

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

November 6 and 7, 2006

The meeting was called to order at 9:00 a.m. at the Bureau of Health Licensure and Regulation, 220 Athens Way, Suite 104, Plaza 1 Metrocenter, Nashville, Tennessee 37243 by Vice President Dr. Mitchell Mutter. Other members present were: Drs. George Eckles, Michael Zanolli, Keith Lovelady, Subhi Ali, Allen Edmonson, Neal Beckford and Ms. Irene Wells. Drs. David Cunningham, Charles White, Sr. and Mr. Mark Brown were in a contested case hearing. Board member absent 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 September 26 and 27, 2006 and October 6, 2006 meetings were reviewed. Dr. Edmonson stated that the minutes from October 6, 2006 needed to be corrected to reflect a motion being seconded by Ms. Wells. Dr. Zanolli made a motion to accept the minutes with amendments as stated and Dr. Ali 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. Eckles made a motion to ratify the approval of licenses and Dr. Beckford seconded the motion. The motion carried.

The Agreed Order of Anne Weir, PA was handed to the Board for ratification of the action previously taken by the Committee on Physician Assistants placing Ms. Weir's physician assistant license on probation... Mr. Shiva Bozarth, legal counsel for the State gave a brief summary regarding the Agreed Order. Dr. Zanolli made a motion to ratify actions taken by the Physician Assistants Committee and Ms. Wells seconded the motion. The motion carried.

New Applicant Interviews

Michael Claus Buchholz, MD-Dr. Buchholz is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Buchholz's application file for the Board. Dr. Buchholz's license was disciplined in Alabama on May 24, 2000 for falsification on a licensure application and unprofessional conduct. Dr. Buchholz has a history of alcohol dependency. The Board asked Dr. Buchholz if he had contacted the Tennessee Medical Foundation (TMF). Dr. Buchholz stated that he had not made contact with TMF. After several questions, Dr. Edmonson made a motion to grant a license to Dr. Buchholz contingent on a lifetime contract with TMF and Dr. Zanolli seconded the motion. The motion carried.

Robert A. Burkich, MD-Dr. Burkich is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Burkich's application file for the Board. Dr. Burkich's Tennessee medical license was revoked in March, 2004 due to a felony conviction which resulted in revocation of his license to practice medicine in Georgia. Ms. Otto asked Dr. Burkich if he had paid the civil penalties imposed on him. Dr. Burkich was unsure if fees had been paid. (It was discovered during further discussion that Dr. Burkich had not paid his costs and that it was quite possible that he did not receive the state's memorandum of assessment of costs.) Dr. Mutter asked the Board if they wanted to go forward with the interview or defer to another time. Dr. Beckford made a motion to proceed with the interview and the issue of court costs. Dr. Zanolli seconded the motion. Dr. Lovelady opposed. The motion carried. Dr. Burkich stated he had not seen a patient in over a year but was up to date on his continuing medical education hours. Dr. Zanolli made a motion to grant a license contingent on payment of any costs to the State and Dr. Beckford seconded the motion. Drs. Eckles, Ali, Edmonson, Lovelady, Mutter and Ms. Wells opposed. The motion failed. Mr. Kraemer asked the Board if there was another motion on the floor. Dr. Beckford strongly suggested Dr. Burkich withdraw his application. Dr. Burkich informed the Board that he would not withdraw his application and to proceed with the decision. Dr. Edmonson made a motion to deny the license and Dr. Ali seconded the motion. The motion passed with Drs. Zanolli and Beckford opposing.

Russell Arthur Ferstandig, MD-Dr. Ferstandig is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Ferstandig's application file for the Board. Dr. Ferstandig has a past history of chemical dependency. Dr. Ferstandig informed the Board that he has been in a ten-year recovery program with 20 years of sobriety. Dr. Edmonson made a motion to grant Dr. Ferstandig a license contingent on a five (5) year contract with the Tennessee Medical Foundation and Dr. Lovelady seconded the motion. The motion carried.

Laverne Dennis Gugino, MD-Dr. Gugino is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Gugino's application file for the Board. Dr. Gugino plans to monitor patients undergoing cardiovascular and neurosurgical procedures from a remote site. The Board asked several questions regarding the

monitoring issues. Dr. Zanolli made a motion to grant Dr. Gugino a license and Dr. Eckles seconded the motion. The motion carried.

