stipulated in the stipulation of facts are sufficient to establish that grounds for discipline of Respondent’s physician assistant license exist. Ms. Hartwell’s license is suspended, for no less than two (2) years and until the Respondent has completed the requirements in paragraph fifteen through seventeen (15-17) of the Order. Upon completion of the requirements, the Respondent must petition for an Order of Compliance and appear in person before the Committee of Physician Assistants for the suspension to be lifted. The Respondent shall appear before the Committee and prove that she is safe to practice as a physician assistant in order for the suspension to be lifted. The Respondent’s suspension may be lifted at the discretion of the Committee, at which time the Respondent’s physician assistant’s license will be placed on probation for not less than five (5) years, effective November 29, 2017. Respondent may petition for an Order of Compliance to lift the probation, upon completion of the five (5) year probationary period. Respondent shall maintain good and lawful conduct during the period of suspension and probation and any violation of law will be a violation of the terms of the Order. Respondent will be barred from prescribing controlled substances and agrees not to work for or at a Pain Management Clinic, or any clinic, office or facility where the majority of patients receive prescriptions for controlled substances. Ms. Hartwell agrees to surrender her DEA registrations for all schedules of controlled substances and agrees not to seek reinstatement of DEA privileges. Ms. Hartwell is assessed and must pay one (1) Type “A” civil penalty in the amount of one thousand dollars (\$1,000.00). The Respondent must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Committee by the Division’s Bureau of Investigations in connection with the prosecution of this matter. The maximum amount for the assessment of costs shall be five thousand dollars (\$5,000.00). The Respondent understands this formal disciplinary action will be reported to the National Practitioner Data Bank (N.P.D.B.). Dr. Johnson questioned counsel on Ms. Hartwell’s Virginia suspension. Dr. Christiansen motioned to accept the Order. Dr. Hale seconded. The motion passed.

Anthony Trent, MD – Ms. Jennifer Putnam, with the Office of General Counsel, represented the state. Dr. Trent was not present nor was he represented by legal counsel. The Respondent admits to the stipulation of facts. The facts stipulated in the stipulations of fact are sufficient to establish that grounds for discipline of respondent’s medical license exist. The Tennessee medical license of Dr. Trent is reprimanded effective November 29, 2017. Dr. Trent shall comply with all terms, conditions and recommendations of the monitoring agreement he entered into with TMF on December of 2015. Dr. Trent shall submit copies of all reports and recommendations issued by TMF within thirty (30) days of the date of the report to the disciplinary coordinator. The Respondent must pay one (1) Type “A” civil penalty, in the amount of one thousand (\$1,000.00), representing a civil penalty for conviction as outlined in paragraph two (2) of the Stipulations of Fact. All civil penalties shall be paid within thirty (30) days of the effective date of this Consent Order and all civil penalties shall be paid by certified check, cashier’s check, or money order to the State of Tennessee, which will be mailed to the disciplinary coordinator. The Respondent shall pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. The maximum amount for the assessment of costs shall be one thousand dollars (\$1,000.00). Any cost shall be paid in full within thirty (30) days from the issuance of the Assessment of Costs. The Respondent understands this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency. Dr. Christiansen motioned to accept the Order. Dr. Hale seconded and the motion passed.

