

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

March 16 and 17, 2010

The meeting was called to order at 8:45 a.m. at the Health Related Boards' Iris Room, 227 French Landing, Ground Floor, Heritage Place Metrocenter, Nashville, Tennessee 37243 by President Dr. Mitchell Mutter. Other members present were: Drs. Barrett Rosen, Keith Lovelady, George Eckles, Subhi Ali, Charles White, Sr., Dennis Higdon, Michael Zanolli and Ms. Monica Franklin.

Staff present included Rosemarie Otto, Executive Director, Larry Arnold, MD, Medical Director, Marsha Arnold, Unit Manager, Sandra Powell, Board Administrator and Shiva Bozarth, Deputy General Counsel and Advisory Attorney.

Minutes

The minutes from the following meetings were reviewed: January 26 and 27, 2010 meeting, January 29, 2010 summary suspension in the matter of Visuvalingam Vilvarajah, MD and Mireille Lalanne, MD, February 12, 2010 Respondent's informal hearing in the matter of Visuvalingam Vilvarajah, MD, February 18, 2010 Teleconference regarding current legislation and March 11, 2010 Respondent's informal hearing in the matter of Mireille Lalanne, MD. Dr. White made a motion to accept the minutes and Dr. Rosen seconded the motion. The motion passed.

Ratification of Licenses

New, reinstated, failed to renew and voluntary retired licenses for Medical Doctors, Medical X-Ray Operators, Radiologist Assistants, Genetic Counselors and Acupuncture Committee were reviewed. Dr. Eckles made a motion to ratify the approvals and Ms. Franklin seconded the motion. The motion passed.

Consideration of Applications

Martin Clark, MDX- Mr. Clark is applying for a license to practice as a medical x-ray operator in Tennessee. Dr. Arnold reviewed Mr. Clark's application file for the Board. Mr. Clark was charged with driving while under the influence. Mr. Clark explained the circumstances surrounding the incident. Dr. Rosen made a motion to grant Mr. Clark a license and Ms. Franklin seconded the motion. The motion passed.

Robert Holladay, MD-Dr. Holladay is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Holladay's application file for the Board. Dr. Holladay was disciplined in Louisiana and Texas for overprescribing and failure to report

the discipline when he renewed his license. Dr. Holladay explained the circumstances regarding the discipline. Dr. Rosen had concerns granting a full license to Dr. Holladay. After several questions, Dr. Zanolli made a motion to grant a license and Dr. Higdon seconded the motion. The motion passed.

Richard L. Hubbell, MD-Dr. Hubbell is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Hubbell's application file for the Board. Dr. Hubbell's Tennessee medical license was summarily suspended on December 21, 2007 for controlled substance violations and unprofessional conduct. Dr. Hubbell entered into an Agreed Order on July 23, 2008 resulting in revocation of his medical license. Dr. Higdon recused himself from the discussion during today's meeting. Dr. Arnold recommended denial until Dr. Hubbell obtains the advocacy of the Tennessee Medical Foundation and is re-evaluated at Talbott. Dr. Arnold's recommendations were if Dr. Hubbell is granted a license, he must obtain TMF advocacy, obtain re-evaluation for fitness to practice to be conducted at Talbott and obtain CPEP evaluation for competency to practice. Dr. Hubbell was represented by legal counsel, Mr. Frank Scanlon. Dr. Hubbell informed the Board of his plans to set up a wellness program for children. The Board asked Dr. Hubbell questions regarding continuing medical education hours and evidence of competency. Ms. Franklin made a motion to accept Dr. Arnold's recommendation of TMF advocacy, re-evaluation or fitness to practice conducted at Talbott and CPEP evaluation. Dr. Ali seconded the motion. Drs. Ali and Lovelady had concerns regarding issues of substance abuse. The motion was then amended to add lifetime advocacy of the TMF. Dr. Zanolli and Dr. Lovelady opposed. The motion passed as amended with a majority of the vote.

John H. Mather, MD-Dr. Mather is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Mather's application file for the Board and recommends a license for administrative duties only. Dr. Mather has been in a non-patient care position since June 1975. Dr. Mather informed the Board that he has had some patient contact during the time in question. Dr. Mutter explained the administrative license and how it is reportable to the databank as discipline. Dr. Rosen stated that he feels comfortable in granting Dr. Mather a full, unrestricted license after reading through his application and supporting documentation. Dr. Rosen made a motion to grant Dr. Mather a license and reiterated that his reasons were that Dr. Mather has been participating in hands-on experience and evaluations for approximately twenty years. Dr. Eckles seconded the motion. The motion passed.