Michael David Hofmann, MD-Dr. Hofmann is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Hofmann's application file for the Board. Dr. Hofmann had problems in his residency program and did not disclose on his application that he had been disciplined and had his staff privileges suspended. Dr. Hofmann stated he was unaware of the discipline until later in which he submitted a letter of explanation to accompany his application file. Dr. Beckford made a motion to grant Dr. Hofmann a license and Dr. Eckles seconded the motion. Dr. Zanolli made an amendment to the motion for Dr. Hofmann to correct his application to reflect the discipline issues and Ms. Wells seconded the motion. The motion passed.

Warren Hardy Scott, MD-Dr. Scott is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Scott's application file for the Board. Dr. Scott previously held a special training license and appeared before a screening panel regarding failure to disclose a driving under the influence conviction on his application. Stipulations were placed on Dr. Scott's training license placing him on probation and requiring the advocacy with the Tennessee Medical Foundation. Dr. Edmonson made a motion to ratify the 2005 Screening Panel Order and grant Dr. Scott a license contingent on five (5) years probation and advocacy with the Tennessee Medical Foundation with no interruptions. Dr. Beckford seconded the motion. The motion carried.

Ronnie Bernard, AT-Mr. Bernard is applying for a license to practice as an Athletic Trainer. Dr. Arnold reviewed Mr. Bernard's application file for the Board. Mr. Bernard's criminal background check reflected a driving under the influence charge which was reduced to reckless driving. Mr. Bernard informed the Board that he plans to work at a high school in Sullivan County. Dr. Eckles made a motion to grant Mr. Bernard a license and Ms. Wells seconded the motion. Dr. Edmonson opposed. The motion passed.

Cecil Dewayne Knight, MD, AT-Dr. Knight is applying for a license to practice as an Athletic Trainer. Dr. Arnold reviewed Dr. Knight's application file for the Board. Dr. Knight is licensed as a medical doctor. Currently, he is required to have lifetime TMF advocacy as a condition of licensure. Dr. Knight informed the Board that he plans to teach at Lee University. Dr. Zanolli made a motion to grant Dr. Knight a license and Dr. Edmonson seconded the motion. The motion passed.

Andrea Merriweather, MDX-Ms. Merriweather is applying for reinstatement of her license to practice as a Medical X-ray Operator. Dr. Arnold reviewed Ms. Merriweather's application file for the Board. Ms. Merriweather was charged with nine counts of fraud. Dr. Arnold recommended denial until her court-ordered probation is concluded. Dr. Zanolli made a motion to deny reinstatement and Dr. Edmonson seconded the motion. Drs. Beckford, Ali, Eckles, Mutter, Lovelady and Ms. Wells opposed. The motion failed. Dr. Mutter gave Ms. Merriweather the opportunity to withdraw her application. After further discussion by the Board, Dr. Ali made a motion

to grant reinstatement contingent on a five (5) year contract with the Tennessee Medical Foundation and maintain strict compliance with TMF and the criminal courts. Ms. Wells seconded the motion. The motion passed.

Ratification of Denial of Licensure

John David Kuntz, MD-Dr. Kuntz is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Kuntz's application file for the Board. Dr. Kuntz's medical license in Canada was revoked because he consistently practiced medicine below the standard of care in British Columbia, Canada. Additionally, he had several malpractice cases brought against him that he failed to disclose on his application. Dr. Arnold recommended denial of licensure due to gross malpractice, a pattern of repeated malpractice, as well as fraud in obtaining admission to practice. Dr. Edmonson made a motion to accept Dr. Arnold's recommendation and deny licensure. Ms. Wells seconded the motion. The motion passed unopposed.

Donley D. Siddall, MD-Dr. Siddall is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Siddall's application file for the Board. Dr. Siddall's medical license in Tennessee was revoked on January 7, 2004 due to prescribing for non-therapeutic purposes, dispensing unlawfully, prescribing without examination/evaluation and unprofessional conduct. Dr. Arnold informed the Board that his recommendations were to deny Dr. Siddall's license until he has complied with the board's Order. Dr. Siddall was present and tried to explain to the Board the conditions regarding payment of his civil penalties. Dr. Siddall was not recognized by the Board Chair because his invitation to appear before the Board was rescinded because he had not paid his Board-imposed civil penalties in their entirety. The Board's decision was to leave Dr. Siddall's application file open until he has paid all civil penalties as set by the Order and appear before the Board again.

