

MINUTES

Tennessee Board of Medical Examiners

May 13 and 14, 2008

The meeting was called to order at 8:35 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. Keith Lovelady, George Eckles, Neal Beckford, Subhi Ali, Charles White, Sr., Dennis Higdon, Barrett Rosen, Michael Zanolli, Mr. Mark Brown and Ms. Irene Wells.

Staff present included Rosemarie Otto, Executive Director, Larry Arnold, MD, Medical Director, Sandra Powell, Board Administrator, Marsha Arnold, Unit Manager and Matthew Scanlan, Advisory Attorney.

The Conflict of Interest Statement was reviewed with the Board by Mr. Scanlan.

Minutes

Minutes from the March 18 and 19, 2008 meeting were reviewed. Dr. Zanolli requested staff to review the recording of the meeting and if appropriate amend the minutes to reflect that Drs. Cardona-Quiles and Lenaz were given the same administrative license. Mr. Scanlan agreed to review that recording. With that caveat, Dr. Rosen made a motion to accept the minutes and Dr. White seconded the motion. The motion passed.

Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Radiologist Assistants and Clinical Perfusionists were reviewed. Dr. Beckford made a motion to ratify the approvals and Dr. Ali seconded the motion. The motion passed. The Board reviewed the action taken by the Committee on Clinical Perfusionists regarding a Letter of Reprimand for James Claybrooks. Dr. Ali made a motion to ratify the action taken by the Clinical Perfusionists and Dr. Beckford seconded the motion. The motion passed.

Ms. Otto reviewed three requests for Certification as Office Based Surgical Suites that were surveyed: Michael W. Goodman, MD, Gregory H. Pastrick, MD and Stephen M. Lazarus, MD. Dr. Rosen made a motion to approve Surgical Suites of Michael Goodman, MD and Dr. Ali seconded the motion. Dr. Mutter recused himself. The

motion passed. Dr. Ali made a motion to approve the Surgical Suites of Stephen M. Lazarus, MD and Dr. Rosen seconded the motion. The motion passed. Ms. Otto recommended that the Board defer action on the application of Gregory H. Pastrick, MD until such as the Board issued its advisory opinion interpreting its rule regarding overnight stays at office based surgical centers and the surgical suite is re-surveyed.

New Applicant Interviews

Lawrence D. Counts, MD-Dr. Counts is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Counts' application file for the Board. Dr. Counts' had action taken against his hospital privileges and explained the incident to the Board. Dr. Counts plans to work at Baptist Hospital in Tipton, Tennessee. Dr. Beckford made a motion to grant Dr. Counts a license and Dr. Lovelady seconded the motion. The motion passed.

John W. Cox, MD-Dr. Cox is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Cox's application for the Board. Dr. Cox has a history of alcohol abuse and informed the Board of his plans to work with the Davita Group in Memphis, Tennessee. Dr. Beckford made a motion to grant Dr. Cox a license and Dr. Zanolli seconded the motion. The motion passed.

Cheryl L. Fee, MD-Dr. Fee is applying for a license to practice in Tennessee. Dr. Arnold reviewed Dr. Fee's application file for the Board. Dr. Fee has a past history of alcohol abuse. Dr. Fee explained that she has been in a monitoring program since 2000 but had a relapse in 2005. Dr. Arnold recommended a five year contract with the Tennessee Medical Foundation (TMF) and 100% compliance with the aftercare contract. Dr. Ali made a motion to grant Dr. Fee a license contingent on a five year contract with TMF and 100% compliance with after care contract. Dr. Higdon seconded the motion. The motion passed.

James M. Stanton, MD-Dr. Stanton is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Stanton's application file for the Board. Dr. Stanton has a history of substance abuse issues since 1987. Dr. Ali made a motion to grant Dr. Stanton a license contingent on a lifetime contract with TMF and 100% compliance with the aftercare contract. Dr. White seconded the motion. The motion passed.

