



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

**Tuesday, September 26, 2017
Wednesday, September 27, 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
John Hale, MD
Jennifer Claxton, Consumer Member

Board member(s) absent: None

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

Ms. Mary Katherine Bratton took a brief moment to review the boards' options which may be imposed in regards to licensure consideration for applicant interviews.

I. CONSIDERATION OF APPLICATIONS

Medical Doctor Applicant Interview(s):

James Appleton, III, MD – appeared before the board with legal representation by Ms. Alexandria Fisher. Dr. Appleton has a history of disciplinary action with the Board of Medical Examiners (hereinafter “the board”) wherein fact his license was revoked in 2010. In September 2013, he was granted licensure contingent on signing a lifetime contract with the Tennessee Medical Foundation (herein after “TMF”) and enrollment in an ACGME accredited fellowship, in addiction medicine, under supervision. Dr. Appleton did not follow through with the contingency terms; therefore his license was never issued.

Dr. Appleton’s sobriety date is in January 2012. Ms. Fisher explained to the board that in the summer of 2013 he signed a lifetime monitoring agreement with TMF. She further explain that Dr. Appleton was unable to enroll in an accredited ACGME fellowship in addiction medicine because such a program did not exist in 2013.

Dr. Appleton has since completed a residency program in addiction medicine through the University of Florida. Mike Todd, with TMF, addressed the board. Dr. Appleton has been compliant and in a contractual relationship with TMF since 2013, to include the monitoring from the Florida Physicians Health Program while Dr. Appleton resides in that state. The board led a discussion and interviewed Dr. Appleton about his practice intentions in Tennessee and the residency program he completed.

Dr. Beckford motioned to approve licensure conditioned upon lifetime advocacy and a lifetime monitoring contract from TMF. Dr. Johnson seconded the motion. Dr. Zanolli stated it should be clear that this license does not limit his practice strictly to the specialty of addiction medicine. The motion carried.

John F. Barr, MD – appeared before the board without legal representation. Dr. Barr appeared before the board due to a history of disciplinary action from other state boards which included allegations of over prescribing controlled substances. Also, Dr. Barr has been out of clinical practice since June 15, 2012. Dr. Barr intends to practice primary care medicine in a physicians group if licensed in Tennessee. The board interviewed Dr. Barr regarding practice intentions in Tennessee, current employment, and the North Carolina board issuing an indefinite suspension on that license. The board indicated they did not see any avenues in granting the license when there were still unresolved issues with other state licenses. The board led a discussion and then recommended Dr. Barr resolve the North Carolina license disciplinary matters and consider a re-entry process before pursuing any other state licenses. Dr. Barr was offered the opportunity to withdraw his application before the board proceeded with making a motion. Dr. Barr elected to withdraw his application.

Ashley Blevins, MD – appeared before the board without legal representation. Dr. Blevins appeared before the board due board action in Kentucky, a history of substance use disorder and participation with the Kentucky Physician Health Program (“PHP”). She has a history of violating the Kentucky PHP agreement and has an active contract since July of 2015 which is projected to last five (5) years. Dr. Blevins has already sought the advocacy of TMF. He reported that Dr. Blevins has been in compliance with the Kentucky PHP and he recommends that she complete the rest of her current five (5) year monitoring contract with TMF if she is licensed and moves to Tennessee to practice. Dr. Handorf motioned to approve licensure contingent on signing and maintaining compliance with a five (5) year TMF monitoring contract. The motion was seconded by Dr. Beckford. Dr. Christiansen questioned the intent of the motion on if it is to start a new five (5) year contract or to finish the remaining three (3) years of her current contract. Dr. Handorf explained that his intent was to have Dr. Blevins complete the remaining three (3) years of her current contract. The board led a discussion regarding potential TMF contract lengths and whether or not they would want the license to be issued conditional or contingent. The first motion was withdrawn by Dr. Handorf. Dr. Handorf made a second motion to grant contingent licensure upon signing a five (5) year TMF monitoring contract and maintain compliance with such

contract, with the start of the five (5) years being today. Dr. Christiansen seconded the motion and the motion carried.

Tamara Hughes, MD – appeared before the board without legal representation. Dr. Hughes appeared before the board due to a history of substance use disorder and participation in the Alabama Physicians Health Program. Dr. Hughes informed the board that her current participation with the Alabama PHP is on a voluntary basis. Dr. Baron addressed the board; he advocated for Dr. Hughes licensure and suggested it would be appropriate to begin a monitoring contract as a means to be reciprocal of her current Alabama PHP monitoring. He stated it is common to have a physician continue voluntary monitoring in order to maintain malpractice coverage. However, he stated evidence based research would support that at Dr. Hughes point of recovery the potential for relapse is minimal and if she were to move to Tennessee and end her Alabama PHP monitoring that it would not be necessary for TMF monitoring. The board interviewed Dr. Hughes on her intentions of practicing in Tennessee, which she reports she intends to only practice one to two days per month for now. Dr. Johnson made a motion to grant an unrestricted license contingent upon her maintaining advocacy with TMF to remain congruent with her Alabama PHP. Dr. Blake seconded the motion and it carried.

Aaron Rank, MD – appeared before the board without legal representation. Dr. Rank appeared before the board due to participation in the Michigan Physicians Health Program pursuant to alcohol use disorder and a related criminal history, with his last incident occurring in 2015. Dr. Rank indicates he self-reported to the Michigan PHP and has not faced disciplinary issues with the Michigan Medical Board. The board interviewed Dr. Rank regarding his practice intentions in Tennessee. Dr. Rank's last practice date was August 28, 2015. Dr. Rank reports he has continued completing continuing medical education and studying for his board specialty recertification exam, with the maintenance of certification exam having been completed and passed in January 2017.

Dr. Baron reports that Dr. Rank is compliant with his Michigan monitoring contract and he advocated for Dr. Rank to be granted licensure in Tennessee with continued monitoring from TMF. The board led a discussion regarding the potential length of time for a monitoring contract. Dr. Zanolli motioned to grant an unrestricted license contingent upon signing a five (5) year TMF monitoring contract, with his contract date beginning today. Dr. Ali seconded the motion and it carried.

Sonia Guerra, MD – appeared before the board without legal representation. Dr. Guerra appeared before the board due to being out of clinical practice since November 2013. Dr. Guerra unintentionally allowed her license to lapse in 2014. Also, she reported that she has retired from practice but intends to participate in volunteer medical health. Dr. Guerra feels that she is current regarding her continuing medical education credits. Dr. Johnson questioned Dr. Guerra on her intentions of completing a remediation plan. She indicates that she is not interested in completing a remediation plan due to her retirement and extensive clinical medical practice experience. Dr. Guerra indicates she recertified with her endocrinology board certification almost ten (10) years and does not intend to recertify. Dr. Johnson motioned to table her application for up to six (6) months to give time for Dr. Guerra to develop a re-entry plan with the medical consultant in consultation with a board member. Dr. Handorf seconded the motion. Dr. Guerra is not interested in a remediation plan and opted to withdraw her application for reinstatement of licensure.

