

# MINUTES

## TENNESSEE BOARD OF MEDICAL EXAMINERS

July 25 and 26, 2006

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The meeting was called to order at 8:50 a.m. at the Millennium Maxwell House Nashville, 2025 Metrocenter Blvd., Nashville, Tennessee 37228, by President Dr. David Cunningham. Dr. Cunningham welcomed new members, Ms. Irene Wells and Dr. Neal Beckford to the Board. Other members present were: Drs. George Eckles, Michael Zanolli, Keith Lovelady, Mitchell Mutter, Charles White, Sr., Subhi Ali, Allen Edmonson and Mr. Mark Brown. Absent board member was Ms. Mary Johnson. Staff present included: Rosemarie Otto, Executive Director, Dr. Larry Arnold, Medical Director, Marsha Arnold, Unit Manager, Sandra Powell, Board Administrator and Robert Kraemer, Advisory Attorney.

### Minutes

Minutes from the May 16 and 17, 2006 meeting were reviewed. Dr. Edmonson made a motion to accept the minutes and Dr. White seconded the motion. The motion carried.

### Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers and Physician Assistants were reviewed. Dr. White made a motion to ratify the approval of licenses and Dr. Edmonson seconded the motion. The motion carried.

Ms. Otto reviewed the letter sent to Mr. Tate regarding his temporary Physician Assistant license. Dr. Edmonson made a motion to ratify actions taken by the Committee on Physician Assistants and Dr. White seconded the motion. The motion carried.

Mr. Kraemer handed out an Order of Compliance to the Board for review. Mr. Kraemer stated that Mr. Don Stanton, who holds a physician assistant license, has complied with all the requirements as set forth in the Order. Dr. White made a motion to accept the Order of Compliance and Dr. Edmonson seconded the motion. The motion carried.

## **New Applicant Interviews**

**Richard Scott Galos, MD**-Dr. Galos is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Galos' application file for the Board. Dr. Galos has had eight (8) malpractice cases in eight (8) years. Dr. Galos is an Ear, Nose and Throat (ENT) specialist and plans to practice in Crossville, Tennessee. Dr. Galos explained the malpractice cases to the Board. Dr. Zanolli made a motion to grant Dr. Galos a license and Dr. White seconded the motion. Drs. Edmonson, Mutter and Lovelady opposed. The motion passed by a majority.

**Dale Edward Moreno, MD**-Dr. Moreno is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Moreno's application file for the Board. Dr. Moreno has had issues with alcohol and competency problems. Dr. Arnold informed the Board that Dr. Moreno's program director, Dr. Apelgren's evaluation stated that Dr. Moreno was a good technician but makes poor decisions about patient care. Dr. Moreno's license was suspended due to medical record-keeping. Dr. Arnold's recommendation is for Dr. Moreno to complete the Center for Personalized Education for Physicians (CPEP) evaluation. Dr. Ali made a motion to accept Dr. Arnold's recommendation of the CPEP evaluation and Mr. Brown seconded the motion. Eight members voted to accept the recommendation and three opposed. Dr. Ali made an amendment to the motion to give Dr. Moreno ninety (90) days to complete the evaluation and Dr. White seconded the motion. The amended motion carried by a majority. Dr. Moren's application file will remain open for ninety (90) days or his license application will be denied at the November, 2006 meeting.

**Neil Arthur McFarland, MD**-Dr. McFarland is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. McFarland's application file for the Board. Dr. McFarland was disciplined in Michigan for substance abuse during his emergency medical training and did not disclose this information on his application nor the practitioner profile questionnaire. Dr. White made a motion to grant Dr. McFarland a license contingent on a five year contract with the Tennessee Medical Foundation (TMF). Dr. Edmonson seconded the motion. Dr. Zanolli made an amendment to the motion to add that Dr. McFarland correct his application and Dr. Ali seconded the motion. The motion passed unopposed.

**Ralph Thomas Reach, MD**-Dr. Reach is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Reach's application file for the Board. Dr. Reach has a long history of drug abuse and his Virginia medical license was suspended then placed on probation. Dr. Reach also had criminal charges and was placed on probation for three years. Dr. Reach has advocacy with the Tennessee Medical Foundation and Dr. Gray spoke on his behalf. Dr. Ali made a motion to grant a license on probation for five years contingent on a lifetime contract with TMF. Dr. White seconded the motion. The motion passed unopposed.

**Chad Carlton Smalley, MD**-Dr. Smalley is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Smalley's application file for he Board. Dr.