Marshall G. Katz, MD-Dr. Katz is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Katz's application for the Board. Dr. Katz is a medical director for Health Springs and has been performing administrative work since 1995. Dr. Katz informed the Board that he does not plan to go back to clinical practice. Dr. Ali made a motion to grant Dr. Katz a full unrestricted administrative license without clinical privileges and Dr. Zanolli seconded the motion. Ms. Wells abstained. The motion passed.

Marla Armstrong, MDX- Ms. Armstrong is applying for a license to practice as a Medical X-ray operator in Tennessee. Dr. Arnold reviewed Ms. Armstrong's application file for the Board. Ms. Armstrong has alcohol abuse issues and currently attends an alcohol treatment program. Dr. Arnold recommended an evaluation through the Tennessee Professional Assistance Program (TNPAP) and to follow all recommendations for any treatment plan. Dr. Ali made a motion to accept Dr. Arnold's recommendation and after a positive evaluation reviewed by Dr. Arnold, a license can be granted. Dr. White seconded the motion. Dr. Beckford opposed. The motion passed.

Teresa Wilson, MDX-Ms. Wilson is applying for a license to practice as a Medical X-Ray Operator in Tennessee. Dr. Arnold reviewed Ms. Wilson's application file for the Board. Ms. Wilson has a pending charge that arose from an arrest in June, 2007 regarding forging prescriptions. Ms. Wilson called in a prescription for her husband. Documentation shows that after one year from the court date, the charge can be retired. Dr. White made a motion to grant Ms. Wilson a Medical X-Ray license and Dr. Zanolli seconded the motion. The motion passed.

Reinstatement Interviews

Barbara A. Beeler, MD-Dr. Beeler is applying for reinstatement of her medical license. Dr. Arnold reviewed Dr. Beeler's application file for the Board. Dr. Beeler has been in administration since October, 1998 and will be working with Blue Cross/Blue Shield of Tennessee. Dr. White made a motion to grant a full unrestricted administrative license without clinical privileges and Dr. Lovelady seconded the motion. Ms. Wells opposed. The motion passed.

Elwin C. Lanz, MD-Dr. Lanz is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Lanz's application file for the Board. Dr. Lanz has not practiced medicine since 1996. Dr. Ali made a motion to grant Dr. Lanz reinstatement contingent on a positive report from CPEP and Dr. White seconded the motion. The motion passed.

Louis A. Leskosky, MD-Dr. Leskosky is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Leskosky's application for the Board. Dr. Leskosky has a history of alcohol abuse and has been disciplined by the Kentucky Board. Dr. Arnold recommended that he obtain a contract with the Tennessee Medical Foundation (TMF) and 100% compliance with his aftercare contract. Dr. Ali made a motion to grant reinstatement contingent on a TMF contract and 100% compliance with his aftercare contract. Dr. Rosen seconded the motion. The motion passed.

Rule Action

Mr. Matt Scanlan reviewed the Rulemaking Hearing regarding Rule 0880-2-.04 in regards to Licensure Process-International Medical School Graduates for the Board. At 2:00 p.m., Mr. Scanlan opened the rulemaking hearing and was prepared to hear comments on the proposed rule. No one from the public was present to make comments so the Rulemaking Hearing concluded. Mr. Scanlan then reviewed the impact statement.

Dr. White made a motion to adopt the rule and Dr. Rosen seconded the motion. The motion passed with a roll call vote, all in favor.

Mr. Scanlan distributed the draft policy regarding the lists of approved and disapproved medical schools and the LCME accreditations. The Board reviewed the policy and determined to accept the option that any school not listed on the California's approved or disapproved list of schools must present evidence, satisfactory to the Board that the school meets LCME standards in order to meet curriculum criteria. Dr. Ali made a motion to accept the policy and Dr. Beckford seconded the motion. The motion passed.