James O. Morgan, III, MD-Dr. Morgan is applying for reinstatement of his license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Morgan's application file for the Board. Dr. Morgan was charged with pandering in 2006 and explained to the Board the circumstances surrounding the incident and the outcome. The Board asked questions regarding the malpractice issue. After further discussion, Ms. Franklin made a motion to grant Dr. Morgan reinstatement of his license and Dr. Ali seconded the motion. The motion passed.

Jenni R. Neighbors, MD-Dr. Neighbors is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Neighbors' application file for the Board. Dr. Neighbors was charged with driving while under the influence in 1999. Dr. Neighbors informed the Board that she plans to move back to East Tennessee. Dr. Higdon made a motion to grant a license and Dr. Ali seconded the motion. The motion passed.

Ross T. Waterfield, MD-Dr. Waterfield was not present and the Board deferred his interview to the next scheduled meeting.

Pamela A. Wells, MD-Dr. Wells is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Wells' application file for the Board. Dr. Wells was disciplined in Kentucky for substance abuse. Dr. Arnold recommended lifetime TMF advocacy, restrict the license as outlined in the Kentucky Order and get the Kentucky Board's approval before working in Tennessee. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation informed the Board that a Letter of Agreement was issued by the Kentucky Board. Dr. Ali made a motion to grant a license contingent on lifetime advocacy with the TMF and one hundred percent compliance with their recommendations and comply with the terms of the Orders issued by the Commonwealth of Kentucky's Board of Medical Licensure. Ms. Franklin seconded the motion. The motion passed.

Jessica A. Wolin, MD-Dr. Wolin is applying for reinstatement of her license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Wolin's application file for the Board. Dr. Wolin was disciplined in Massachusetts for controlled substance abuse as well as Minnesota and Washington. Dr. Arnold recommended a five year contract with the Tennessee Medical Foundation with one hundred percent compliance and five years probation with the same conditions as stated in the orders from the other states. Dr. Rosen made a motion to grant a license contingent on lifetime advocacy of the TMF and mirror Minnesota's Order of Compliance but deleting the 5 hour work week and restriction to acupuncture medicine. Also, Dr. Wolin must get clearance from Massachusetts giving her permission to work in Tennessee. Dr. White seconded the motion. The motion passed.

Lawrence L. Young, MD-Dr. Young is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Young's application file for the Board. Dr. Young's Ohio license was placed on probation for three years for tax evasion in 1999. Dr. Young explained to the Board the circumstances regarding the conviction and stated that he is currently working and is certified in internal medicine. Dr. Zanolli made a motion to grant a license and Dr. White seconded the motion. The motion passed.

Permission to use Phone verification of legal entitlement for the following applicants

Nickolay P. Horozov, MD
Navneet Taneja, MD
Bhavya H. Gopalagowda, MD
Babatunde Komolafe, MD

Mazen H. Shahleen, MD

Ms. Otto gave a brief update regarding primary source verification of legal entitlement to live and work in the United States and the SAVE program. Ms. Otto explained that the applicants were waiting for approval and that she did not want to hold applicants up until the legislative session ends. She updated the Board on the status of HB 3251/SB 3092. She requested the Board's permission to utilize telephonic verification of legal entitlement. Dr. Ali made a motion to grant permission to obtain telephonic verification of legal entitlement for these applicants only and Dr. Zanolli seconded the motion. The motion passed.

Petition for Declaratory Order

Sathappan Kumar, MD-Dr. Kumar was present and represented by legal counsel Mr. George Gates. Documentation was provided to the Board for review. Mr. Gates gave a brief review of Dr. Kumar's qualifications and asked the Board to grant a petition for Declaratory Order to determine whether Dr. Kumar can be licensed in Tennessee given his background and qualifications. Dr. Rosen made a motion to approve the petition for a hearing and Dr. White seconded the motion. The motion passed.

Rule Action

The Board discussed House Bill 3369. Mr. Bozarth reviewed the bill for the Board. The house bill would require the Board to revoke the license of a physician found to be on the violent sexual offenders' registry. The Board voted to oppose the bill because it removes from the Board the statutory responsibility to fully and completely examine the qualifications of an applicant for licensure and it denies them the ability to evaluate and assess each applicant on an individual basis. An amendment to the bill was prepared that provided that when a physician is placed on the sex registry, the Board may suspend their license and also allows a complaint be made if someone is already on the list. The Board felt that the amendment restored some of their discretion while enabling them to protect the citizens of Tennessee. Dr. Ali made a motion to accept the amendment and Ms. Franklin seconded the motion. The motion passed.