Smalley's license was suspended in West Virginia regarding continuing medical education issues and informed the Board that he was unaware of the suspension in West Virginia. Dr. Edmonson made a motion to grant Dr. Smalley a license contingent upon correcting his application. Dr. Ali seconded the motion. The motion passed.

**Myron Cornel Stokes, MD**-Dr. Stokes is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Stokes' application file for the Board. Dr. Stokes explained the single incident that occurred. Vanderbilt's evaluation did not report any problems regarding Dr. Stokes. After further discussions, Dr. Mutter made a motion to grant Dr. Stokes a license and Dr. Zanolli seconded the motion. The motion passed unopposed.

**Sreedhar Reddy Tallapureddy, MD**-Dr. Tallapureddy is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Tallapureddy's application file for the Board. Dr. Tallapureddy was terminated from family practice residency due to incompetence and asking another resident to prescribe valium for him. The Texas Board reprimanded Dr. Tallapureddy for failure to disclose his termination from the program in Oklahoma. Dr. Tallapureddy explained the circumstances to the Board. Dr. Zanolli made a motion to grant a license to Dr. Tallapureddy and Dr. Mutter seconded the motion. The motion passed unopposed.

**Jacqueline Denise Moses, MD**-Dr. Moses is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Moses' application file for the Board. Dr. Moses was terminated from residency remedial training and was placed on probation during remediation and supervision due to boundary issues pertaining to authority. Dr. Moses explained the situation to the Board regarding the probation and informed the Board that she has been practicing as a Locums in Michigan and plans to return to Tennessee. Mr. Brown made a motion to grant a license to Dr. Moses and Ms. Wells seconded the motion. The motion carried.

### **Reinstatement Interviews**

**Barry Craig Ashkinaz, MD**-Dr. Ashkinaz is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Ashkinaz's application file for the Board. Dr. Ashkinaz does not provide patient care and has requested an administrative license. Dr. Edmonson made a motion to grant Dr. Ashkinaz a license restricted to administrative work and Dr. White seconded the motion. The motion carried.

**Fuad Shatila, MD**-Dr. Shatila is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Shatila's application file for the Board. Dr. Shatila practiced in Beirut, Lebanon from July, 1989 through December, 2005. The Board asked Dr. Shatila several questions. Dr. Ali made a motion to grant reinstatement to Dr. Shatila and Dr. White seconded the motion. The motion passed unopposed.

**Linda Whitby, MD**-Dr. Whitby is applying for reinstatement of her medical license. Dr. Arnold informed the Board that during a phone call with Dr. Whitby, she had stated that

she was going to withdraw her application. Dr. Whitby did not contact the staff of her decision to withdraw her application. The Board decided to defer Dr. Whitby to the next scheduled Board meeting.

**Randall Matthew Willis, MD**-Dr. Willis is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Willis' application file for the Board. Dr. Willis has been disciplined by the Board and his medical license is on probation. Dr. Willis has advocacy with the Tennessee Medical Foundation. Dr. Gray spoke on behalf of Dr. Willis and stated that he is in compliance with his TMF contract. Dr. Zanolli made a motion to grant reinstatement to Dr. Willis and Dr. Ali seconded the motion. The motion passed.

### **Ratification of Denial of Licensure**

**Hazem Ismail Abdel Moneim, MD**-Dr. Moneim applied for a medical license in Tennessee, however, he did not complete a three year residency program in the United States as required by Rule 0880-2-.04(5). Dr. Edmonson made a motion to accept Dr. Arnold's recommendation of denial and Dr. White seconded the motion. The motion passed unopposed.

### **Rule Action**

Mr. Jerry Kosten, Rules Coordinator reviewed the provisions of the paragraph concerning the seven year rule which expires May 24, 2009. The new rule implements Public Chapter 774 which requires the Board to waive the seven (7) year rule if an applicant has been granted a waiver from the seven (7) year rule in another jurisdiction where he/she was practicing or training. Mr. Kosten informed the Board that the new Rule would need to go the Rulemaking hearing. Dr. Eckles made a motion to send the rule to rulemaking hearing and Dr. Mutter seconded the motion. The motion carried.

Mr. Kosten reviewed the upcoming rule regarding the requirement to require one hour of continuing medical education be dedicated exclusively to prescribing practices. Ms. Robbie Bell, Director for Health Related Boards spoke on behalf of Judy Eads regarding the proposal. Ms. Bell reviewed the prescribing rule and the Commissioner's task force on prescribing that suggested the change to the rule. Dr. Eckles and Dr. Ali both sit on the task force and Dr. Eckles summarized their recent activities. After further discussions, Dr. White made a motion that one hour of the forty hours of continuing medical education include prescribing practices. Dr. Edmonson seconded the motion. Dr. White made a motion to send the rule to rulemaking hearing and Dr. Zanolli seconded the motion. The motion carried.