Sarmed A. Abdullah, MD-Dr. Abdullah applied for a license to practice medicine in Tennessee. Dr. Arnold informed the Board that Dr. Abdullah did not complete three years of post graduate training. Dr. Abdullah did not complete his third year and Dr. Arnold recommends denial. Dr. Zanolli made a motion to accept Dr. Arnold's recommendation of denial and Dr. Beckford seconded the motion. The motion passed unopposed.

Rule Action

Mr. Kosten opened discussion concerning a rule regarding foreign medical graduates' examination requirements for admission to international medical schools. The proposed rule would approve only those foreign medical graduates who have attended medical schools that require a Medical College Admission Test (MCAT) as developed by the Association of American Medical Colleges with a score no less than the score required for admission to the University of Tennessee College of Medicine. After discussion, Dr. Edmonson made a motion not to send the rule to rulemaking hearing and Dr. Beckford seconded the motion. The motion passed with Dr. Zanolli and Ms. Wells opposing. The

Board formed a task force of Drs. Lovelady, Beckford and Edmonson with Dr. Beckford as Chair to review the issue and report back to the Board. Mr. Kraemer informed the taskforce to notify the medical board staff if there is to be a meeting so that meeting can be sunshined.

Discussion

Steve Ritchie, MD, as a condition of his Board-ordered probation (imposed on him in 2003 because of overprescribing issues), was present and made a presentation to the Board regarding both legal and illicit drugs in Tennessee. The Board asked pertinent questions to Dr. Ritchie regarding the rising problems of overprescribing cases and thanked him for his appearance.

Antione Agassi, Director and Chair of the State of Tennessee e-Health Council addressed the Board regarding The Tennessee Health Care Technology Readiness Assessment. The Board was informed that the advisory council was formed to coordinate e-health initiatives across the state to create electronic medical records. One of the steps of progress is the e-prescribing which a physician can write a prescription per internet to a patient's pharmacy. Mr. Agassi encouraged members to work on getting e-technology into their offices.

Ms. Robbie Bell, Director for Health Related Boards gave a review to the Board regarding endorsing the Patient Safety Policy. Dr. Edmonson is a member of TIPS and spoke in support of the department's policy. Ms. Bell informed the Board that the policy involves reviewing complaints and making a determination whether it is a systematic problem or a practitioner-driven problem. The Board was asked to endorse the policy. Dr. Edmonson made a motion to endorse the policy and Dr. Lovelady seconded the motion. The motion passed unopposed.

Dr. Mutter stated the Board needs to create a policy for the selection of expert witnesses to guide the Office of General Counsel when retaining experts for the purpose of offering testimony to the Board during contested cases. A task force was appointed consisting of Mr. Brown, Dr. Cunningham and Dr. White. Mr. Kraemer reminded members to sunshine any meeting they may have.

Reports

Budget Report

The Budget was reviewed by the Board. Ms. Otto stated that the Board continues to have a sizable surplus but that they can expect some "big ticket" expenses in the fiscal year 2007.

Director/Manager Report

Ms. Otto informed the Board that the annual meeting of the Federation of State Medical Boards (FSMB) will be in May. She asked members to let her know which would be interested in attending. Additionally, Ms. Otto stated that the FSMB will be offering a web-based continuing education program about disruptive doctors free to board members and staff. She reported the program is a good one and can be found on-line.

Investigation Report

The Investigative report was reviewed by the Board. Ms. Otto informed the Board that there was an unusually high number of complaints in August and that she would find out why and report back to the Board. Note: the high number can be attributed to receipt of eleven (11) MMPR Reports (quite high for one month), and twenty-two (22) out-of-state actions.

Disciplinary Report

Ms. Otto reviewed the Disciplinary report in the absence of Ms. Lea Phelps, Disciplinary Coordinator.