William James, MD – Mr. David Silvus, with the Office of General Counsel, represented the state. Dr. Hale recused himself. Dr. James was not present nor was he represented by legal counsel. The Respondent acknowledges that the facts exist. The facts stipulated in the stipulations of fact are sufficient to establish that grounds for discipline of respondent’s medical license exist. The Respondents medical license is reprimanded. The Respondent is assessed and must pay one (1) Type “B” civil penalty of one hundred dollars (\$100.00) for each month that he failed to properly supervise the APRN, for a total civil penalty of three thousand, six hundred dollars (3,600.00). The Respondent is prohibited from supervising any mid-levels, to include APRNs and physician assistants, at any location other than where the Respondent practices or serves in any administrative capacity. Nothing in this Order shall be construed to limit, restrict, suspend, or revoke Respondent’s ability, while on call in the emergency room, to communicate with mid-levels by phone to give orders and receive progress notes and information from mid-levels. The Respondent’s medical license shall remain free and unencumbered and nothing in the Order shall be construed to limit, restrict, suspend, or revoke Respondent’s medical license, the ability to practice medicine, or ability to supervise or collaborate with any mid-levels or other personnel. Respondent is permitted to continue his practice as an emergency room physician without restriction or limitation and shall be permitted to supervise and collaborate with mid-levels incident to this practice without limitation or restriction. Nothing in the Order is to prohibit the Respondent from serving as the Executive Director of an Emergency Medical Services provider, even if it requires supervision of or collaboration with APRNs, physician assistants, EMTs, or paramedics who provide emergent patient care away from the hospital where the Respondent is located while working for the Emergency Services Medical provider. The Respondent agrees to appear without a subpoena, if called by the State as a witness in any matter involving the APRN supervisees, medical doctors, or current supervising physicians, in any matter relating to the specific APRNs involvement in the family clinic. The Respondent shall pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of this matter. The maximum amount for the assessment of costs shall be five thousand dollars (\$5000.00). Respondent understands this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.). All costs shall be paid to the disciplinary coordinator within sixty (60) days from the issuance of the Affidavit of Costs. Dr. Johnson asked question in regards to the wording of administrative practicing in Order. Dr. Christiansen motioned to accept the Order. Ms. Claxton seconded. The motion passed with four (4) in agreement and one (1) recusal by Dr. Hale.

Agreed Order(s) (continued):

S.L. Lampkin, IV MD – Mr. David Silvus, with the Office of General Counsel, represented the state. Dr. Lampkin was not present nor was he represented by legal counsel. The facts stipulated in the stipulations of fact are sufficient to establish that grounds for discipline of respondent’s medical license exist. The Tennessee medical license of Dr. Lampkin is reprimanded. The Respondent is prohibited from collaborating with or supervising any mid-levels to include APRNs and PAs, while those mid-levels practice at a location other than the location of the Respondent’s practice, for a period of five (5) years from the date of entry of this Order. For a period of three (3) years from the date of entry of this Order, the Respondent is prohibited from practicing at a certified pain management clinic, in any capacity, including but not limited to serving as medical director, collaborating/supervising physician for any APRNs or physician assistants practicing at a certified pain management clinic, or certificate holder. The Respondent agrees to appear and testify truthfully if called by the Department as a witness in any matter relating to any APRN at the specific practice location he served as medical director of the facility. Dr. Lampkin is assessed and must pay one (1) Type “B” civil penalty of two hundred dollars (\$200.00) for each day that he served as medical director for the clinic and as the supervising physician of the APRNs when he was not qualified to do so, for a penalty of five thousand, seven hundred dollars (\$5,700.00). The Respondent is assessed and must pay one (1) Type “B” civil penalty of five hundred dollars (\$500.00) for each week that he served as the medical doctor for the clinic and as the supervising physician of APRNs practicing at the clinic but did not properly and/or timely review patient charts, for a total penalty of four thousand dollars (\$4,000). Respondent must pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of this matter. The maximum amount for the assessment of costs shall be ten thousand dollars (\$10,000). Respondent is aware that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.). Dr. Christiansen motioned to accept the Order. Dr. Hale seconded and the motion passed.

Order of Compliance(s) (continued):

Martin Nwosu, MD – Ms. Andrea Huddleston, with the Office of General Counsel, represented the state. Dr. Nwosu was not present nor was he represented by legal counsel. Dr. Nwosu was disciplined at the September 2017 Board meeting. The medical license was suspended for a period of thirty (30) days starting October 27, 2017. Dr. Nwosu was required to register for coursework. Dr. Nwosu has completed the Case Western course and is registered for the Vanderbilt course. Presented in materials was an affidavit from the disciplinary coordinator demonstrating what Dr. Nwosu has satisfied thus far and a draft Order that would lift the suspension, placing his license on probation for a period of three (3) years. Dr. Nwosu will have the continuing requirements per the Agreed Order. Dr. Nwosu has paid some cost of penalties and has a year to finish payment. Dr. Christiansen motioned to accept the Order. Ms. Claxton seconded and the motion passed.