William Kincaid, MD – appeared before the board without legal representation. Dr. Blake and Dr. Beckford recused themselves. Dr. Kincaid appeared before the board in January 2017 and was requested to submit a formal PLAS assessment and have that assessment reviewed pursuant to the board's re-entry policy. The board consultant and a member of the board have collaborated on a plan that the board needs to consider and ratify. Ratification will allow Dr. Kincaid to be licensed and re-enter the practice of medicine.

Dr. Kincaid has been unable secure a preceptorship and the board led a discussion on whether or not this application should remain open. Dr. Christiansen motioned to table this application for another four (4) months to allow him time to secure a preceptorship. Dr. Handorf seconded the motion. Dr. Saunders stated that administratively we tend to keep applications open for one (1) year and if the board motions to table this application for another four (4) months then the application will have been open for an estimated eighteen (18) months.

Ms. Mary Katherine Bratton requested that the board adopt the proposed re-entry pathway and grant a conditional license in their motion. Without that measure, Dr. Kincaid would then be required to appear before the board again, after he secures a preceptorship, to have the re-entry pathway approved.

Dr. Zanolli offered a second motion which will approve the remediation plan as proposed. Dr. Ali seconded the motion and it carried with the recusals from Dr. Blake and Dr. Beckford. The board then voted on the initial motion from Dr. Christiansen and seconded by Dr. Handorf; which was to table this application for four (4) months to allow him time to secure a preceptorship. This initial motion passed with recusals from Dr. Blake and Dr. Beckford.

Dr. Blake addressed the intention of the remediation plan proposed was to have Dr. Kincaid complete the remediation plan and then a license could be granted. Also, once the remediation plan commences, Dr. Kincaid will have six (6) months to complete his remediation. A discussion was held on whether or not Dr. Kincaid may need a limited license during his remediation.

Dr. Johnson motioned to grant limited licensure for six (6) months' duration, contingent upon Dr. Kincaid's ability to find a preceptor and begin the plan within four (4) months. It is understood that this license will be approved by Dr. Saunders if she agrees that the contingencies were met and said license is required during his preceptorship. Dr. Ali seconded the motion. Dr. Handorf and Dr. Zanolli spoke toward the desire of waiting for a preceptorship to be secured before the limited license is issued. The board and staff further discussed whether or not a limited license should be issued today or not. The motion passed with two (2) oppositions and recusals from Dr. Blake and Dr. Beckford.

It is understood that, if this limited license is issued, then it will expire at the end of the preceptorship. Dr. Ali motioned that Dr. Kincaid would need to appear before the board before issuance of a further license. Mr. Ellis seconded the motion and it carried with recusals from Dr. Blake and Dr. Beckford.

Dr. Blake stated that the board may want to consider the legislative limited license in their re-entry pathway moving forward.

Beau Venator, MD – appeared before the board without legal representation. Dr. Venator appeared before the board due to a criminal history, disciplinary board action by the Florida Medical Board, and a history of controlled substance and alcohol use disorder. Dr. Venator addressed the board regarding his criminal history to include pleading guilty to crimes he did not believe he had committed. Dr. Handorf noted that in the applicants Florida Medical Board disciplinary order it states that his license is not only surrendered but that he is unable to apply for licensure in Florida again. A question arose regarding the application materials indicating Dr. Venator has a history of addiction. Dr. Venator explained his attorney, at the time, pushed for acceptance into a residential and alcohol drug abuse program as a means to have twelve (12) months taken off of his sentencing. The judge approved of this program but when he was sentenced and evaluated by the program he was denied participation due to no finding of an alcohol or substance addiction. Dr. Ali stated that the board must consider the application with the information in front of them and the application materials indicate there was a history of addiction. Dr. Ali stated that on the basis of the application materials, the medical consultant's recommendation to the board to deny the

application, and from and the consensus of the board, there is not going to be a motion to grant licensure. Dr. Venator withdrew his application for licensure.

Elijah Carter, MD – appeared before the board without legal representation. Dr. Carter appeared before the board because he is unable to meet the compliance of board rule 0880-02-.09(2)(d). This rule requires reinstatement applicants to submit continuing medical education hours for every year their license has been expired up to the year preceding their license reinstatement application.

The board addressed revising this applicable rule during their July 2017 board meeting.

Dr. Carter addressed the board regarding his clinical practice experience and practice intentions in Tennessee. Dr. Carter reports he holds an unencumbered license in California, Idaho and Arizona and has maintained compliance with continuing medical education for those state licenses. Dr. Carter practiced for years as an OBGYN but would not be interested in practicing this type of medicine if his license is reinstated. He indicates that his primary practice is to use integrative medicine with preventative and restorative medicine using plant based products and using allopathic medicine in acute emergencies.

The board led a discussion with the applicant on trying to determine if Dr. Carter would be able to find records of past continuing medical education certificates from other state board records or where he may have held hospital privileges.

Currently there is proof of fifty-seven and a half (57.5) continuing medical education hours in Dr. Carter's reinstatement application file. Dr. Saunders stated those hours were from years 2014 and 2015. Also, that there is not proof of completion of the two Tennessee specific prescribing continuing medical education hours.

Ms. Bratton commented that the board did discuss changing this rule at their July 2017 meeting. Based on the proposal discussed at that meeting, the board would possibly change this rule to require four (4) years of continuing medical education hours when someone has allowed their license to lapse. She further explained that if that change were in effect then Dr. Carter would have to show proof of appropriate continuing medical education hours for years 2016 and 2017.

Dr. Zanolli motioned to approve reinstatement of licensure contingent upon Dr. Carter completing two (2) hours of continuing medical education in Tennessee specific prescribing instruction. There is no concern regarding him needing a remediation plan because he has clinically practiced in the last two (2) years and has three other active state licenses. Dr. Miller seconded the motion.

Dr. Blake requested an amendment to the motion, by requiring proof of twelve (12) continuing medical education hours with two (2) of those hours in Tennessee prescribing instruction. The justification for this requirement would be to have Dr. Carter submit proof of forty (40) total continuing education hours to have been completed within the last two years and based on the hours submitted with his application file, twelve (12) is the remaining number of hours needed to meet the forty (40). This amendment was fully stated by Dr. Johnson and seconded by Dr. Blake. The board voted on the amendment to the motion and it passed with two opposed.

The board then voted on the initial motion presented by Dr. Zanolli and seconded by Dr. Miller, and as it was just amended by board vote, and the motion carried.