Mr. Kosten reviewed the roll call vote conducted by the Committee on Physician Assistants regarding advertising. Dr. Zanolli made a motion to adopt the proposed rule regarding advertising and Dr. Ali seconded the motion. After a roll call vote, with Dr. Edmonson opposing, the rule was adopted by a majority vote.

## **Discussion**

Mr. Bill Hubbard, representative for the Tennessee Hospital Association addressed the Board regarding his proposed changes to the Board's Office Based Surgery rules. Dr. Eckles gave an update regarding the rules. Dr. Mutter made a motion to take the Tennessee Medical Association and Tennessee Hospital Association's proposals and compile a resolution agreeable to both parties to be discussed for a rulemaking hearing at a later date. Dr. Ali seconded the motion. The motion passed unopposed. The Tennessee Hospital Association proposal was referred to the Board's standing committee on Office Based Surgery with an instruction that they meet and return with a report to the Board at its September, 2006 meeting.

Ms. Robbie Bell, Director and Ms. Judy Eads, Assistant Commissioner for Health Related Boards addressed the Board regarding e-mail information on renewal applications. Ms. Bell stated that collecting e-mail addresses will be public record. Ms. Eads informed the Board about natural disasters and being able to communicate to physicians regarding certain information. Ms. Eads also discussed work being done regarding the practice addresses on the practitioner profile site on the internet.

Ms. Otto requested the Board to consider increasing funding for the Tennessee Medical Foundation. After further discussion, the Board's decision was to increase funding by \$50,000. Dr. White made a motion to increase funding by \$50,000 and Dr. Mutter seconded the motion. The motion carried unopposed.

Ms. Otto asked the Board to consider using past board members to act as screening panel members. Dr. White made a motion to use past members as screening panel members and Dr. Eckles seconded the motion. The motion carried unopposed.

Ms. Otto informed the Board that there is a need to elect representatives to replace Ms. Yeiser and Dr. Englehardt on the Controlled Substance Database Monitoring Advisory Committee. Dr. Ali made a motion to nominate Dr. Eckles to replace Dr. Englehardt and Dr. Zanolli seconded the motion. The motion carried. Dr. Ali made a motion to nominate Ms. Johnson to replace Ms. Yeiser as consumer member on the committee and Ms. Wells seconded the motion. The motion carried.

The Board was informed of the need to elect a new vice-president to replace Ms. Yeiser. Dr. Zanolli made a motion to nominate Dr. Mutter and Dr. Eckles seconded the motion. The motion carried.

Dr. Arnold reviewed for the Board the grant application from Dr. Andy Spickard regarding developing an on-line equivalent of Vanderbilt's popular prescribing course. No action from the Board was required.

## **Reports**

### **Budget Report**

The report was reviewed by the Board. Ms. Otto stated that the Board continues to have a surplus. Ms. Otto also informed the Board that certain large costs would be assessed in the near future for such items as the move to Metrocenter and the RBS upgrade. Ms. Eads also spoke to the Board at this time about spending some of their surplus on upgrading such items as computers in the administrative office. She also suggested funds be used for educational purposes and attending the 2007 annual meeting of the Federation of State Medical Boards.

### **Executive Director/Manager's Report**

Ms. Otto reviewed her report for the Board and gave an update regarding Health Related Boards' move to the new location. Ms. Otto also informed the Board that the members that attended the Governor's Tennessee Pandemic Influenza Readiness Seminar would receive travel reimbursement if they submitted claims in a timely manner.

### **Investigation Report**

Ms. Lea Phelps, Disciplinary Coordinator reviewed the investigative report in the absence of Ms. Denise Moran.

### **Disciplinary Report**

Ms. Lea Phelps, Disciplinary Coordinator reviewed her report for the Board.

### **OGC Report**

Mr. Robert Kraemer reviewed his report for the Board.

### **“Noteworthy” section of the internet**

The Board did not designate anything for the “noteworthy” section of the internet.