Consent Order(s) (continued)

Louis Brill, MD – Ms. Paetria Morgan, with the Office of General Counsel, represented the state. Dr. Brill was not present nor was he represented by legal counsel. The Respondent’s medical license was reprimanded by the Virginia Medical Board on February 18, 2017. The respondent’s Maryland medical license was disciplined based on the Virginia disciplinary action. The facts stipulated in the stipulations of fact are sufficient to establish that grounds for discipline of respondent’s medical license exist. The Tennessee medical license of Dr. Brill is reprimanded effective November 29, 2017. The Respondent shall pay two (2) Type “C” civil penalties in the amount of one hundred dollars (\$100.00), representing one penalty for failing to report the Virginia and Maryland disciplinary actions and another penalty for

failing to report the medical malpractice settlement, for a total assessment of two hundred dollars (\$200.00). The civil penalty is to be paid in full and sent to the State of Tennessee, Department of Health within thirty (30) days of the effective date of the Consent Order. Respondent will pay the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. The maximum amount for the assessment of costs shall be three thousand dollars (\$3,000.00). Respondent understands this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.). Dr. Hale motioned to accept the Order and Dr. Christiansen seconded. The motion passed.

Petition for Order Modification(s):

Ray Bello, MD – Ms. Bratton presented to the Board for the Office of General Counsel. Dr. Bello was granted a conditional license in 2016. Dr. Bello had to submit to one year of practicing monitoring with a monitor that was approved by the Medical Consultant, the practice monitor must examine medical record keeping and billing practices as well as provide quarterly reporting to the Board, and he was prohibited from working in a pain management clinic. Ms. Bratton informed that the Office of General Counsel is opposed to the modification. Dr. Bello previously permanently surrendered his New Jersey medical license. Dr. Bello was present without counsel. Dr. Bello is requesting a modification of the Board Order that would remove the restriction to work in a pain management clinic. Dr. Bello addressed the Board and stated that he has a DEA number and it is not restricted. He wants to be an interventionist and neurologist. Dr. Bello has opened a medical spa in Knoxville in August 2017 with purpose of being able to practice interventional pain management. Dr. Saunders stated that one report received by Dr. Bertorini, the doctor who is to monitor Dr. Bello, stated that there was nothing to report because Dr. Bello had not been working. Dr. Bertorini has since sent in one report that stated that Dr. Bello has been working a limited amount of time giving Botox injections and the date of the letter is prior to July of 2017. The Board approved Dr. Bertorini to monitor Dr. Bello in September of 2016 for a period of one year. Dr. Bello stated that he worked as a fellow for the University of TN until October of 2016 and did not see another patient until August of 2017. Dr. Bello stated that he does not want to work in a pain clinic and he wants the restriction off because it gives a bad representation of his name. Dr. Saunders stated only two reports have been submitted to the Board. The Board asked Dr. Bello of his intent of removing the restriction. Dr. Bello stated that he could practice as an interventionist or neurologist, but has been unsuccessful in obtaining a job due to the restriction on his license. Dr. Bello stated that he can only operate at his current practice location as cash based practice, because the insurance carriers will not accept him. Dr. Bello was asked if he had any letters to reference the denials and he stated it was mostly through word of mouth. Ms. Bratton discussed the previous Order and made points that Dr. Bello has not shown evidence that it is impossible for him to obtain work with the restriction on his license. Ms. Claxton made a motion to deny the Order and Dr. Hale seconded the motion. The Board discussed the motion. The motion passed.

Order of Compliance(s) (continued)

Charles Bownds, MD – Ms. Bratton presented to the Board for the Office of General Counsel. Dr. Bownds was not present nor was he represented by legal counsel. Dr. Bownds was suspended for two (2) months and has already appeared before the Board for a petition for Order of Compliance to be on probation for five (5) years and is now requesting that the probation be lifted. The Board discussed. Dr. Christiansen motioned to accept the Order. Dr. Hale seconded the motion and the motion passed.