Chibuike Obioha, MD – appeared before the board without legal representation. Dr. Obioha appeared before the board because he is an international medical graduate who has not completed three (3) years of a U.S. residency in a single discipline and is not currently board certified. This does not meet the

requirement of licensure found in board rule 0880-02-.04(5). He currently has an unrestricted license in Ohio and Wisconsin. Dr. Johnson has communicated with the ACGME to understand the Occupational Medicine residency requirements. Based on the information provided by ACGME and the information in Dr. Obioha's licensure file, Dr. Obioha has met the conditions for completing his three (3) year residency in one discipline. Dr. Obioha indicates he became eligible to take the specialty board certification exam and he plans on scheduling to take the exam in the near future. Dr. Beckford motioned to grant Dr. Obioha an unrestricted medical license. Dr. Johnson seconded the motion and it carried.

Miklos Molnar – appeared before the board without legal representation. Dr. Molnar appeared before the board as an international medical graduate who has less than three (3) years of ACGME accredited postgraduate training. He has received twelve (12) months credit from the American Board of Internal Medicine and will become eligible to sit for the board examination once he completes twenty-four (24) months of U.S. training which will occur in January 2018. Dr. Johnson motioned to grant an unrestricted license contingent upon successful completion of his residency training on January 3, 2018. Dr. Beckford seconded the motion, there was one abstention and the motion carried.

Dr. Johnson proposed that the development committee address board rule 0880-02-.04(5). This item will be added to the November 2017 development committee meeting.

CONSIDER REVISION TO TENN. COMP. R. & REGS. 0880-02-.09(2)(D) AND 0880-02-.10(3)(B)

Ms. Bratton provided the board with a proposal to change this rule, which was discussed at the July board meeting. Within the proposed policy the following would apply:

- Applicants reinstating licensure from an expired status would require proof of four (4) years for continuing medical education (hereinafter "CME"), equating to eighty (80) hours. This change would relieve physicians, whom have had a lapsed license for several years, from the responsibility of submitting CME proof for all years the license was lapsed.
- From 0880-02-.10(3)(b) this matches the current rule in stating: Applicants reinstating licensure from a retired or inactive status would require proof of two (2) years of CME, equating to forty (40) hours.
- In both matters, the applicant requesting reinstatement who has not clinically practicing in greater than two (2) may be subject to the board re-entry policy.

Ms. Bratton informed the board that their medical x-ray rules regarding reinstatement of licensure has a similar stipulation to submit continuing education for all years the license was lapsed. Given that, she suggested the board may want to change rule 0880-5-.08(3)(c) as well. Ms. Bratton proposed that the x-ray proposed rule change would mirror the medical doctor rule revision regarding the number of years of continuing education required to be submitted. Dr. Zanolli motioned to accept the rule changes for medical doctors and x-ray technicians as proposed by Ms. Bratton. Dr. Handorf seconded the motion.

Dr. Blake questioned the board on the need to require that the continuing education hours be category one live instruction versus online courses. The board led a discussion on this matter. Dr. Zanolli suggested to modify his motion by including the following: as currently found in board rule 0880-02-.10(3)(b), to remove the language requiring CME be completed through live instruction only, when the physician has not actively practiced for more than two (2) years, so long as the hours completed are still AMA Category 1 and/or AAFP Prescribed Credits. Dr. Johnson seconded this amended motion. The motion passed.

Ms. Bratton suggested the board would be able to adopt this proposed rule change into policy. Dr. Ali motioned to submit this into policy and Dr. Handorf seconded the motion. The motion carried.

APPROVAL OF MINUTES

The board reviewed the July meeting minutes previously distributed to the board. Dr. Zanolli requested an edit to the July minutes by adding the roll call vote in the Dr. Ingram entry. Dr. Zanolli motioned to approve the minutes as amended and Dr. Johnson seconded the motion. The motion carried with one abstention from Ms. Jennifer Claxton.

Petition for Order of Compliance:

John Woods, MD – appeared before the board with legal representation. Ms. Bratton represented the state. Pursuant to a consent order, Dr. Woods' Tennessee medical license was placed on probation, on September 10, 2012, for a period of five (5) years and he was required to comply with certain other restrictions. Among the material presented to the board today are the petition for order of compliance, the affidavit from the boards' disciplinary coordinator confirming compliance with his previous consent order and the letter of compliance from TMF.

Dr. Woods practiced internal medicine and addiction medicine while on probation within the last five (5) years. Dr. Woods indicated he did experience some difficulty with insurance companies due to having a probationary license. However, he reported that advocacy of the TMF allowed him to be able to practice and be credentialed by some insurance companies. During part of his probation he was able to maintain a solo practice. Dr. Christiansen motioned to approve this order of compliance. Dr. Zanolli seconded the motion and the motion carried.

Stephen Fry, MD – appeared before the board without legal representation. Ms. Bratton represented the state. Pursuant to a consent order in September of 2012, Dr. Fry's Tennessee medical license was placed on probation for a period of five (5) years, required to maintain compliance with TMF for the remainder of his professional career in Tennessee, civil penalties and costs of the case were assessed. Among the material presented to the board today are the petition for order of compliance, the affidavit from the boards' disciplinary coordinator confirming compliance with his previous consent order, a letter of advocacy from TMF and proof that all costs have been paid. Before the board is an order of compliance which will lift Dr. Fry's probation and continue to require advocacy from the TMF for the remainder of his professional career in Tennessee.

Dr. Fry presented before the board to discuss his path to recovery. He reports his sobriety day is December 17, 2011. He reported he did face issues with an insurance company while on probation because his license was viewed as restricted rather than on probation. Dr. Johnson motioned to approve the order of compliance and the motion was seconded by Dr. Beckford. The motion carried with one abstention from Dr. Zanolli.

II. REPORT FROM THE SEXUAL MISCONDUCT TASKFORCE

Dr. Beckford, chair of the sexual misconduct taskforce, provided the board with a synopsis of the taskforce's deliberations thus far:

- Discussion on the scope of the problem
- Reviewed policies from North Carolina, California, and the Federation of State Medical Boards (hereinafter "FSMB")
- Discussion on how those policies could be used to update the board's current policy
- No final determinations were made and the taskforce will reconvene at a later time

III. CONDUCT NEW BUSINESS

The board reviewed the newly licensed and reinstated individuals.

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

IV. PRESENTATION FROM THE DIRECTOR OF SPECIAL PROJECTS, DR. MITCHELL MUTTER

Dr. Mutter provided a general overview of events and other developments that have transpired since the board's last meeting.

- Provided an update on the live opioid prescribing symposia's provided throughout the year
- The Vanderbilt prescribing CME course will expire after December 31st this year and plans are developing to make sure there is an online prescribing course available after that one expires
- Buprenorphine guidelines workgroup participation and once the draft is complete the board will be able to review and adopt these guidelines as policy
- Prescriber dashboard in Controlled Substance Monitoring Database had an 08/06/2017 production date:
 - This dashboard of alerts was available in the past but was removed due to alert fatigue
 - This dashboard was recently reengineered to avoid alert fatigue
 - Alerts provide clinical risk indicator notifications
 - This tool is provided to assist physicians in their practice
- The number of overdose deaths increased from 1,451 to 1,631 in 2016. Caucasian's and males are the most vulnerable population for prescription overdose. Females more frequently use opioids but males more frequently overdose.
- Findings suggest that these overdose deaths were caused mainly by illicit drugs. Last year, 44% of overdoses were CSMD negative in the preceding sixty (60) days. This year that number has increased to 53%. The number of overdoses by prescription drugs has declined but the number of overdoses has increased.

