

**MINUTES**

**TENNESSEE BOARD OF MEDICAL EXAMINERS**

**May 19 and 20, 2009**

\*\*\*\*\*

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, Neal Beckford, Subhi Ali, Dennis Higdon, Barrett Rosen, Michael Zanolli, George Eckles and Ms. Regine Webster. Absent members: Dr. Charles White Sr., 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 Shiva Bozarth, Deputy General Counsel and Advisory Attorney.

Mr. Bozarth reviewed the Conflict of Interest Statement for the Board.

**Minutes**

Minutes from the March 17 and 18, 2009 meeting were reviewed. Dr. Ali made a motion to approve the minutes and Dr. Higdon seconded the motion. The motion passed unanimously. Minutes from the March 20, 2009 Summary Suspension in the matter of Rodney G. Carter, MD were reviewed. Dr. Ali made a motion to approve the minutes and Dr. Higdon seconded the motion. The motion passed unanimously. Minutes from the March 25, 2009 Respondent's Informal Hearing in the matter of Rodney G. Carter, MD were reviewed. Dr. Zanolli made a motion to approve the minutes and Dr. Ali seconded the motion. The motion passed unanimously.

**Ratification of Licenses**

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Radiologist Assistants and Genetic Counselors were reviewed. Dr. Ali made a motion to ratify the approvals and Dr. Beckford seconded the motion. The motion passed. Dr. Higdon made a motion to ratify the approvals of the Committee on Clinical Perfusionists and Dr. Ali seconded the motion. The motion passed unanimously.

The Board reviewed the May 5, 2009 letter to Roane Co. Hospital regarding Autotransfusionist Technicians that was developed by the Committee for Clinical Perfusion. The Board refused to ratify the action of the Committee for Clinical Perfusion deciding instead to refer the matter to the Division of Health Care Facilities. Dr. Rosen

made a motion to forward the letter to Health Care Facilities. Dr. Ali seconded the motion. The motion passed.

### **New Applicant Interviews**

**Robert C. Goethe, MD-**Dr. Goethe is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Goethe's application file for the Board. Dr. Goethe has a history of substance abuse that occurred in 1999. Dr. Goethe explained the circumstances surrounding his problem. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation, informed the Board that he had met with Dr. Goethe ten years ago in recovery. Dr. Beckford made a motion to grant Dr. Goethe a license and Dr. Higdon seconded the motion. The motion passed.

**Barbara B. Fleming, MD-**Dr. Fleming was reappearing before the Board in order to have her questions answered regarding administrative licenses. Dr. Fleming had no clinical care for more than 5 years so the Board's options were to issue a license restricted to administrative medicine which is reportable to the National Practitioner Databank or require Dr. Fleming to show clinical competency. After a further discussion, Dr. Fleming asked that her application be closed.

**Tiffany Brooks, MDX-**Ms. Brooks is applying for a medical x-ray operator license in Tennessee. Dr. Arnold reviewed Ms. Brooks' application file for the Board. Ms. Brooks was arrested November 11, 2006 for driving under the influence of alcohol/drugs. Ms. Brooks explained to the Board the circumstances surrounding the arrests and the outcome. Dr. Lovelady made a motion to grant Ms. Brooks a license and Dr. Beckford seconded the motion. The motion passed.

**Letha Faulkner, MDX-**Ms. Faulkner is applying for a medical x-ray operator license in Tennessee. Dr. Arnold reviewed Ms. Faulkner's application file for the Board. Ms. Faulkner was arrested multiple times and has several convictions. Furthermore, Ms. Faulkner has issues of substance abuse in the last two (2) years. The information was not disclosed on her application. Ms. Faulkner informed the Board that she attends Cornerstone Recovery and has been sober for one (1) year. Dr. Roland Gray addressed the Board and stated that he had not fully reviewed Ms. Faulkner's file, but she may not need an assessment, only monitoring. Dr. Ali made a motion to grant Ms. Faulkner a license contingent on TMF assessment and compliance with the recommendations, and she correct her application. Dr. Rosen seconded the motion. Dr. Beckford opposed. The motion passed.