Discussion

The Board discussed the Respiratory Care Boards' decision regarding the "third pathway" for licensure of respiratory care providers practicing Polysomnography. Ms. Otto reported on the "third pathway" and Dr. Lovelady gave a brief report and stated he reviewed the proposal and agreed with it. The Respiratory Care Board was also supportive of this avenue for credentialing Respiratory Care Practitioners to provide polysomnographic services.

The Board reviewed the report from Joel Herring regarding limited scope x-ray course providers. Ms. Otto gave a brief update and stated that the providers seem to be in compliance with BME rules at this time.

The Board reviewed the report from the Board of Pharmacy regarding their 2010 report to the General Assembly regarding the Controlled Substance Data Base. Dr. Eckles gave an overview of the report.

The Board discussed Uniform Evaluation and Assessment of Advertising Board Certification by non-AOA/BOS and non-ABMS Boards offered by the Oklahoma State Board of Osteopathic Examiners for consideration by the House of Delegates at the FSMB annual meeting in April 2010. Dr. Zanolli gave an update and explained the validity of physician credentials and stated that the Federation will review the issue at its meeting. Dr. Rosen made a motion to instruct Dr. Zanolli to vote “yes” on the subject and Ms. Franklin seconded the motion. The motion passed.

The Advisory Opinion regarding mammography was discussed by the Board. Mr. Bozarth explained that the Board is being asked to interpret how long mammogram films need to be kept. A letter was drafted responding to the question which informed that the films must be maintained for twenty years. The Board reviewed the letter and Ms. Franklin made a motion to approve the letter and Dr. Ali seconded the motion. The motion passed.

The Board discussed designating a member to replace Dr. Mutter at the FSMB annual meeting. Dr. Zanolli made a motion nominating Dr. Ali and Dr. White seconded the motion. The motion passed.

Reports

Budget Report

Ms. Miller reviewed the financial report and explained the revenue and expenditures in the report. She stated that rent, salaries and wages had all been re-calculated to bring them in line with more accurate figures. After review of the complete report, she stated the Board has no real control over certain board expenditures. Ms. Miller explained that the Board will be updated quarterly on their revenues and certain expenditures and they will be better able to assess whether or not to adjust their fees.

Statistical Report from Administrative Office

Ms. Marsha Arnold reviewed the statistical report for the Board.

Investigation Report

Ms. Denise Moran reviewed her report for the Board. Ms. Moran was asked about vacancies in her office. She informed the Board that four investigator positions were vacant in Middle Tennessee. Dr. White suggested writing a letter requesting the hiring of more investigators in the Department. The Board discussed ways to get the needed investigators. In the end, Ms. Otto was instructed for a second time to prepare a letter for Dr. Mutter’s signature requesting the positions be unfrozen and filled.

Disciplinary Report

Ms. Juanita Stone reviewed the disciplinary report for the Board.

OGC Report

Mr. Bozarth reviewed the OGC report for the Board. Mr. Bozarth gave a brief update regarding the rules concerning international medical school graduates which are at the Attorney General's Office awaiting review. Mr. Bozarth further informed the Board that the Office of General Counsel has 246 open cases pertaining to the Board of Medical Examiners.

CME Audit Office regarding compliance with CME requirements

Ms. Otto gave a brief overview of the report received from Ms. Dea Smith regarding the audit.