V. CONDUCT NEW BUSINESS (CONTINUED)

BME-TMF Workgroup Report– Dr. Zanolli reported that the workgroup met and their discussions yielded the following action items and recommendations:

- Discussion regarding the ongoing support provided by the board to TMF.
- In the last two to three years there has been recognition to the identification of physicians that have burnout, depression, and indicators of suicide.
- Proactive prevention and interaction in advance of burnout, depression and dependency will positively impact physicians and consumers.
- A perspective that when discussing funding for TMF, the TMF does not need to list how much funding will be used for each individual action item. Rather, the board should consider the number of cases that are referred to TMF when determining funding. With the idea that TMF needs enough funding per each case. Determining the potential number of licensees that may need access to confidential services through a PHP is how other southeast states/organizations determine their funding limit.
- The current TMF funding grant is \$250,000.

- The average yearly cost per active participant is \$5,050.
- The amount of money the board gives to TMF does not cover the number of cases the board sends to them.
- The number of referred cases to the TMF by BME disciplinary order is 40-45% of the total licensed physicians currently under contract with the TMF.
- Ten dollars from the medical doctor license renewal fee is an estimated \$220,000 that could be supplied to TMF.

Dr. Baron addressed the board with the following points:

- Even after a physician's monitoring contract is completed the TMF still provides advocacy by providing updates, compliant letters and continued monitoring as requested
- He desires to create programs that allow for preventative measures, to help physicians get the care and assistance they need before it leads to misconduct and/or disciplinary matters.
- The physician burnout population is at 54% of the total physician population.

Dr. Zanolli stated the request before the board is for the TMF funding workgroup to go forward in requesting an amendment to the current TMF contract which is up in July of 2019. The amendment would request to have an additional amount of money per licensee given to TMF funding.

Dr. Johnson spoke in favor of supporting TMF and reflected on how the money the board receives is from the licensees and the licensees are the ones who can benefit from the programs by TMF. Dr. Zanolli suggested there would not be a request of the licensees to pay more money for their licensure renewals. However, the request would be to have about ten dollars of the money already being paid, per licensee, allocated to the TMF. He suggests the focus should be on how many physicians the board refers to TMF, a growing number, and the proactive oversight that TMF envisions.

Dr. Handorf questioned what the PHP budget is for bordering states. Dr. Baron reports the only information we are certain about right now is that West Virginia receives about twenty dollars per licensee, with fewer overall licensees.

Dr. Beckford requested a list of items that TMF would be appropriating money towards.

Dr. Baron reported that he is in touch with programs that are already developed that would be useful for the TMF in managing compliance issues. Also, one of these programs could provide a contracted licensed counselor that could be available via telehealth. He reports that Washington State has a CME course which offers mindfulness based stress reduction programs. Furthermore, he reports improving the physician population health proactively is a newer concept and is still being devised.

Dr. Beckford suggested the TMF may want to educate hospitals and staff about the TMF and resources available, as well partner with hospitals on this matter. Dr. Baron spoke in favor of this approach and commented that he has already spoken with one hospital a couple of weeks ago on this matter. He also would like to potentially partner with insurance companies, the board and possibly add information to the board's website.

Dr. Christiansen proposed that identifying the funding provided to PHP's in bordering states may not be of valuable information to the board. It may be interesting to see, but what needs to be measured is the quality of the PHP and the programs that are available for licensees; not just the amount of funding being provided.

Mike Todd, with TMF, reports that it costs an estimated \$5,000 per year per TMF participant. The TMF has about a one million dollar budget annually. The current \$250,000 funding contract helps TMF monitor about fifty (50) physicians but they are monitoring over seventy (70).

Mr. Ellis, although in support of the TMF coming to request additional funds, proposed TMF broaden their pitch to find other avenues for funding. He suggested that TMF could further identify the programs they'd like to create and use that as a campaign for their funding request.

Dr. Ali addressed the board stating that TMF needs the funding now and there is a crisis in physician mental health. He commented that this matter needs to be dealt with now, not in 2019 when the current contract is up. Ms. Andrea Huddleston believes that the funding request increase does not have to go before fiscal review. She does feel that if we look at surrounding states we will identify that TMF is underfunded by the board. Ms. Huddleston stated there would need to be a proposal created that outlines what the extra funds will be used for.

Dr. Ali motioned for Dr. Zanolli to continue representing the board on this matter in meetings and discussions to further develop this funding increase request. The motion was seconded by Dr. Handorf and the motion passed.

Resolution to the FSMB

Dr. Johnson presented that any resolution to the FSMB would have to be provided through a member board, such as the Tennessee Board of Medical Examiners. In a recap, Dr. Johnson reported that more states have a CME required which is related to prescribing practices and that states' renewal cycles vary. In a previous meeting, Dr. Johnson was appointed to research further information on this matter and to obtain feedback from the FSMB. He reports that he received positive feedback on this issue and that the FSMB recognizes this as an issue. Dr. Johnson provided the board with a resolution proposal which will request the FSMB to research this issue and possibly find an approach that will prevent this issue from being cumbersome to licensees of multiple states. Also, Dr. Johnson is not interested in requesting any specific state to change their current specific CME requirement(s).

A discussion was held on this matter and the consensus is that several states have a specific instructional CME that is required and changing that would not be up to the FSMB. Dr. Zanolli indicated that this may be outside of the purview of the FSMB and rather this is among each state board's control.

Dr. Zanolli proposed that he define the issue and have the FSMB to provide data on all of the states CME requirements and then Dr. Johnson could use that information to see if there is a greater problem.

Dr. Ali suggested this matter could be researched, the resolution to be revised, and Dr. Johnson can bring this matter before the board in November.

Request for Advisory Opinion – Kenneth Pittman, MD

Ms. Bratton reviewed the advisory opinion request, received by the administrative office, regarding the supervision of physician assistants (hereinafter “PA’s”) and nurse practitioners (hereinafter “NP’s”) who are providing on-site supervision for school nurses through the Tennessee public school district. The request brings to question the Medical Examiners board rule 0880-02-.18(9) and the Committee on Physician Assistants rule 0880-6-.02(9). The request is asking for clarification on defining their practice site (i.e. would it be one location or every school).