OGC Report

Mr. Robert Kraemer reviewed his report for the Board. Mr. Kraemer reviewed the following rules that were still effective at the last meeting:

1. Radiologic Assistants and Examinations
2. MPLLC, X-Ray and Reference Letters
3. Office Base Surgery, Advertising and Supervision
4. Seven Year Exam Rule and Prescribing Continuing Education

"Noteworthy" section of the internet

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

Disciplinary Action

Agreed Order

John Hancock, MD-Dr. Hancock was not present nor represented by legal counsel. Mr. Thomas Miller represented the State. The proposed Agreed Order was handed to the Board for review. Dr. Hancock is charged with violating TCA 63-6-214(b) (1) and TCA 63-6-214(b) (2). On December 16, 2003, Dr. Hancock entered into a guilty plea to two (2) counts of Attempted Forgery and was sentenced to serve eleven (11) months and twenty-nine (29) days for each count. The sentence was suspended and Dr. Hancock was placed on supervised probation for a period of two (2) years. On May 18, 2004, Dr.

Hancock entered into an Agreed Order with the Board and was placed on probation for a period of five (5) years and required to enter into a contract with the Tennessee Medical Foundation (TMF) and maintain the advocacy of the TMF for the duration of the probation. On April 13, 2006, the Director of the TMF informed the Medical Director of the Board that the TMF was unable to continue in an advocacy status for Dr. Hancock. The Director of the TMF informed Dr. Hancock of his loss of advocacy. As of August 17, 2006, Dr. Hancock has not regained TMF advocacy. The proposed Agreed Order states that Dr. Hancock's medical license shall be immediately surrendered and he shall pay all costs. Dr. Ali made a motion to accept the proposed Agreed Order and Dr. Edmonson seconded the motion. The motion passed.

Consent Order

Robert B. Warr, MD-Dr. Warr was not present nor represented by legal counsel. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the Board for review. Dr. Warr is charged with violating TCA 63-6-214(b) (20). Dr. Warr's license to practice medicine in Texas was disciplined in 2005 pursuant to an Agreed Order based upon information that he had a mental or physical impairment affecting his ability to practice medicine, his failure to disclose his treatment for depression to the Texas Board, his termination from employment for abnormal behavior and poor performance and his self prescribing of multiple medications. The proposed Consent Order states that Dr. Warr's license to practice medicine in Tennessee is hereby suspended until such time as he requests in writing to have the suspension lifted, and personally appears before the Board and provides satisfactory evidence that he has complied with all the terms of his Texas disciplinary action and that the suspension of his license in Texas has been lifted. Dr. Ali made a motion to accept the proposed Consent Order and Dr. Edmonson seconded the motion. The motion passed.

Order of Compliance

Curtis Elam, MD-Dr. Elam was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer gave a brief review of Dr. Elam's past history. The petition for Order of Compliance was handed to the Board for review. Mr. Kraemer informed the Board that Dr. Elam has met all the requirements as set by the Board's Order and the compliance is in effect as of November 17, 2006. Dr. Edmonson made a motion to adopt the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

Adjourned at 3:30 p.m.

Contested Case Hearing

Panel: Brown, White Cunningham

Curtis Buchheit, MD-Dr. Buchheit was present and represented himself. Ms. Laurie Doty represented the State. The Honorable Mary Collier, Administrative Law Judge

presided. The case is a continuation from July 25, 2006 meeting.

Adjourned at 3:00 p.m.

November 8, 2006

9:00 a.m.

Panel: Zanolli, Wells, Mutter

Agreed Order

Pamela Ventra, MD-Dr. Ventra was not present but was represented by legal counsel, Mr. John Stewart. Ms. Schean Belton represented the State. The proposed Agreed Order was handed to the panel for review. Dr. Ventra is charged with violating TCA 63-6-214(b) (1) and TCA 63-6-214(b) (18). Dr. Ventra's license to practice medicine in Tennessee was summarily suspended on February 4, 2005 for practicing while her judgment was impaired. Dr. Ventra was injured when an automobile struck her as a pedestrian on December 17, 2003. Dr. Ventra continued to practice medicine while suffering severe pain, confusion and short term memory loss caused by her injuries. These conditions interfered with her ability to safely practice medicine, yet Dr. Ventra continued to treat patients. The proposed Agreed Order states that Dr. Ventra's license to practice medicine in Tennessee is permanently surrendered. Dr. Ventra's Drug Enforcement Administration (DEA) certificate shall be permanently surrendered. Dr. Zanolli made a motion to accept the proposed Order and Ms. Wells seconded the motion. The motion carried.