Petition for Declaratory Order(s):

Eloy Diaz, MD – Ms. Bratton presented to the Board for the Office of General Counsel. Dr. Diaz was not present nor was he represented by legal counsel. Dr. Diaz appeared before the Board during the July 2017

Board meeting. Dr. Diaz is petitioning for a Declaratory Order. Dr. Diaz is an international medical graduate. Dr. Diaz attended an unapproved medical school at the time that Dr. Diaz attended. Dr. Diaz has not taken the USMLE, FLEX, or NBME examinations. Dr. Diaz is not AMBS Board Certified. The Board discussed Dr. Diaz's credentials. Dr. Diaz has passed the ECFMG exam. Dr. Diaz is petitioning for a contested case. Dr. Hale motioned to accept this Order. Ms. Claxton seconded and the motion passed.

Day Two Mockingbird Room Order(s):

Consent Order(s):

Ashley Hill, MDXL – was not present nor did a legal representative appear on her behalf. Mr. Peyton Smith represented the state. Ms. Hill failed to obtain twenty (20) hours of continuing education, including two (2) hours in a course designed to address statutes rules, regulations and A.R.R.T's Standards of Ethics, in the 2015 and 2016 calendar years. This order shall reprimand Ms. Hill's license, require her to obtain the twenty (20) hours to include the two (2) specific hours within one hundred eighty (180) days of ratification of this order, obtain ten (10) additional continuing education hours within two (2) years, pay twenty (20) Type "C" civil penalties in the amount of seventy-five dollars (\$75.00) each for each hour Ms. Hill was deficient for a total of one thousand five hundred dollars (\$1500.00) and Ms. Hill will pay all reasonable costs of this case. Dr. Blake motioned for approval of this order. Mr. Ellis seconded the motion and it carried.

Ivon Mendoza, MDXL – was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. Mr. Mendoza was found to have practiced on a lapsed license for approximately 14 months prior to submitting his application for reinstatement in June of 2017. This order shall reprimand his license; require him to pay twelve (12) Type "C" civil penalties in the amount of one-hundred dollars (\$100.00) each for each month he worked in excess of sixty (60) days from the expiration of his certificate, for a total of one thousand two hundred (\$1,200.00) dollars. Mr. Mendoza must also pay all reasonable costs of this case. Mr. Ellis motioned to approve this order. Dr. Miller seconded the motion and it carried.

Alex Fider, MD – was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. Dr. Fider was found to have repeatedly seen five patients in a public place, namely a Hardee's restaurant, for their appointments. This order shall reprimand his license; require him to pay five (5) Type "B" civil penalties, in the amount of two hundred fifty dollars (\$250.00) each, representing the five patients, for a total amount of one thousand two hundred and fifty dollars (\$1,250.00). Dr. Fider must also pay all reasonable costs of this case. Dr. Blake questioned if there were concerns regarding over prescribing or patient charts and Mr. Smith confirmed these were not areas of concern for this matter. Dr. Blake motioned to approve the order. Dr. Miller seconded the motion and it carried.

Hailu Kabtimer, MD - was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. Dr. Kabtimer entered a guilty plea in the United States District Court for the Middle District of Tennessee for causing to be made false statements or representation of a material fact for benefit or payment, or for use in determining rights to payment under a Federal health care program, a misdemeanor. This order shall reprimand his license; require him to pay one (1) Type "A" civil penalty, in the amount of one thousand dollars (\$1,000.00) and all reasonable costs of this case. Dr. Miller motioned to approve this order. Mr. Ellis seconded this motion and it carried.

Todd Nairn, MD - was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. On or about March 29, 2017, the Virginia Board of Medicine issued an Order regarding the medical license of Dr. Nairn. The Virginia Board concluded that he failed to properly manage and maintain timely, accurate, and complete medical records, in prescribing controlled substances