Ms. Holly Christopher with Stellar Therapy Services addressed the board, on the behalf of Dr. Kenneth Pittman, regarding this request. Dr. Kenneth Pittman is the requestor of the advisory opinion and he is contracted with Stellar Therapy Services to provide supervision services of the advanced practice nurses (hereinafter “APN’s”) and PA’s whom are supervising the school nurses.

The board is being asked if the supervising physician may visit each district once every thirty (30) days rather than visit each school in thirty (30) days. Also, the request questions whether or not any of the supervision may be completed through telehealth.

Ms. Christopher provided the board with an overview of the services provided. To include the following:

- All children who have individualized health plans will be seen by a PA/APN within the first couple of months. The APN will exam the child and review the primary care pediatrician’s orders.
- All charts, 100%, are being reviewed by the supervising physician, from seventy-six (76) schools, which are seen by the NP’s and PA’s. This is not every child seen by the school nurse but it is every high level case.
- There is one medical doctor supervising the NP’s and PA’s.

Ms. Bratton advised the board that their rule is traditionally construed as the supervising physician must visit each site where there is an APN and PA. Ms. Bratton suggested the board collect facts to draft an official advisory ruling. She further indicates that an advisory ruling would only apply to the particular physician requesting the advisory ruling.

Ms. Bratton proposed this rule discussion be moved to the development committee. This discussion could lead to a rule change in the future in collaboration with the nursing board. For now, Ms. Bratton suggested the board could obtain more specific information and have an advisory ruling at the next meeting. Dr. Blake nominated Dr. Christiansen to work with Ms. Bratton on this matter and Dr. Handorf seconded the nomination. Dr. Christiansen was appointed to work with Ms. Bratton on this matter. An advisory opinion can be proposed at the November board meeting and the development committee November meeting will discuss the issues around the rule on supervision and remote site.

After further discussion, Dr. Christiansen proposed she would be comfortable with this particular situation designating a school district as the remote site. Dr. Zanolli motioned to table this matter until tomorrow morning, day 2 of the boards’ September meeting, and allow Dr. Christiansen and Ms. Bratton to draft the response to this advisory opinion request. Dr. Ali seconded the motion and the motion passed.

Request for Advisory Opinion – Elizabeth Pritchett, MD

A second advisory opinion request and response was presented by Ms. Bratton. This requestor inquired if supervision of a NP can be done via secure video link in lieu of the 30-day on-site visits. The response given in short was no and referenced board rule 0880-6-.02(9) where the word “visit” is not defined by the board to be any electronic means. Dr. Blake motioned for approval of the advisory opinion response presented before the board and Dr. Johnson seconded the motion. The motion carried.

VI. ADMINISTRATIVE OFFICE REPORTS

Statistical Licensing Report:

The board reviewed the statistical licensing report and Dr. Johnson motioned to approve the report. Dr. Handorf seconded the motion and the motion carried. An overview of the statistical information provided was as follows based on data from July 1, 2017 thru August 31, 2017:

- 268 new medical doctor applications were received
- 316 new medical doctor licenses were issued
- 56 full and 13 limited x-ray operator applications were received
- 62 full and 17 limited x-ray operators were licensed
- 1,765 renewals were processed for medical doctors
- 1, 416 of those renewals were processed online (80%)
- 111 medical doctors failed to renew
- 57 medical doctors retired their license
- There are 22,276 active medical doctor licenses as of August 31, 2017
- There are 3,857 full and 1,307 limited x-ray operators licensed as of August 31, 2017

Radiological Education Seminars (hereinafter "RES"): RES has submitted a request for re-approval of their x-ray educational program from the board as required in board rule 0880-5-.05(1)(c). Dr. Saunders attests she has reviewed the submitted re-approval request documents, all required information has been provided and RES has met the standard of the board's first time pass rate. Dr. Zanolli motioned to approve the re-approval request and Dr. Miller seconded the motion. The motion passed.

Conference Request(s)

Dr. Saunders requested approval of the board to send herself and Ms. Maegan Martin to the Federation of Regulatory Boards conference in January 2018. Dr. Ali motioned to approve this request and Dr. Handorf seconded the motion. The motion passed.

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 641 complaints opened
- 91 complaints came in July
- 68 complaints came in August
- Year-to-date, 650 complaints have been closed
- 225 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 20 complaints opened
- 17 complaints have been closed
- 6 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

VII. OFFICE OF GENERAL COUNSEL

Office of General Counsel Report

Ms. Bratton gave the report from the Office of General Counsel which included the following updates:

1. The examination and continuing education rule amendments are in the drafting process.
2. Medical spa registry rules, the intractable pain repeal rules, and the fee increase rules are in the internal review process.
3. There are two (2) pending appeals from board action and zero (0) civil suits.
4. As of September 25th, there were one-hundred and twenty (120) disciplinary complaints against seventy (70) respondents pending in the Office of General Counsel.

In regards to a case scheduled for the November board meeting, Ms. Bratton has asked if any of the board members could commit to two days before or after the November meeting. Ms. Claxton commented that she can be available if need be.

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, September 27, 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
Mitchell Mutter, MD,
Stacy Tarr, Administrative Director
Candyce Waszmer, Administrative Director
Courtney Lewis, BME Administrator
Tammy Davis, Board Administrator

Request for Advisory Ruling #1, Kenneth Pittman MD (continued from September 26th, day 1 meeting)

Jennifer Claxton recused herself.

Ms. Bratton presented the board with the proposed response drafted by herself and Dr. Christiansen. It is the board's understanding from the information provided in writing and during this presentation that:

- you propose to supervise APRNs and PAs in Sumner and Hamilton counties and in Metro Nashville;
- that the three school districts in which you propose to supervise these APRNs and PAs are so large that it will be impracticable for you to visit every school every thirty (30) days;

- that absent your ability to supervise in some alternate manner, Stellar Therapy Services will be forced to remove the APRNs and PAs from all schools in these districts;
- that the patients being seen are all being provided care under an order from their primary care provider;
- that no acute or primary care is occurring;
- that the APRNs and PAs are not changing a pediatrician's order unless the environment calls for it and only after attempting to reach the pediatrician;
- protocols for your supervision of the APRNs and PAs exist on-site at every school clinic location; and
- you review 100% of the charts for patients treated by APRNs and PAs you supervise under these circumstances.

The issue of healthcare provided to children in schools is a unique one. It is in the best interest of the students to have nurses at each school. A goal of supervision of these school nurses is beneficial to people in Tennessee. The board notes that it may be impractical for one physician to visit every school every thirty (30) days, but it is not impractical for a physician to have in-person face-to-face time with each of his supervisees every thirty (30) days in the location in which they practice. Based on the information provided to the board and the board's understandings as stated above, it is the position of the board that the situation in which you are proposing to provide care is unique in that all patients being treated by your supervisees are under an order from their own treating pediatrician. Your supervisees are supervising school nurses in carrying out those pediatricians' orders. As they are not providing acute or primary care, but only helping to interpret orders for a child in that environment. It is the board's interpretation of its requirements under these circumstances that each school district may be considered one practice site; the required monthly site visit from you may occur at any of the actual practice sites (i.e. the school clinics) within each district, and since there are multiple locations where each supervisee might practice within the district, it is anticipated that you would randomly rotate the location of your site visits. During these site visits there should be a face-to-face contact with the supervisee or supervisees, and protocols, developed and signed by both you and the supervisees, should be on site at each location where children are receiving care. This is not intended to supersede or replace any other guidance, policy, rule or statute of the board, other than the requirement for remote site visits.