Order of Compliance

Matthew Gangwer, MD-Dr. Gangwer was present and represented by Mr. Robert Kraemer. Mr. Shiva Bozarth represented the State. Dr. Gangwer entered into a Consent Order on January 27, 2009 and was found to have been abusing alcohol and prescription pain medication and was found to have been removing prescriptions from his office for his own personal use. He pled guilty to three counts of aggravated assault, one count of 4th offense DUI, one count of evading arrest, one count of reckless endangerment with a deadly weapon and two counts of vandalism. The Order stipulated that Dr. Gangwer's license be suspended for a period of one year or the duration of his sentence for the criminal violations, whichever is longer. As a prerequisite for terminating his suspension, Dr. Gangwer shall produce documentation from a treatment center acceptable to the Board of his ability to reengage in the practice of medicine safely. Dr. Gangwer shall obtain a contract with the Tennessee Medical Foundation and maintain 100% compliance with that contract and appear back before the Board. After satisfying the Board, his license will be placed on probation for a period of five (5) years. Mr. Bozarth informed the Board that Dr. Gangwer has met the requirements as set by the Board and has a lifetime contract with TMF. The Board asked questions regarding the length of time out of practice and continuing medical education. Dr. Gangwer stated he has been out of practice for approximately three and one-half (3 1/2) years. Dr. Rosen had reservations regarding the self conducted CME courses and suggested SPEX exam or CPEP. Dr. Rosen then made a motion for Dr. Gangwer to take either the CPEP or SPEX exam prior to being licensed and Ms. Franklin seconded the motion. Mr. Kraemer suggested positive results of the exam be presented to the Board's Medical Director for approval. Dr. Ali amended the motion to add the suggestion. Ms. Franklin seconded the motion. The motion passed.

Gary D. Strasberg, MD-Dr. Strasberg was present but not represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Strasberg entered into an Agreed Order on March 15, 2005 because he was found to have been convicted of one count of driving under the influence of an intoxicant in Shelby County, Tennessee on April 28, 2003 and failed to report his conviction as required on his June 15, 2004 renewal application. The Order stipulated that Dr. Strasberg's license be placed on probation for a period of not less than five (5) years, remain compliant with his contract of advocacy with the Tennessee Medical Foundation and submit quarterly reports to the Board's Medical Director. Mr. Bozarth informed the Board that Dr. Strasberg has met the requirements as set by the Board. Dr. Ali made a motion to accept the Order of Compliance and Ms. Franklin seconded the motion. The motion passed.

Sunil Geevarghese, MD-Dr. Geevarghese was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Geevarghese entered into a letter for a conditional license on July 26, 2005. Dr. Geevarghese was found to have a mood disorder and the Board ordered that he maintain advocacy with his contract with the Tennessee Medical Foundation for a period of five (5) years. Mr. Bozarth informed the Board that Dr. Geevarghese has met the requirements as set by the Board and is asking to be released from TMF advocacy. Dr. Ali made a motion to accept the Order of Compliance and Dr. Lovelady seconded the motion. The motion passed.

Agreed Citations

Joel Sutton, MD-Dr. Sutton failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Sutton shall pay a civil penalty in the amount of one thousand one hundred dollars (\$1,100), provide proof of completion of twenty-seven and three quarters (27.75) hours of continuing medical education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours of continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Mutter recused himself. Dr. Zanolli made a motion to accept the Agreed Citation and Dr. Higdon seconded the motion. The motion passed.

Thomas Daniel, MD-Dr. Daniel failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Daniel shall pay a civil penalty in the amount of one thousand six hundred dollars (\$1,600), provide proof of completion of forty (40) hours of continuing medical education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours of continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Ali made a motion to accept the Agreed Citation and Ms. Franklin seconded the motion. The motion passed.

Consent Order

Amie B. Coday, MDX-Ms. Coday was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. From approximately October 2008 until

approximately November 2008, Ms. Coday was employed as a medical assistant by a medical doctor and fraudulently obtained prescriptions for Hydrocodone for her own personal use by using the name of her employer. On one occasion, Ms. Cody phoned in a prescription for Hydrocodone and on other occasions she forged written prescriptions for Hydrocodone and signed her employer's name. The Consent Order stipulated and Ms. Cody agreed to the revocation of her certificate to practice as a medical x-ray operator. Ms. Coday must pay all costs associated with the case. Dr. Ali made a motion to accept the Consent Order and Dr. Lovelady seconded the motion. The motion passed.

Seth Leigh Yoser, MD-Dr. Yoser was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Yoser was convicted of felony charges for illegally and improperly committing wire and mail fraud and improperly selling of non-narcotic legend drugs without a proper license to do so. The Consent Order stipulated that Dr. Yoser's medical license be revoked and he must pay all costs associated with the prosecution of the case. Ms. Franklin made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