### **Disciplinary Action**

#### **Agreed Order**

**Cynthia Shearer, MD**-Dr. Shearer was not present but represented by legal counsel, Mr. David L. Steed. Ms. Lexie Whittemore represented the State. The proposed Agreed Order was handed to the Board for review. Dr. Shearer was summarily suspended by the Board on May 3, 2006. Dr. White recused himself. Dr. Shearer is charged with violating TCA 63-6-214(b) (1), TCA 63-6-214(b) (4) and TCA 63-6-214(b) (18). The proposed Agreed Order stated that Dr. Shearer's medical license is suspended. The period of suspension shall be until Dr. Shearer completes a mental, physical and competency

evaluation at the Vanderbilt Comprehensive Assessment Program for Professionals (VCAP) and the Center for Personalized Education for Physicians (CPEP), and complies with all recommended treatments or recommendations. The period of suspension shall be lifted upon Dr. Shearer's presentation to the Board, which will include VCAP's and CPEP's recommendations and the recommendations of a neurologist and nephrologist that Dr. Shearer is safe to practice medicine. Dr. Lovelady made a motion to accept the proposed Agreed Order and Dr. Eckles seconded the motion. The motion passed unopposed.

## **Consent Orders**

**William D. Shippen, MD**-Dr. Shippen was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the Board for review. Dr. Shippen is charged with violating TCA 63-6-214(b) (1). On January 30, 2004, in response to being struck and spit upon by an intoxicated and combative emergency room patient, Dr. Shippen slapped and spit upon that patient and caused a covering to be placed over the patient's mouth. Dr. Shippen has undergone an evaluation by the Vanderbilt Comprehensive Assessment Program (VCAP), completed an in-patient treatment program and has entered into a five (5) year contract with the Tennessee Medical Foundation (TMF) to monitor his progress in complying with the VCAP evaluation recommendations. The proposed Consent Order stated that Dr. Shippen's license be placed on probation until the end of the term of the contract he entered with TMF and until such time thereafter that he petitions and appears before the Board and obtains an Order of Compliance. Dr. White made a motion to accept the proposed Consent Order and Dr. Ali seconded the motion. The motion passed.

**Ryan S. Bonanno, AT-C**-Mr. Bonanno was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the Board for review. Mr. Bonanno is charged with violating TCA 63-23-103. Mr. Bonanno practiced without a license after his license as an Athletic Trainer expired. The proposed Consent Order stated that Mr. Bonanno shall pay , within six (6) months from the effective date of the Order, eight (8) Type C civil penalties in the amount of one hundred twenty five dollars (\$125.00) each, for a total of one thousand dollars(\$1,000.00). Dr. Eckles made a motion to accept the proposed Order and Dr. White seconded the motion. The motion passed.

**Joyce Ann Rawls, MD**-Dr. Rawls was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the Board for review. Dr. Rawls is charged with violating TCA 63-6-214(b) (20). Dr. Rawls was disciplined by the Georgia Composite State Board of Medical Examiners for treatment that failed to conform to the minimum standard of acceptable and prevailing medical practice in regards to one high risk patient's delivery of a child. The proposed Consent Order stated that Dr. Rawls shall obtain thirty (30) hours of continuing medical education in the area of managing high risk pregnancies in addition to the hours required of all physicians in Tennessee and pay costs. Dr. Mutter made a motion to accept the

proposed Consent Order and Dr. Edmonson seconded the motion. The motion passed unopposed.

**Milton Smith, MD**-Dr. Smith was neither present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the Board for review. Dr. Smith entered into an Agreed Order with the Board on March 15, 2005. Dr. Smith was charged with violating TCA 63-6-214(b) (1). Dr. Smith failed to prepare and/or maintain adequate medical records to document controlled substances he prescribed for certain patients. The previous Agreed Order stated that Dr. Smith's license be placed on probation for a period of not less than five (5) years from the date of the Order. The terms and conditions of that probation was within the first year, Dr. Smith must attend the prescribing course held at Vanderbilt University, attend a record keeping course approved by the Board's Medical Director and obtain an evaluation through the Tennessee Medical Foundation. Dr. Smith was to surrender and not renew his Drug Enforcement Agency Certificate. The proposed Consent Order stated that Dr. Smith's medical condition has deteriorated since his last meeting with the Board in March of 2005 and has made compliance with the previous Order of the Board impractical and has made clinical medical practice for himself impossible. The probation previously issued against Dr. Smith's license is lifted but although unrestricted in terms of disciplinary actions, is restricted in such a manner that Dr. Smith may practice medicine in only an administrative capacity without any clinical patient practice. Dr. Smith shall not renew his Drug Enforcement Agency Certificate. Dr. White made a motion to accept the proposed Consent Order and Dr. Lovelady seconded the motion. The motion passed unopposed.