After a discussion by the board, Dr. Zanolli made a motion to accept the advisory ruling response as written. Dr. Johnson seconded the motion and it passed.

Request for Advisory Ruling #2, Jonathan Wiesen, MD

Another request for an advisory ruling regarding supervision of PAs and NPs by a remote telemedicine physician is on today's agenda. However, in the interest of time and to ensure that all necessary information is gathered prior to making a decision, Dr. Ali referred this request to the Development Committee and requested it be added to the November committee agenda.

Orders of Compliance:

Mark W. Weeks, MD – Dr. Weeks was present without representation. Dr. Weeks petitioned to have the probation on his license removed. Based on the petition and the statements of counsel, the board moved to lift the probation and place his license in an unencumbered status. Dr. Christiansen made a motion to approve the Order of Compliance. Dr. Handorf seconded the motion. The motion passed.

Agreed Order:

Martin Nwabunike Nwosu, MD – Dr. Nwosu was present and was represented by counsel, Mr. Dan Warlick. The respondent admits to the stipulations of fact. The facts presented 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. Nwosu is suspended for not less than thirty (30) days effective September 27, 2017. At the expiration of the thirty (30) day suspension period, pursuant to Rule 0880-02-.12(2) of the Official Compilation Rules and Regulations of the State of Tennessee, Respondent becomes eligible to petition the board for an Order of Compliance, lifting the suspension imposed upon Respondent’s medical license, at which time Respondent’s medical license will be placed on probation for not less than three (3) years, effective the date of entry of such Order of Compliance. Respondent must show compliance with the coursework enrollment requirements set forth in this Agreed Order, paragraph 32 and 33. Respondent acknowledges that such probation is an encumbrance on his license. At the end of the three (3) year probationary period, Respondent becomes eligible to petition the board for an Order of Compliance lifting the probation on his medical license. Respondent must appear in person before the board at that time. Respondent also agrees that he shall not provide ongoing chronic nonmalignant pain treatment to any patients, as the term “chronic nonmalignant pain treatment” is defined in Tenn. Code Ann. § 63-1-301. To the extent that Respondent does prescribe opioids to any patients, Respondent agrees that he shall decrease the volume of prescribed opioids as outlined in the Agreed Order. Respondent agrees to surrender the Pain Management Clinic Certificate held by him for Doctors Medical Group, Certificate no. 331, as well as any other certificates held by him. Such surrender shall have the same effect as a revocation. Within sixty (60) days of entry of this Order, Respondent must enroll in the next available three day medical course entitled “*Intensive Course in Medical Record Keeping*” offered by The Case Western Reserve University Continuing Medical Education Program at the Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course pre-approved by the boards’ Consultant. Within thirty (30) days of successful completion of such course, Respondent shall mail or deliver written proof of compliance to the board’s designee. Within sixty (60) days of entry of this Order, Respondent must enroll in the next available three day medical course entitled “*Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*” offered by Vanderbilt University in Nashville, Tennessee, or an equivalent course pre-approved by the boards’ Consultant. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board’s designee. Respondent is assessed and must pay thirteen (13) Type A Civil Penalties in the amount of five hundred dollars (\$500.00) for each of the patients at issue in the Department’s review for a total Civil Penalty of Six Thousand Five Hundred Dollars (\$6,500.00). 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 Bureau of Investigations in connection with the prosecution of this matter. The maximum amount for the assessment of costs shall be fifty thousand dollars (\$50,000.00). Any and all civil penalties and costs shall be paid in full one year from the issue of the Assessment of Costs.

Dr. Ali asked if Dr. Mutter had reviewed this matter. Dr. Mutter responded that he and legal counsel have reviewed the terms of the order. Dr. Zanolli mentioned that there are no restrictions on his DEA. Counsel responded that they have worked together to allow him to retain his DEA registration so that he can continue prescribing to a small number of patients that are currently being treated by Dr. Nwosu. He will be held to the terms of the agreement, including the MEDD guidelines. Dr. Beckford requested to go on record stating that the small number of patients Dr. Nwosu prescribes for can be referred to other physicians in the Murfreesboro area. Dr. Blake voiced her opposition to Dr. Nwosu keeping his DEA. Dr. Ali stated that he feels this order is a “slap on the wrist” for the offenses committed. He voiced concern that the board is sending the wrong message to Tennesseans. Dr. Miller inquired as to whether he can own a pharmacy in the future. Dr. Mutter said that there is nothing to keep him from opening a pharmacy in the future.

Dr. Zanolli made a motion to approve the Agreed Order. Dr. Christiansen seconded the motion.

A roll call vote was taken: Drs. Zanolli, Hale, Beckford, Christianse, Ms. Claxton, and Mr. Ellis voted “aye”. Drs. Miller, Blake, Ali, Johnson, and Handorf voted “nay”. The motion passed.

Consent Order:

Olufemi Odunusi, MD – Dr. Odunusi was not present nor was his counsel. The respondent admits to the stipulations of fact. 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. Odunusi is reprimanded effective September 27, 2017. Respondent shall obtain practice monitoring through Affiliated Monitors or another practice monitoring program preapproved by the boards’ Medical Director within sixty (60) days of the entry of this Order. The monitoring agreement shall continue for a period of two (2) years; Respondent shall not have less than ten (10) of his patients’ records for patients seen within the prior ninety (90) days receiving controlled substances reviewed by the practice monitor every ninety (90) days. The practice monitor shall randomly determine which records to review and may at their discretion review more than ten (10) of the Respondent’s controlled substance records. If Respondent has not prescribed any controlled substances during a ninety (90) day period, Respondent shall notify the practice monitor a printout of the controlled substance monitoring database for at least the prior ninety (90) day period. Respondent shall comply with all recommendations of the practice monitor program. Respondent shall continue with the monitoring agreement until the practice monitor has issued eight (8) quarterly reports to the boards’ Medical Director, such reports to be issued every three months beginning three months after the entry of this Order detailing the findings of the practice monitor in regard to the Respondent’s compliance with practice monitor’s recommendations, prescribing practices, medical record keeping, and treatment of chronic or intractable pain. Respondent must enroll in and successfully complete the three (3) day medical course entitled “*Intensive Course in Medical Documentation*” offered at Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course preapproved by the boards’ Consultant within ninety (90) days of the date of this Order. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board’s 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 course preapproved by the boards’ Consultant within ninety (90) days of the date of this Order. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board’s designee. Any Continuing Medical Education course hours earned from attendance and completion of this course shall be in addition to the CME hours required to maintain licensure. Respondent must pay one (1) Type “A” Civil Penalty in the amount of Five Hundred Dollars (\$500.00). 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 Bureau of Investigations in connection with the prosecution of this matter. The maximum amount for the assessment of costs shall be two thousand dollars (\$2,000.00). Any and all civil penalties and costs shall be paid in full within ninety (90) days from the issue of the Assessment of Costs.