Daniel S. Fearnow, MD-Dr. Fearnow was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. From February 2009 to October 2009, Dr. Fearnow prescribed Schedule II, III, and IV controlled substances including Oxycodone, Lortab and Alprazolam outside the usual course of his medical practice and for no legitimate medical reason. Dr. Fearnow failed to perform physical examinations and to maintain patient records to justify the need for the prescriptions that he wrote. On October 28, 2009, Dr. Fearnow was indicted on twelve counts by the United States Grand Jury for the Western District of Tennessee. On October 30, 2009, Shelby County Sheriff's Deputies arrested Dr. Fearnow at his place of practice, the Wickman Family Medical Care in Memphis, Tennessee. On December 4, 2009 the Board summarily suspended Dr. Fearnow's Tennessee medical license. The Consent Order stipulated that Dr. Fearnow's Tennessee medical license shall be permanently revoked. Dr. Fearnow is assessed twenty-seven (27) Type A civil penalties in the amount of one thousand dollars (\$1,000.00) each for a total of twenty-seven thousand dollars (\$27, 000.00). Dr. Ali made a motion to accept the Consent Order and Dr. Eckles seconded the motion. The motion passed.

Cupid R. Poe, MD-Dr. Poe was neither present nor represented by legal counsel. Mr. Benjamin Mezer represented the State. On July 9, 2009, a judgment of felony conviction was entered against Dr. Poe in the United States District Court, Middle District of Tennessee for one count of Health Care Fraud which he was sentenced to four (4) years probation. The Consent Order stipulated that Dr. Poe's license shall be placed on probation for a period not less than five (5) years. Dr. Poe must petition for an Order of Compliance for the probation of his license to be lifted. Dr. Poe must pay all costs associated with the prosecution of the case. Dr. Ali made a motion to accept the Consent Order and Dr. Rosen seconded the motion. Dr. Lovelady opposed. The motion passed.

March 17, 2010

Iris Room

Panel: Lovelady, Rosen, Mutter

Consent Orders

Randall J. Bolar, MD-Dr. Bolar was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On May 13, 2009, an order was entered by the State Medical Board of Ohio reprimanding and placing Dr. Bolar's license in the state on probation for one year as a result of his failure to provide complete and accurate information on his 2003 and 2007 renewal applications. Dr. Bolar was further ordered to submit quarterly reports noting his compliance to attend a personal and professional ethics course within six months of the order. The Consent Order stipulated that Dr. Bolar's Tennessee medical license shall be reprimanded and he must pay all costs associated with the case. Dr. Rosen made a motion to accept the Consent Order and Dr. Lovelady seconded the motion. The motion passed.

Wydell L. Williams, Jr., MD-Dr. Williams was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On March 16, 2007 an order was entered by the Board of Medical Examiners of the State of Nevada publicly reprimanding Dr. Williams' license to practice medicine in the state as a result of a patient death in 2000. On August 30, 2007, a Public Letter of Reprimand was issued by the Medical Board of California as a result of the action taken by the Nevada Board of Medical Examiners. The Consent Order stipulated that Dr. Williams' Tennessee medical license shall be reprimanded and he must pay all costs associated with the case. Dr. Lovelady made a motion to accept the Consent Order and Dr. Rosen seconded the motion. The motion passed.

Michael S. Insler, MD-Dr. Insler was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On October 28, 2009, an order was entered by the State of Florida Board of Medicine reprimanding Dr. Insler's Florida license as a result of his improper treatment of a patient during a laser eye correction procedure. Dr. Insler was further ordered to complete two-hundred fifty (250) hours community service, five (5) hours continuing education, pay a fine of thirty thousand dollars (\$30,000) and pay costs of the case. The Consent Order stipulated that Dr. Insler's Tennessee medical license shall be reprimanded and he must pay all costs associated with the case. Dr. Lovelady made a motion to accept the Consent Order and Dr. Rosen seconded the motion. The motion passed.

