



**TENNESSEE BOARD OF
PHYSICIAN ASSISTANTS**

Allen Tate, P.A v. State of Tennessee Board of Physician Assistants

September 13, 2024

MINUTES

The contested case (Allen Tate, PA) of the Tennessee Board of Physician Assistants (hereinafter, "the Board") was called to order on September 13, 2024, in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive Nashville, TN 37243.

Administrative Law Judge: Chief Judge Phillip Hilliard

Panelists: Andrew Hull, PA-C
Barbara Thornton, Consumer Member
Gregory Cain, PA-C
Robert White, PA-C

Counsel for State: Gerard Dolan, Senior Associate General Counsel

Counsel for Respondent: Sam Hembrecht

The Tennessee Board of Physician Assistants convened to consider the matter of the Tennessee Department of Health's request for assessment of costs in the disciplinary case against licensee Alan Tate. This hearing was held pursuant to the order of the Chancery Court remanding the case back to the Board to provide an itemization of costs and determine whether the previously assessed \$50,000 in costs were reasonable and actual. The Board first heard from counsel for the Department of Health, who provided a comprehensive overview of the documentation submitted to substantiate the total costs

incurred in the investigation and prosecution of this matter. This included an itemized Office of General Counsel spreadsheet detailing attorney time, paralegal support, expert witness fees, court reporter expenses, and other related costs. Additionally, the Board reviewed affidavits and invoices from the Department's Office of Investigations and the Administrative Procedures Division attesting to their respective expenditures. The evidence demonstrated that the actual costs amounted to \$76,753.58. While acknowledging the significant total, the Board carefully reviewed each component and determined that the costs were reasonable given the protracted nature of the litigation. The Board noted that Mr. Tate's own vigorous defense, which included numerous motions, appeals, and tactics to intimidate the Department's expert witnesses, contributed substantially to the escalation of costs over the multi-year duration of this case. Some Board members expressed concerns regarding the hourly rates charged by the expert witnesses, finding them to be higher than typical for physician assistant disciplinary matters. However, after considering the specialized expertise required, the time and labor involved in reviewing voluminous patient records, and the standard rates for such professional services, the Board ultimately concluded that the expert witness fees fell within reasonable and customary parameters. In reaching its determination, the Board also considered the Chancery Court's instructions to consider the "actual and reasonable" nature of the costs rather than the previously imposed \$50,000 cap. The Board recognized that Mr. Tate had already received a form of discount, as the Department's attorney time before 2022 was not included in the final tally due to inadequate timekeeping practices that have since been rectified. After thorough deliberation, the Tennessee Board of Physician Assistants voted unanimously to adopt the Department of Health's proposed order assessing the full \$76,753.58 in costs against Mr. Tate. In doing so, the Board included specific statutory citations to its authority to impose such costs and a policy statement explaining that this action was taken to protect the health, safety, and welfare of the people of Tennessee. The Board recognized that its decision may be subject to further appeal by Mr. Tate. However, based on the comprehensive documentation provided and the Board's careful consideration of the reasonableness of the costs, the members determined that the assessment was justified and appropriate given the unique circumstances of this case.

The case adjourned at 1:26 pm