**Howard Pomeroy, MD**-Dr. Pomeroy was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The proposed Consent Order was handed to the Board for review. Dr. Pomeroy is charged with violating TCA 63-6-214(b) (1) and TCA 63-6-214(b) (12). Dr. Pomeroy was prescribing to oneself, family and personal friends on numerous occasions. The proposed Consent Order stated that Dr. Pomeroy's medical license be placed on probation for five (5) years from the date of the Order. Dr. Pomeroy must complete the Vanderbilt Comprehensive Assessment Program for Professionals within ninety (90) days of the Order and comply with all recommendations of the assessment. Dr. Pomeroy must obtain and maintain the advocacy of the Tennessee Medical Foundation (TMF) for so long as he retains a medical license in the State of Tennessee. Dr. Pomeroy shall have the TMF issue written reports stating whether he is in compliance with his TMF contract on a quarterly basis. Mr. Brown made a motion to accept the proposed Consent Order and Dr. Eckles seconded the motion. The motion passed unopposed.

### **Letter of Reprimand**

**Robert J. Pomphrey, MD**-Dr. Pomphrey was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. The Letter of Reprimand was handed to the Board for review. Dr. Pomphrey is in violation with TCA 63-6-214(b) (1). After an investigation, it was revealed that Dr. Pomphrey administered sample medications to a

minor without getting written consent from the minor's parent(s) and failed to maintain a medical record for the minor regarding the dispensed drugs. The Letter of Reprimand stated that Dr. Pomphrey must attend forty (40) hours of continuing medical education (CME). Twenty (20) hours must be courses in the area of boundary concerns for physicians and their patients. The other twenty (20) hours must be courses in the area of prescribing medications. All hours must have prior approval of the Board's Medical Director. All hours must be completed within twelve (12) months of the ratification of the Letter of Reprimand. Dr. Pomphrey must provide the Board with proof of attendance and completion of the course required to the Disciplinary Coordinator with twelve (12) months from the Letter of Reprimand. Dr. White made a motion to accept the Letter of Reprimand and Mr. Brown seconded the motion. The motion passed unopposed.

### **Order of Compliance**

**Clarence R. Sanders, MD**-Dr. Sanders was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. The petition for Order of Compliance was handed to the Board for review. Dr. Cunningham recused himself. Dr. Sanders was charged with violating TCA 63-6-214(b) (1), TCA 63-6-214(b) (5) and TCA 63-6-214(b) (12). Dr. Sanders entered into a Consent Order on September 22, 2005. The Consent Order stated that Dr. Sanders' medical license be placed on suspension. Dr. Sanders must enter into an in-patient drug and alcohol treatment facility, which is outside of the State of Tennessee such as the Metro Atlanta Recovery Residence, demonstrate compliance with all the recommendations of the discharge summary from the facility, complete the Prescribing Controlled Drugs and Maintaining Proper Boundaries course taught at The Center for Professional Health, permanently obtain and maintain the advocacy of the Tennessee Medical Foundation and comply with all of its recommendations and surrender Drug Enforcement Agency License Certificate and pay all costs. Mr. Kraemer informed the Board that according to the documents submitted by Lea Phelps, Disciplinary Coordinator, Dr. Sanders has complied with all the provisions of the Consent Order. Dr. White made a motion to accept the Order of Compliance and Dr. Edmonson seconded the motion. The motion passed unopposed.

Adjourned at 5:30 p.m.

**July 26, 2006**

### **Forum West**

Panel: Brown, Cunningham, Mutter, White

**9:00 a.m.**

### **Contested Case Hearing**

**Curtis Buchheit, MD**-Dr. Buchheit was present and represented himself.

The case is a continuation from the May 16 and 17, 2006 meeting and will be continued at the next scheduled meeting.

**Forum East**

Panel: Zanolli, Lovelady, Wells

**9:00 a.m.**

**Contested Case Hearing**

**Joseph Rich, MD**-Dr. Rich was present and represented by legal counsel, Mr. Dan Warlick. Mr. Shiva Bozarth represented the State. The Honorable Tom Stovall, Administrative Law Judge presided.

The case is to be continued until October 6, 2006.

**Johnson Room**

Panel: Eckles, Beckford, Ali

**9:00 a.m.**

**Contested Case Hearing**

**Janice Katz, MD**-Dr. Katz was present and represented by legal counsel, Mr. C.J. Gideon. Mr. Thomas Miller represented the State. The Honorable Marion Wahl, Administrative Law Judge presided.

The case is to be continued at the next scheduled meeting.

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Dr. Allen S. Edmonson

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Date