Contested Case Hearing

David Livingston, MD-Dr. Livingston was present and represented by Mr. Joel Taylor and Mr. Adrian Altshuler. Ms. Ashley Carter and Mr. Marc Guilford represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. After witnesses were sworn in, the Notice of Charges was presented to the panel for review. In December 1987, Dr. Livingston pled guilty to and was convicted of the offense of sexual misconduct and was sentenced to three (3) years of supervised probation by the Fayetteville, New York Justice Court. Subsequent to this conviction, Dr. Livingston moved to the State of Tennessee and, as a result of his conviction, was required to register with the Tennessee Sexual Offender Registry. Dr. Livingston failed to timely register and did not do so until contacted by law enforcement. Between approximately May 2006 and December 2008, Dr. Livingston worked for The Family Medical Centers in Hermitage, Tennessee. Dr. Livingston failed to notify his employer of his past criminal history or his status as a registered sexual offender. Once his employer discovered this information, Dr. Livingston’s employer advised him that he would be required to have a chaperone with him during all consultations with female patients. Dr. Livingston failed to comply with this policy and was terminated from employment. During Dr. Livingston’s employment with The Family Medical Centers, he contracted with Registrat, Inc., to participate in a study of the drug Avinza. Dr. Livingston signed a contract as the Medical Director for The Family Medical Centers. Dr. Livingston entered his wife in the study, signed prescriptions for her and asked other physicians to sign for her as well. Between approximately January and February 2009, Dr. Livingston practiced medicine out of a single office located in a pharmacy. Between approximately February and April 2009, he practiced medicine out of a storage unit in Hermitage, Tennessee. Dr. Livingston violated the Tennessee Sexual Offender Act by establishing a place of employment (his own medical practice) within one thousand (1,000) feet of a child care facility. In March 2009, Dr. Livingston was charged in Davidson County with violating the Tennessee Sexual Offender Act, a Class E felony. Both the State and Dr. Livingston presented proof. After closing arguments, the panel deliberated. Dr. Lovelady made a motion to accept the Finding of Facts and Dr. Rosen seconded the motion. The motion passed. Dr. Lovelady made a motion to accept the Conclusions of Law and Dr. Rosen seconded the motion. The motion passed. Dr. Lovelady made a motion to permanently revoke Dr. Livingston’s medical license and pay all costs associated with the case. Dr. Rosen seconded the motion. The motion passed. The policy statement was read and the actions were taken because there has been a pattern of misbehavior and inappropriate activities over a period of time. The Board’s action is necessary to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Lovelady made a motion to accept the policy statement and Dr. Rosen seconded the motion. The motion passed.

Poplar Room

Panel: White, Eckles, Franklin

Agreed Order

Cary F. Browder, MD-Dr. Browder was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On November 6, 2007, the Board entered an Agreed Order finding Dr. Browder had abused controlled substances and self prescribed controlled medications. The Board suspended Dr. Browder's license, assessed two \$1,000.00 civil penalties and costs. On May 13, 2008, Dr. Browder obtained an Order of Compliance lifting the suspension of his medical license and placing him on probation for five (5) years. Dr. Browder was obliged to maintain advocacy of the Tennessee Medical Foundation for that time. Dr. Browder does not currently have the advocacy of the TMF. The proposed Agreed Order stipulated that Dr. Browder's license shall be and is hereby immediately placed on suspension by consent until he has obtained the advocacy with TMF and TMF has issued a report asserting that he is safe to practice medicine. Dr. Browder must pay all costs prior to requesting an Order of Compliance. Ms. Franklin made a motion to accept the Consent Order and Dr. Eckles seconded the motion. The motion passed.

Contested Case Hearing

Visuvalingham Vilvarajah, MD-Dr. Vilvarajah was present and represented by Mr. Frank Scanlon of the Nashville Bar. Mr. Shiva Bozarth represented the State. The Honorable Mary Collier, Administrative Law Judge presided. The judge informed the panel that both, Dr. Vilvarajah and Dr. Lalanne's case are unusual and would be presented at the same time since both cases have similar issues. The Notice of Charges was handed to the panel for review. Mr. Scanlon presented an Order of Dismissal for the panel to review. After discussion Ms. Franklin made a motion to affirm the order and deny the appeal and Dr. Eckles seconded the motion. The motion passed. Witnesses were sworn in and Mr. Bozarth began his opening statement. Mr. Scanlon agreed to rest because his statement was given in the opening of the motion to dismiss. On January 11, 2010, Dr. Vilvarajah was convicted in the Circuit Court of Harlan County, Kentucky for facilitating trafficking in controlled substances in the first degree, committed from 2005 through November 10, 2008. After Dr. Vilvarajah's arrest, he was released after posting a bond of one million dollars and voluntarily surrendering his Drug Enforcement Administration certificate which is required in order to prescribe scheduled drugs. The Commonwealth of Kentucky offered to dismiss all charges except the first organized crime count, to reduce the charge to facilitation of trafficking in controlled substances, and to reduce the sentence to four months of unsupervised probation if he would plead guilty and agree to the forfeiture of five hundred thousand dollars. Dr. Vilvarajah accepted the offer and entered a "best interest" plea. Nothing in the plea agreement or the judgment of conviction prohibits Dr. Vilvarajah from applying to the Drug Enforcement Agency to re-activate his certificate of authority to prescribe controlled substances. Mr. Scanlon called Dr. David Dodd to testify. He is the former medical director for the Tennessee Medical Foundation. Mr. Bozarth followed with questions. Dr. Vilvarajah was called to testify. Mr. Bozarth presented several questions followed by the panel members. After questioning, the proposed Final Order was handed to the panel for review. The proposed Final Order stipulated that Dr. Vilvarajah's license is hereby