Discussion

Mr. Joel Herring, President of the Examination Processing Center, addressed the Board regarding the exam results of persons taking the limited scope x-ray exam, January-December, 2007. High-Tech Institute of Memphis, High-Tech Institute of Nashville and Mid-South Institute of Memphis were providers scoring below the 65% pass rate. Ms. Otto informed the Board that Lisa Balderama with Mid-South Institute had contacted her and had requested to be removed from the Board's approved list. Ms. Debra Crum with the Memphis High-Tech campus and Mr. Glen Weber with the Nashville High-Tech campus addressed the Board. The Board discussed a remedial plan for both programs. The decision was to place the programs on probation and those programs would be required to submit a plan to the Board to improve the program. The Board requested information to be placed on the website indicating the Board had concerns about the program and were placing them on probation. The Board required an appearance by representatives of both programs at the January 2009 board meeting along with a progress report before probation will be lifted. Dr. White made a motion to accept the requirements and Dr. Ali seconded the motion. The motion passed. Dr. White made a motion to include accreditations with the report and Dr. Ali seconded the motion. The motion passed.

The Board discussed the annual report of the Tennessee Medical Foundation's Physician Health Program (TMF). Dr. Roland Gray, Medical Director for TMF addressed the Board and gave a brief report on the numbers of enrollees in the program, size, and qualification of his staff and operating costs.

Ken Harbert from South College addressed the Board regarding Physician Assistant education and trends in the profession.

Ms. Otto gave a brief summary regarding Public Citizen's report which rates state medical boards. The report showed that Tennessee has moved up one position from last year. Ms. Otto stated the report shows a good improvement compared to years' past.

Dr. Zanolli, chair for the Laser Utilization Review Committee requested the President of the Board to dissolve the committee. Dr. Zanolli informed the Board that progress has been made and the ground rules established but draft rules are not prepared for review or authorization for a rulemaking hearing. Dr. Zanolli made a motion to dismiss the

committee and revisit the issue at a later date. Dr. Beckford seconded the motion. The motion passed.

Report

Budget Report

The Budget report was reviewed by the Board. Ms. Otto stated the Board continues to have a positive surplus and Ms. Lisa Tittle will have an update at the next scheduled meeting.

Statistical Report from Administrative Office

Ms. Marsha Arnold reviewed the statistical report from the administrative office.

Investigative Report

Ms. Denise Moran, Director of the Bureau of Investigations gave a brief report. She stated their office continues to see an increase in complaint activity. Additionally, not all her positions are filled because of the hiring freeze.

Disciplinary Report

The report was reviewed by the Board. Ms. Denise Moran gave a breakdown of the report in the absence of Ms. Juanita Stone. She also reported that the July disciplinary report will be revised to show costs collected from respondents.

OGC Report

Mr. Matt Scanlan gave a review of the report and an update of the rules that are still at the Attorney General's office.

Mr. Scanlan reviewed Advisory Opinion regarding Board Rule 0880-2-.21(7) (d) (iii) (III) and the interpretation of Office Based Surgery requirements in reference to discharge of patients. Dr. Zanolli made a motion to adopt option #1 and Dr. Eckles seconded the motion. Dr. Ali followed with a third motion. The motion passed.

Mr. Scanlan reviewed the proposed Board rule 0880-2-.07(4) (d) 5 relative to administrative licenses.

Mr. Bill Hubbard represented both Dr. Pedro Cardona-Quiles and Dr. Marie P. Lenaz who were issued an administrative license at the previous board meeting. Mr. Hubbard addressed the Board and suggested clarification of the extent of the license. The Board listed the extent of an administrative license will include oversight of utilization management, activities consisting of utilization review and case management/disease management, quality improvement programs, the accreditation projects, the

provider/physician services department including credentialing, contracting and supervision of pharmacy, mental health, dental and vision programs.

Mr. Dan Elrod, legal counsel for Blue Cross/Blue Shield addressed the Board regarding administrative licenses and asked the Board to recall the rule from the Attorney General's Office and rewrite them with input from interested stake holders. Mr. Elrod informed the Board that Blue Cross' policy requires their medical directors to be fully licensed and equal to practitioners. Mr. David Mulrooney, Medical Director at Blue Cross/Blue Shield also addressed the Board regarding Blue Cross' policy.