Dr. Zanolli made a motion to approve the Consent Order. Dr. Beckford seconded the motion. The motion passed with one abstention by Dr. Handorf.

Agreed Order (continued):

David Leslie Merrifield, Jr., MD – Dr. Merrifield was not present nor was his counsel. The respondent admits to the stipulations of fact. 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 David

Leslie Merrifield, Jr., MD is placed on probation effective September 27, 2017, for a period of not less than five (5) years. Respondent must maintain advocacy with the TMF and must maintain one hundred percent (100%) compliance with all provisions and terms of his five (5) year continuing care contract and any subsequent extension of the contract. Respondent shall cause the TMF to notify the board's Disciplinary Coordinator in writing of any violation of the TMF contract. Respondent shall immediately notify the boards' Medical Consultant if at any time the Respondent no longer has the advocacy of TMF during the period of probation. At the discretion of TMF, the Respondent shall submit to random drug/alcohol screening under the protocol established by the TMF. If the Respondent fails to submit to appropriate testing, or the test results indicate inappropriate use of drugs or alcohol, the TMF will immediately notify the boards' Medical Consultant. Respondent shall not serve as a supervising physician or substitute supervising physician. Respondent shall maintain good and lawful conduct, any violation of law that relates to the practice of medicine or Respondent's ability to safely and competently practice medicine will be a violation of the terms of this Order. Respondent will contact the Drug Enforcement Administration in writing and surrender his DATA waive designation. Within forty five (45) days of the effective date of this Order, the Respondent must submit proof that he contacted the DEA in writing to surrender his DATA waive designation. Respondent agrees not to seek reinstatement of the DATA waive designation until the expiration of the five (5) year probationary period and successful petition of an Order of Compliance lifting the probation. Respondent agrees that he shall not prescribe or dispense any product containing buprenorphine for any purpose. Respondent shall pay five (5) "Type B" civil penalties in the amount of five hundred dollars (\$500.00) each representing one penalty for every patient that the Respondent failed to administer appropriate care to, for a total assessment of two thousand and five hundred dollars (\$2,500.00). This civil penalty shall be paid in full within thirty (30) days of the effective date of this Order. 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 twelve thousand dollars (\$12,000.00). Any and all civil penalties and costs shall be paid in full within sixty (60) days from the issue of the Assessment of Costs. Respondent must enroll in and successfully complete the two (2) day medical course entitled "*Medical Ethics, Boundaries & Professionalism*" offered at Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course preapproved by the board's Consultant within ninety (90) days of the date of this Order. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board's designee. Respondent must enroll in and successfully complete the three (3) day medical course entitled "Prescribing Controlled Drugs" offered at The Center for Professional Health at Vanderbilt University Medical Center or an equivalent course preapproved by the boards' Consultant within ninety (90) days of the date of this Order. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board's designee. Respondent must enroll in and successfully complete the medical course entitled "*Maintaining Proper Boundaries*" offered at The Center for Professional Health at Vanderbilt University Medical Center or an equivalent course preapproved by the boards' Consultant within one (1) year of the date of this Order. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board's designee. Within one (1) year of the effective date of this Order, the two (2) day medical course entitled "Medical Documentation: Clinical, Legal, and Economic Implications for Healthcare Providers" offered at The Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course approved by the boards' Medical Director. Within thirty (30) days after completion of this course, Respondent must mail or deliver written proof of compliance with course to the board's designee. Any Continuing Medical Education course hours earned from attendance and completion of these courses shall be in addition to the CME hours required to maintain licensure.

Dr. Handorf made a motion to approve the Consent Order. Dr. Miller seconded the motion. The motion passed with eight (8) “ayes” and three (3) “nays”.

Consent Order(s) (continued)

Michael Sanders Wysor, MD – Dr. Wysor was not present nor was his counsel. The respondent admits to the stipulations of fact. 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 Michael Sanders Wysor, MD is placed on probation for a period of at least five (5) years, effective September 27, 2017. Within sixty (60) days of the Order, Respondent must obtain an evaluation from a Tennessee Medical Foundation (TMF) approved facility. If the TMF recommends that the Respondent enter into a contract and/or monitoring agreement, Respondent shall obtain and maintain the advocacy of the TMF. During the period of time that Respondent is required to maintain the advocacy of the TMF he shall cause the TMF to issue quarterly reports to the boards’ Disciplinary Coordinator detailing Respondent’s compliance with the terms of the TMF contract; cause the TMF to notify the boards’ disciplinary Coordinator in writing of any violation of the TMF contract; maintain one hundred percent (100%) compliance with all provisions and terms of his continuing care contract and any subsequent extension of the contract; and immediately notify the boards’ Medical Consultant if at any time Respondent no longer has the advocacy of the TMF. During the probationary period, Respondent shall not serve as supervising physician or substitute supervising physician. During probation, Respondent shall maintain good and lawful conduct and any violation of law that relates to the practice of medicine or Respondent’s ability to safely and competently practice medicine will be a violation of the terms of the Order. At the expiration of the five (5) year probationary period, Respondent becomes eligible to petition the Tennessee Board of Medical Examiners for an “Order of Compliance” lifting the restrictions imposed by the Order. Respondent must appear personally before the board to request an “Order of Compliance”. Respondent shall pay one (1) “Type B” civil penalty in the amount of five hundred dollars (\$500.00). The penalty must be paid in full within thirty (30) days of the effective date of the Order (September 27, 2017). 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 twelve thousand dollars (\$12,000.00). Respondent must enroll in and successfully complete the medical course entitled “*Maintaining Proper Boundaries*” offered at The Center for Professional Health at Vanderbilt University Medical Center or an equivalent course preapproved by the boards’ Consultant within one (1) year of the date of this Order. Within thirty (30) days of successful completion of such course, Respondent must mail or deliver written proof of compliance with this course to the board’s designee. Any Continuing Medical Education course hours earned from attendance and completion of these courses shall be in addition to the CME hours required to maintain licensure.

Dr. Blake made a motion to approve the Order. Dr. Christiansen seconded the motion. The motion passed.

Contested Case

Contested Case

Dennis A., Velez, MD v. State of Tennessee Board of Medical Examiners

Poplar Room

Administrative Law Judge: Thomas Stovall

Panelists: Phyllis Miller, MD; Melanie Blake, MD; Jennifer Claxton, Consumer Member

Counsel for State: Paetria Morgan, Esq.