revoked. Dr. Vilvarajah must complete an evaluation by the Center for Personalized Education of Physicians (CPEP), enroll in and successfully complete the two (2) day medical course entitled “Medical Ethics, Boundaries and Professionalism” offered at The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio. Dr. Vilvarajah must enroll and successfully complete the three (3) day medical course entitled “Intensive Course in Medical Record Keeping” offered at The Case Western Reserve University Continuing Medical Education Program and 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 located in Nashville, Tennessee. Dr. Vilvarajah was assessed one (1) type a civil penalty in the amount of one thousand dollars (\$1,000) for a total of one thousand dollars (\$1,000) and he must pay all costs associated with the case. The panel deliberated. Ms. Franklin made a motion to accept the proposed order and Dr. Eckles seconded the motion. The motion passed. Ms. Franklin made a motion to accept the civil penalties as stated in the proposed order and Dr. Eckles seconded the motion. The motion passed. The policy statement was read; the reason the action was taken was to protect the health, safety and welfare of the citizens of the State of Kentucky and Tennessee. Dr. White made a motion to accept the policy statement and Ms. Franklin seconded the motion. The motion passed. Mr. Scanlon asked the panel to stay its decision while he contemplated filing an appeal. Dr. Eckles made a motion to deny the request for a Stay and Ms. Franklin seconded the motion. The motion passed.

Mireille Lalanne, MD-Dr. Lalanne was present and represented by Mr. Paul Bruno of the Nashville Bar. Mr. Shiva Bozarth represented the State. The Honorable Mary Collier, Administrative Law Judge presided. The judge informed the panel that both, Dr. Vilvarajah and Dr. Lalanne’s case are unusual and would be presented at the same time since both cases have similar issues. Mr. Bruno presented an Order of Dismissal for the panel to review. Dr. Eckles asked for clarification of facilitating and trafficking in which Mr. Bruno explained. Mr. Bozarth followed with a statement. After further discussion, Ms. Franklin made a motion to affirm the order and deny the appeal and Dr. Eckles seconded the motion. The motion passed. Witnesses were sworn in and Mr. Bozarth began his opening statement. Mr. Bruno agreed to rest because his statement was given in the opening of the motion to dismiss. On January 11, 2010, Dr. Lalanne was convicted in the Circuit Court of Harlan County, Kentucky for facilitating trafficking in controlled substances in the first degree, committed from 2005 through November 10, 2008. The Commonwealth of Kentucky offered to dismiss all charges except the first organized crime count, to reduce the charge to facilitation of trafficking controlled substances, and to reduce the sentence to four months of unsupervised probation if she would plead guilty and agree to the forfeiture of five hundred thousand dollars. Dr. Lalanne accepted the offer and entered a “best interest” plea. Nothing in the plea agreement or the judgment of conviction prohibits Dr. Lalanne from applying to the Drug Enforcement Agency to re-activate her certificate of authority to prescribe controlled substances. Mr. Bruno called Mr. Jim Todd, attorney and legal analysis for questioning. Mr. Bozarth followed with cross-examination. Dr. Lalanne was called for questioning by both legal counsels as well as the panel. Mr. Bozarth handed out a proposed Final Order for the panel to review. The