Dr. Ali made a motion to withdraw the rule from the Attorney General's office and Dr. Beckford seconded the motion. Dr. Zanolli abstained. The motion passed. Dr. Beckford made a motion to have a new rulemaking hearing regarding administrative licenses and Dr. White seconded the motion. The motion passed. The Board asked for volunteers to help re-write the rules. Drs. Lovelady, Beckford and Rosen will serve on the administrative license committee.

The Board reviewed Dr. Charles Samenow's request to amend the March 20, 2007 minutes deleting reference to his suspension from his residency program. Mr. Scanlan reviewed the minutes as written and the Board determined that they were accurate. Therefore, the Board denied Dr. Samenow's request.

“Noteworthy” section of the internet

The Board did not have anything to be placed on the “noteworthy” section of the internet.

Disciplinary Action

Consent Orders

James King, PA- Mr. King was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. The Consent Order stipulated that between January 2005 and January 2007 Mr. King engaged in a pattern of continuing or repeated malpractice and unprofessional conduct by prescribing controlled substances to six (6) patients while failing to enter into a physician assistant/patient relationships; documenting medical histories; conducting physical examinations making diagnoses based upon the examination of the patients; formulating a written treatment plan, tailored to the individual needs of the patients; documenting periodic review at reasonable intervals; and maintain complete and accurate records. Mr. King between January 2005 and January 2007 to the same six patients issued controlled substances in the quantity, duration and method where the persons would become addicted to the habit of taking controlled substances if they weren't already addicted and/or failed and/or neglected to document counseling; and/or failed and/or neglected to document making a bona fide effort to cure the habit of such patients. Mr. King agreed that his Physician Assistant license be revoked effective on the date that the Consent Order is ratified by the Board. The revocation shall remain in place for at least two (2) years. Mr. King will be eligible

for reinstatement upon the following conditions: (a) Mr. King must submit evidence satisfactory to the Committee of completion of a substance abuse treatment program and proof of continuous compliance with any required aftercare program; and (b) Mr. King must also provide evidence satisfactory to the Committee of at least two (2) years of continuous sobriety. Mr. King is ordered to immediately surrender his Drug Enforcement Agency certificate. Mr. King is prohibited from writing any prescriptions during the period of revocation. This revocation is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB). Mr. King shall pay all reasonable and actual costs of this action, which shall not exceed \$4500.00. This fee is to be paid within thirty (30) days from the filing of the Affidavit of Cost and to the extent allowed by law, execution may issue for payment of these costs for all or any portion thereof that remain unpaid for one (1) year after the Order becomes final. Dr. White made a motion to accept the Consent Order and Dr. Eckles seconded the motion. Dr. Lovelady recused himself. The motion passed.

George Pyke, MD-Dr. Pyke was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Pyke voluntarily relinquished his Florida medical license in a disciplinary order on August 27, 2007. Dr. Pyke pled guilty to a felony on May 10, 2007. The Consent Order stipulated that Dr. Pyke's medical license shall be and is hereby immediately permanently surrendered. Dr. Pyke must pay all costs associated with the prosecution of the case. Ms. Wells made a motion to accept the Consent Order and Dr. Rosen seconded the motion. The motion passed.

Gurpreet K. Narula, MD-Dr. Narula was not present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Narula was primary staff physician at LaFollette Health Clinic, located in Jacksboro, Tennessee. Between August 27, 2007 and September 24, 2007, a total of three hundred (300) doses of influenza vaccines were ordered for LaFollette Health Clinic. Between October 1, 2007 and October 22, 2007, about seven hundred (700) patients were documented to have been administered an influenza vaccine at the LaFollette Health Clinic, about four hundred (400) more doses than the available vaccine ordered and in stock at the clinic. During the same time frame, the clinic had about six hundred (600) syringes in stock for all injections administered, at least one hundred (100) less than the total documented influenza vaccines administered for the month. Soon after an investigation, the clinic re-vaccinated many of the previously vaccinated patients. The Consent Order stipulated that Dr. Narula's medical license be placed on probation for a period of no less than five (5) years commencing from effective date of the Order. Dr. Narula is assessed four hundred (400) Type B civil penalties in the amount of twenty dollars (\$20.00) each, for a total amount of eight thousand dollars (\$8,000.00), payable by the end of the probationary period, commencing from the effective date of the Order. In addition to the continuing medical education (CME) courses required each year, Dr. Narula must personally attend and complete twenty-four (24) additional CME's in the area of infectious diseases, by the end of the probationary period. Ms. Wells made a motion to accept the Consent Order and Dr. White seconded the motion. Dr. Zanolli recused himself. The motion passed.