Counsel for Respondent: M. Todd Sandahl, Esq.

The Department submitted proof showing that Respondent was disciplined by the Missouri State Board of Registration for the Healing Arts on or about November 12, 2014. Respondent entered into a Settlement Agreement with the Missouri State Board restricting the Respondent from practicing neurosurgery and placing the Respondent's license on probation for five (5) years. It is the Department's position that the Settlement Agreement which restricted the Respondent from practicing neurosurgery and placed the Respondent's license on probation for five (5) years constitutes ground for discipline of his Tennessee medical license pursuant to Tenn. Code. Ann. §63-6-214(20) and §63-6-214(b)(4). At the conclusion of the Respondent's case, a motion was made to accept the "Findings of Fact", the motion was seconded, and the motion was passed. Next, a motion was made to accept the "Conclusions of Law". The motion was seconded, and the motion passed. The Proposed Final Order placing the Respondent's Tennessee medical license on probation for five years to run concurrent with the Missouri Settlement Agreement and lasting at least until November 12, 2019 was edited for clarity. In consideration of the "Findings of Fact" and "Conclusions of Law", a motion was made to accept the Final Order as amended. The motion was seconded. The motion passed.

Consent Order(s) (continued)

Jordan Taubert, AMDX – When the Respondent's medical x-ray operator certificate expired on October 31, 2016, she continued to practice for approximately six months on a lapsed license prior to submitting a reinstatement application on or about May 25, 2017. The Tennessee medical x-ray operator license of Ms. Taubert is reprimanded effective the date of the Order. Respondent shall pay four (4) Type C penalties in the amount of one hundred dollars (\$100.00) each for each month the Respondent worked in excess of sixty (60) days from the expiration of her certificate, for a total of four hundred dollars (\$400.00). A motion was made to approve the Consent Order. A second was made. The Order was approved.

Angela Blount, MDXL – When the Respondent's medical x-ray operator certificate expired on July 31, 2014, she continued to practice for approximately 30 months on a lapsed certificate prior to submitting her reinstatement application on or about February 7, 2017. The Tennessee medical x-ray operator license of Ms. Blount is reprimanded effective the date of the Order. Respondent shall pay twenty eight (28) Type C civil penalties in the amount of one-hundred dollars (\$100.00) each for each month Respondent worked in excess of sixty (60) days from the expiration of her certificate, for a total of two thousand eight hundred (\$2,800.00). A motion was made to approve the Consent Order. A second was made. The Order was approved.

Wayne F. Yakes, MD - On or about July 14, 2016, Respondent entered into a Stipulation and Final Agency Order ("Colorado Order") with the Colorado Medical Board for unprofessional conduct. The discipline against Respondent's medical license in Colorado stemmed from Respondent's plea of guilty to "Driving While Ability Impaired – with 1 Prior Alcohol, an unclassified misdemeanor, in Case No. 2015T7208 in County Court, Arapahoe County, Colorado" and from a finding by the Colorado Physician Health Program ("CPHP") that Respondent "has a physical or mental illness or condition for which he is receiving treatment." The Colorado Medical Board found that Respondent had "excessively used or abused alcohol." The Colorado Medical Board placed Respondent's license on probation for a period of five (5) years with conditions, including abstinence from addictive substances and treatment monitoring under the CPHP. Under the terms of the Colorado Order, upon expiration of the probationary period and full compliance with the terms of the Colorado Order, Respondent may request restoration of unrestricted status to his license from the Colorado Medical Board. On February 13, 2017, the Illinois State Medical Licensing Board placed Respondent's license on probation based on the Colorado Order. Respondent failed to report his Colorado or Illinois discipline to the Tennessee Board of Medical Examiners within thirty (30) days of the discipline. The Tennessee medical license of Wayne F. Yakes, M.D., is placed on

probation effective the date of entry of this Order, for the duration of the probationary period set forth in the Colorado Order. During the period of probation Respondent shall maintain one hundred percent (100%) compliance with all provisions of the CPHP monitoring/advocacy contract, or extension thereto he has entered into with the CPHP. Respondent shall cause CPHP to issue quarterly reports to the board detailing Respondent's compliance with the terms of his CPHP contract including any extensions of the contract beginning three (3) months after the effective date of this Order. Respondent shall cause CPHP to notify the board in writing of any violation of the CPHP contract or extension. At the end of the period of probation and compliance with all terms of the Colorado Order and this Order, Respondent may petition the board for an Order of Compliance to have the probation lifted. As part of his petition for an Order of Compliance, Respondent must personally appear before the board unless his appearance is waived by the boards' medical director. Respondent must pay two (2) "Type B" civil penalties, in the amount of three hundred dollars (\$300.00) each, representing the two (2) violations for a total of six hundred dollars (\$600.00). Any and all civil penalties shall be paid within thirty (30) days of the effective date of this Order Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j), 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. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be two thousand dollars (\$2,000.00). Any and all costs shall be paid in full within sixty (60) days from the issuance of the Assessment of Costs.

A motion was made to approve the Order. A second was made. The motion passed.

Jonathan N. Degnan, MD - Respondent voluntarily retired his license on May 19, 2017 and is not currently practicing. On or about December 2016, Respondent reported to the Tennessee Medical Foundation ("TMF") and completed a recommended evaluation at Vanderbilt Comprehensive Assessment Program ("VCAP") related to concerns about Respondent's alcohol use. The VCAP assessment found that Respondent was "currently not fit to practice medicine" due to "ongoing alcohol use." The VCAP assessment also recommended that Respondent seek recommendations from TMF for a treatment facility and that he enter into a monitoring agreement with TMF. On April 20, 2017, Respondent had a seizure at his office while seeing patients and was admitted to Fort Sanders Regional with severe hyponatremia and a blood alcohol level of .06. On April 24, 2017, a psychiatry consult's impression of Respondent was "alcohol withdrawal with delirium" and "alcohol use disorder severe". On April 27, 2017, Respondent was discharged from Fort Sanders Regional and entered a treatment facility in Florida. Respondent left the treatment facility, against medical advice, on May 8, 2017. 12. The Tennessee medical license of Jonathon N. Degnan, M.D. is recognized as retired. If Respondent wishes to reactivate his medical license in the future, Respondent must comply with all VCAP recommendations including, but not limited to, entering into and completing treatment in a treatment facility approved by TMF. He must enter into a contract with TMF and maintain advocacy from TMF during the contract period. Comply with all other requirements for licensure reactivation/reinstatement set out in board rules, including Rule 0880-02-.10. Appear in person before the board for an interview. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, 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. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be two thousand dollars (\$2,000.00). Any and all costs shall be paid in full within sixty (60) days from the issuance of the Assessment of Costs. Dr. Ellis recused himself. A motion was made to approve the Order. A second was made. The motion passed.

The Board of Medical Examiners meeting adjourned.