proposed Final Order stipulated that Dr. Lalanne's Tennessee medical license be suspended for a period of one (1) year. Dr. Lalanne shall undergo an evaluation by the Center for Personalized Education of Physicians (CPEP) or another program approved by the board's consultant within thirty (30) days of the Order. A copy of the CPEP assessment must be forwarded to the Board's consultant by CPEP. Dr. Lalanne must enroll in and successfully complete within one (1) year, the two (2) day medical course entitled, "Medical Ethics, Boundaries and Professionalism" offered at The Case Western Reserve University Continuing Medical Education Program at The case Western Reserve University School of Medicine located in Cleveland, Ohio. Dr. Lalanne must enroll in and successfully complete within one (1) year, the three (3) day medical course entitled, "Intensive Course in Medical Record Keeping" offered at The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio. Dr. Lalanne shall obtain practice monitoring through Affiliated Monitors or another practice monitoring program pre-approved by the Board's consultant and reports shall be submitted every three months. There were no closing statements given by counsel. Mr. Bruno asked the panel to not suspend Dr. Lalanne's license but to place it instead on probation. Mr. Bozarth followed with a rebuttal. The panel deliberated. Dr. Eckles made a motion to accept the Findings of Fact and Ms. Franklin seconded the motion. The motion passed. Dr. Eckles made a motion to accept the Conclusions of Law and Ms. Franklin seconded the motion. The motion passed. Ms. Franklin made a motion to place Dr. Lalanne's license on probation for a period of five (5) years and Dr. Eckles seconded the motion. The motion passed. Dr. Eckles made a motion to accept the proposed Order as amended and Ms. Franklin seconded the motion. The motion passed. Ms. Franklin made a motion to accept the civil penalties as listed in the Order and Dr. Eckles seconded the motion. The motion passed. The policy statement was read: the reason action is taken is to protect the citizens of the State of Kentucky, Florida and Tennessee. Dr. Eckles made a motion to accept the policy statement and Ms. Franklin seconded the motion. The motion passed. Mr. Bruno asked the panel to stay its decision while he contemplated filing an appeal. Ms. Franklin made a motion to deny the request for a Stay and Dr. Eckles seconded the motion. The motion passed.

Mockingbird Room

Panel: Higdon, Ali, Zanolli

Consent Order

David L. Stockton, MD-Dr. Stockton was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On November 2, 2009 a consent order was entered by the Tennessee Board of Medical Examiners placing Dr. Stockton's

license to practice medicine in the state on probation for not less than five (5) years as a result of a 2007 arrest and subsequent guilty plea for driving under the influence in Coffee County, Tennessee. In addition to the probationary term, Dr. Stockton was obligated to maintain the lifetime advocacy of the Tennessee Medical Foundation Physicians Health Program. On February 23, 2010, the Department of Health was notified by the Tennessee Medical Foundation that Dr. Stockton has lost the advocacy of the Foundation as a result of his relapse into chemical dependency. The Consent Order stipulated that Dr. Stockton's license be permanently retired and he shall pay all costs associated with the case. Dr. Zanolli made a motion to accept the Consent Order and Dr. Higdon seconded the motion. The motion passed.

Contested Case Hearing

Sanjivini V. Jacob, MD-Dr. Jacob was present and represented by Ms. Celeste Herbert. Ms. Maryam Kassae, under the supervision of chief Deputy General Counsel Alison Cleaves and Assistant General Counsel Benjamin Mezer represented the State. The Honorable Steve Darnell, Administrative Law Judge presided. Dr. Jacob applied for a license to practice as a medical doctor in Tennessee. The board considered Dr. Jacob's application for licensure at its meeting on September 16, 2009. It was determined that Dr. Jacob failed to successfully complete the United States Medical Licensing Examination (USMLE) within seven (7) years of the date of whichever step of the examination was successfully completed first. Dr. Jacob failed to demonstrate her eligible for any statutory or regulatory exception. On June 8, 1993, Dr. Jacob passed Step One of the USMLE. She passed Step Two on August 31, 1994 and Step Three on May 7, 2001. The Board denied Dr. Jacob's application for licensure, basing its decision on the above facts. Dr. Jacobs was notified of the denial. On October 12, 2009, Dr. Jacob requested a contested case hearing to appeal the Board's action in denying her application. The proposed Final Order was handed to the panel for review. The Order stipulated that the Board affirms its decision on September 15, 2009 to deny a medical license to Dr. Jacob. After Dr. Jacob was asked several questions, the panel deliberated. Dr. Zanolli made a motion to accept the Findings of Fact and Dr. Higdon seconded the motion. The motion passed. Dr. Zanolli made a motion to accept the Conclusions of Law and Dr. Higdon seconded the motion. The motion passed. Dr. Zanolli made a motion to affirm the Board's decision on September 15, 2009 which denied Dr. Jacob a medial license. Dr. Higdon seconded the motion. The motion passed. The policy statement was read: the Board takes the action in compliance with such rules and statutes and its consistent interpretation of such rules and regulations for the past and future applicants. Dr. Zanolli made a motion to accept the policy statement and Dr. Higdon seconded the motion. The motion passed.

These minutes were ratified by the full board on May 18, 2010.