Dennis Charles Arellano-Mr. Arellano was not present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Lovelady recused himself. Mr. Arellano has never held a license in the state of Tennessee or any other state. Mr. Arellano engaged in the practice of medicine in the state of Tennessee from the years 1998 to July, 2004. On or about July 20, 2007, Mr. Arellano pled guilty to impersonation of a licensed professional, reckless endangerment and filing of fraudulent insurance claims in Franklin County, Tennessee. The Consent Order stipulated that Mr. Arellano is assessed thirty (30) Type A civil penalties in the amount of one thousand dollars (\$1,000.00) each, for four (4) years of unlicensed practice, for a total amount of thirty thousand dollars (\$30,000.00), payable within twenty-four (24) months from the effective date of the Order. Ms. Wells made a motion to accept the Consent Order and Dr. Rosen seconded the motion. The motion passed.

Agreed Order

Jack C. Smith, MD-Dr. Smith was not present nor represented by legal counsel. Ms. Schean Belton represented the State. Dr. Smith is suffering from a mental impairment that prevents him from understanding and remembering facts and events. Prescriptions were called in using Dr. Smith's prescribing authority since the onset of this illness. The Agreed Order stipulated that Dr. Smith's medical license is permanently surrendered. Dr. Lovelady made a motion to accept the Agreed Order and Ms. Wells seconded the motion. The motion passed.

Orders of Compliance

Carey Browder, MD-Dr. Browder was not present nor represented by legal counsel. Mr. Matt Scanlan represented the State. Dr. Browder was charged with abusing controlled substances. Dr. Browder self prescribed Clonazepam and Oxycodone/Acetaminophen. Mr. Scanlan informed the Board that Dr. Browder had met all requirements as set by the Board. The Order of Compliance stipulated that Dr. Browder's license is hereby placed on probation pursuant to the provisions on the November 6, 2007 order. Dr. White made a motion to accept the Order of Compliance and Dr. Ali seconded the motion. The motion passed.

Agreed Citations

Amber Watson, MDX-Ms. Watson was not present. Mr. Matt Scanlan presented the Agreed Citation to the Board for review. Ms. Watson failed to properly maintain sufficient continuing education credits. Ms. Watson must pay a civil penalty in the amount of twenty dollars (\$20.00) and provide proof of completion of one (1.0) hours of continuing education. Ms. Wells made a motion to accept the Agreed Citation and Dr. Lovelady seconded the motion. The motion passed.

Moacir Schnapp, MD-Dr. Schnapp was not present. Mr. Matt Scanlan presented the Agreed Citation to the Board for review. Dr. Schnapp failed to properly maintain sufficient continuing education credits. Dr. Schnapp failed to obtain twenty-three (23.0)

hours of continuing education credits. Dr. Schnapp must pay a civil penalty in the amount of nine hundred twenty dollars (\$920.00) and submit proof of twenty-three (23.0) hours of continuing education. Dr. Schnapp agrees to complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Citation. Dr. Lovelady made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

Geoffrey C. Kincaid, MD-Dr. Kincaid was not present. Mr. Matt Scanlan presented the Agreed Citation to the Board for review. Dr. Kincaid failed to properly maintain sufficient continuing education credits. Dr. Kincaid must pay a civil penalty in the amount of nine hundred eighty dollars (\$980.00) and submit proof of twenty-four and one half (24.5) hours of continuing education. Dr. Kincaid agrees to complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Citation. Dr. White made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

Adjourned at 4:00 p.m.