with abuse potential without adequately establishing medical support for such treatment in the medical record through comprehensive physical exams and prior medical records, ignored the results of diagnostic testing, and disregarded other provider concerns about prescribing based on available medical evidence. The Virginia Order, which was terminated on or about May 11, 2017, reprimanded Dr. Nairn and imposed conditions upon his Virginia medical license, including additional continuing education hours. In August 2017, Dr. Nairn was then reprimanded by the Kentucky Board of Medical Licensure based on the Virginia Order and for failing to report the Virginia discipline to the Kentucky Board. Dr. Nairn failed to report his Virginia or Kentucky discipline to the Tennessee Board of Medical Examiners within thirty (30) days of the discipline. This order shall reprimand his license; require him to pay two (2) Type "B" civil penalties, in the amount of three hundred dollars (\$300.00) each, for a total of six hundred dollars (\$600.00), and to pay all reasonable costs of this case. A brief discussion was held on the length of time Dr. Nairn was found to have the concerns listed above and outlined in the order and there was a brief review of the discipline issued by the other state boards. Mr. Ellis motioned to approve this order. Dr. Miller seconded the motion and it carried.

Deborah Thomas, MD - was not present nor did a legal representative appear on her behalf. Mr. Peyton Smith represented the state. On October 7, 2014, Dr. Thomas was indicted by a federal grand jury in the Eastern District of Tennessee on one count for conspiracy to distribute oxycodone, morphine, oxymorphone, and alprazolam by writing prescriptions for controlled substances which were not for legitimate medical purposes and one count for conspiracy to commit money laundering. On October 14, 2014, as a condition of her release following arrest, she voluntarily surrendered her DEA registration. On January 27, 2016, the Board suspended her medical license until criminal proceedings related to the indictment reached a final disposition. On February 22, 2017, the United States District Court for the Eastern District of Tennessee accepted her plea of guilty to Count 1 of the indictment for Conspiracy to Distribute Schedule II and Schedule IV Controlled Substances and entered a judgment against Dr. Thomas. The District Court dismissed Count 2 of the indictment related to money laundering. The District Court sentenced Dr. Thomas to one hundred twenty (120) months of imprisonment and supervised release for three (3) years. This order shall revoke Dr. Thomas' license, require her to pay one (1) Type "A" civil penalty, in the amount of one thousand dollars (\$1,000.00) and all reasonable costs of the case. Dr. Blake motioned to approve this order. Dr. Miller seconded the motion and it carried.

Contested Case

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

Poplar Room

Administrative Law Judge: Rachel Waterhouse

Panelists: Subhi Ali, MD; Neal Beckford, MD; Charles Handorf, MD

Counsel for State: Andrew Coffman, Esq.

Counsel for Respondent: Tom Wiseman and Kimberly Silvus, Esq.

This is a continued case from September 27, 2017. The state motioned to exclude expert opinion testimony regarding legal conclusions in reference to licensure discipline. Mr. Coffman proceeded to continue a direct examination with Dr. Waggoner on patient charts. The Department directed Dr. Waggoner to the patient chart, which does not show whether or not the patient consumes alcohol. Dr. Waggoner stated that if he did not ask at this particular visit, he could have asked at another visit. The Department showed proof that Dr. Waggoner never marked on the patient's chart that the patient did or did not use alcohol. Dr. Waggoner agreed with the statement. The Department continued to ask the respondent questions about documentation of using the Save assessment screener in the patient's medical chart. Counsel presented evidence previously presented to the Board showing no documentation of the Save assessment screener for patient E.H. The Board questioned Dr. Waggoner. Dr. Waggoner stated that during the time period of the charts presented, he feels he supplied appropriate documentation. Dr.

Waggoner stated that his charting today is dramatically different. Counsel proceeded in direct examination with Dr. Waggoner by asking about his charting habits. Counsel questioned Dr. Waggoner on his receiving educational training of monitoring patients on controlled substances. Counsel presented evidence that Dr. Waggoner took CME courses on monitoring patients on controlled substances. Dr. Caleb Warren's video deposition was presented to the Board. Dr. Warren provided his opinion on whether the Dr. Waggoner's charts met or did not meet the standard of care for prescribing controlled substances. Based on Dr. Warren's medical opinion, after reviewing the charts, he felt that Dr. Waggoner fell below the standard of care in prescribing controlled substances to several patients. The deposition video was not completed. The meeting was adjourned and will continue on January 24th, 2018.

The Board of Medical Examiners meeting adjourned.