Consent Order

Robert Parker, MD-Dr. Parker was present and represented by legal counsel, Mr. W. Timothy Harvey. Mr. Robert Kraemer represented the State. The proposed Consent Order was handed to the panel for review. Dr. Parker is charged with violating TCA 63-6-214(b) (1). Dr. Parker conducted a twenty seven (27) month sexual relationship with a patient for whom he was the active treating physician and for whom he was, at the time of the sexual relationship, prescribing medications including controlled substances. The proposed Consent Order states that Dr. Parker's license is placed on probation for a period of no less than twenty seven (27) months and until such time after that twenty

seven (27) months as he petitions, appears and obtains an Order of Compliance pursuant to Board rule 0880-2-.12(2) upon proof that he has complied with the following conditions imposed on that probation:

- a. Dr. Parker shall, within the first twelve (12) months of the probation, attend and successfully complete the Vanderbilt Prescribing Sexual Boundaries Courses and have documentation of successful completion of both courses sent directly from the Programs to the Board's Medical Director; and
- b. Dr. Parker shall, within the first twelve (12) months of the probation, undergo an evaluation at the Vanderbilt Comprehensive Assessment Program, and cause a copy of the final evaluation to be sent directly from the Program to the Board's Medical Director. Dr. Parker shall comply with all recommendations contained in that evaluation regardless of whether the compliance extends beyond the first twelve (12) months of his probation.
- c. Dr. Parker is assessed and shall pay within thirty (30) days of the date that the Order is approved by the Board, twenty seven (27) Type B civil penalties (one each for every month the sexual relationship continued) in the amount of two hundred and fifty dollars (\$250.00) each, for a total of six thousand seven hundred and fifty dollars (\$6,750.00).

Dr. Zanolli made a motion to accept the proposed Consent Order and Ms. Wells seconded the motion. The motion passed unopposed.

Contested Case Hearing

Richard Baker, MD-Dr. Baker was present by speaker phone and represented by Frank Scanlon. Ms. Alexa Whittemore represented the State. The Honorable Steve Darnell, Administrative Law Judge presided. Ms. Whittemore gave her opening statement followed by Mr. Scanlon. The Notice of Charges was handed to the panel for review. Dr. Baker is charged with violating TCA 63-6-214(b) (1), TCA 63-6-214(b) (2) and TCA 63-6-214(b) (10). On or about January 31, 2006, Dr. Baker was convicted of two counts of aggravated assault, kidnapping, aggravated burglary and assault. Dr. Baker and Barrett Haik were sworn in as witnesses and called upon to testify. After closing statements, the matter was turned over to the panel for deliberations. Dr. Zanolli made a motion to accept the Finding of Facts #10, 11, 12, 13 and 14 and Ms. Wells seconded the motion. The motion carried. Dr. Zanolli made a motion to accept the Causes of Action # 15, 16 and 17 and Ms. Wells seconded the motion. The motion carried. Ms. Wells made a motion to assess three Type A civil penalties in the amount of one thousand dollars (\$1,000.00) each for a total of three thousand dollars ((\$3,000.00)). Dr. Zanolli seconded the motion. The motion carried. Ms. Wells made a motion to assess all costs of the hearing and Dr. Zanolli seconded the motion. The motion carried. Dr. Zanolli made a

motion that Dr. Baker's license be revoked with leave to apply and Ms. Wells seconded the motion. The motion carried. The policy statement was read and the reason the action was taken was due to the felony convictions of the physician. For this reason the actions taken were to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Zanolli made the motion to accept the policy statement and Ms. Wells seconded the motion. The motion carried.

Contested Case Hearing

Panel: Eckles, Beckford, Ali

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 a continuation from the September 26 and 27, 2006 meeting.

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

Adjourned at 4:30 p.m.

Dr. Allen S. Edmonson, MD

Date