May 14, 2008

Panel: Higdon, White, Rosen

Agreed Order

Bruce J. Siedlecki, MD-Dr. Siedlecki was not present nor represented by legal counsel. On December 4, 2007, a Determination and Order was entered by the State of New York Department of Health State Board for Professional Medical Conduct in the matter of Bruce Siedlecki, MD. December, 2007 order revoked Dr. Siedlecki's New York medical license. The Board found that Dr. Siedlecki had practiced repeated negligence in rendering gynecological and obstetrical care at Mountain Home Air Force Base, Idaho. The Agreed Order stipulated that Dr. Siedlecki's Tennessee medical license be revoked. Dr. Siedlecki must pay all costs associated with the prosecution of the case. Dr. Rosen made a motion to accept the Agreed Order and Dr. Higdon seconded the motion. The motion passed.

Contested Case Hearing

Michael A. Patterson, MD-Dr. Patterson was present but not represented by legal counsel. Ms. Mona Jean Baptiste represented the State. The Honorable James A. Hornsby, Administrative Law Judge presided. The Notice of Charges was handed to the panel for review. Witnesses were sworn in and opening statements given. On June 22, 1994, a default order was entered by the Board revoking Dr. Patterson's license for seven violations of the Medical Practice Act. On October 6, 1997, Dr. Patterson was issued a new Tennessee medical license. On March 7, 2000, the Board of Medical Examiners

voted to remove all restrictions from Dr. Patterson's license with the condition remaining that he obtain and maintain lifetime advocacy of the Tennessee Medical Foundation (TMF). On November 26, 2007, the TMF notified the Board of Medical Examiners that Dr. Patterson failed to enter a lifetime contract with the Tennessee Medical Foundation's Physicians Health Program. Dr. Patterson gave an opening statement and explained the reasons surrounding him not getting a contract with TMF. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation was called to testify. Ms. Jean-Baptiste gave her closing arguments and the panel went into deliberations. Dr. Rosen made a motion to accept the Finding of Facts and Dr. Higdon seconded the motion. The motion passed. Dr. Higdon made a motion to accept the Conclusions of Law and Dr. Rosen seconded the motion. The motion passed. Dr. Rosen made a motion for Dr. Patterson to fulfill the Board's 2000 Order and sign a lifetime contract with TMF and 100% compliance. The contract must be signed within 30-60 days or immediate suspension, pay civil penalties in the amount of one thousand five hundred dollars (\$1,500.00) as outlined in the Order and be placed on probation for five years. Dr. Higdon 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 Tennessee. Dr. Rosen made a motion to accept the policy statement and Dr. Higdon seconded the motion. The motion passed.

Panel: Wells, Mutter, Ali

Contested Case Hearing

Santiago P. Lavarias, MD-Dr. Lavarias was present and represented by legal counsel, Mr. Paul Gene Craig, of the Memphis Bar. Mr. Shiva Bozarth represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. The Amended Notice of Charges and the Agreed Stipulation of Facts were handed to the panel for review. The witnesses were sworn in and opening statements began. Both the state and respondent put on proof. Closing arguments were made by both sides before the panel was charged and began its deliberations. Dr. Ali made a motion to accept the Finding of Facts # 10, 11, 12 in the Notice of Charges and Ms. Wells seconded the motion. Dr. Ali made a motion that there was no proof on the part of the State and to omit # 13 and 14 of the finding of Facts and Ms. Wells seconded the motion. The motion passed. In regards to the Conclusions of Law, Dr. Ali made a motion that no violations of the law were proven. Ms. Wells seconded the motion. The motion passed. The policy statement was read. The reason was done with consideration and deliberation to protect the health, safety and welfare of the citizens of Tennessee. Dr. Ali made a motion to accept the policy statement and Ms. Wells seconded the motion. The motion passed.

These minutes were ratified by the full board on July 22, 2008.