### **Reinstatement Interviews**

**Omoniyi Y. Adebisi, MD-**Dr. Adebisi is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Adebisi's application file for the Board. Dr. Adebisi has a malpractice lawsuit pending which alleged that malpractice in the emergency room resulted in a patient's death. Dr. Adebisi explained to the Board the circumstances surrounding the patient's care and his attorney, Mr. Marty Phillips updated the Board on

the status of the claim. After further discussion Dr. Beckford made a motion to grant reinstatement of his license and Dr. Ali seconded the motion. The motion passed.

**John P. Guillermin, MD**-Dr. Guillermin is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Guillermin's application file for the Board. Dr. Guillermin has not been in a clinical practice since 2001. The Board suggested that Dr. Guillermin contact Dr. Arnold for suggestions and guidance to obtain more training to update his clinical skills. The Board gave Dr. Guillermin the option to withdraw his application in lieu of denial. Dr. Guillermin opted to withdraw his application at this time.

**Hieu H. Pham, MD**-Dr. Pham is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Pham's application file for the Board. Dr. Pham's license was disciplined by the Georgia Board of Medical Examiners. Dr. Pham explained the malpractice issues to the Board. Dr. Beckford made a motion to grant Dr. Pham reinstatement of his license and Dr. Ali seconded the motion. The motion passed.

### **Discussion**

The Board reviewed the Public Citizen Report. Ms. Otto stated that the report is created from information compiled by the Federation of State Medical Boards. The Board saw its national ranking fall from 28<sup>th</sup> to 40<sup>th</sup> overall. The Board discussed the reasons for the decline which include three vacant attorney positions in the Office of General counsel, the unfilled investigator positions in the Office of Investigations and the unrealized impact of the Administrative Law Judge pilot project. The Board asked that the Development Committee take a look at the pilot project when it meets in July 2009.

The Board discussed Rule 0880-2-.04 (2) and 0880-2.04 (3) (a)-(f) regarding International Medical Schools. Mr. David Mills, Mr. Donald Brady and Ms. Judy Morris from Vanderbilt University made an appearance before the Board. Mr. Mills addressed the Board regarding international medical schools and the list of disapproved schools. Ms. Morris, legal counsel at Vanderbilt addressed the board regarding a rule change. Mr. Brady, who works with the Graduate Medical Education Department, spoke on ACGME approvals.

The Board discussed a Notice of Rulemaking hearing. Dr. Beckford made a motion to proceed with a rulemaking hearing regarding international medical school graduates completing ACGME certified programs or specialty board certification as being eligible for fulfilling the postgraduate training requirements for international medical school graduates. Dr. Ali seconded the motion. The motion passed.

The Board discussed rules regarding Tamper Resistant Prescription Pads. Ms. Alison Cleaves, Deputy General Counsel addressed the Board. Ms. Cleaves explained the public necessity rules on Tamper Proof Prescriptions. Dr. Rosen made a motion to approve the public necessity rules to send to rulemaking hearing. The motion was seconded by Dr. Eckles and a roll call vote followed. Dr. Ali made a motion to approve the economic

impact statement and the regulatory flexibility assessment. Dr. Lovelady seconded the motion. The motion passed.

The Board considered its response to Senator Randy McNally's April 28, 2009 letter to Christy Allen, Assistant Commissioner, Department of Health. The board authorized the following letter: "It is the Tennessee Board of Medical Examiners' position that the IV Chelation Therapy is legal only for the treatment of heavy metal toxicity. IV Chelation Therapy may only be administered under the supervision of a physician." That letter went out to Senator McNally on June 8, 2009 under the signature of Mitchell Mutter, MD.

## **Reports**

### **Budget Report**

The Budget report was reviewed by the Board. Ms. Otto informed members the budget was the same as the March document. New numbers would likely be available in September 2009 and it should provide a better picture of the Board's financial picture.

### **Statistical Report from Administrative Office**

The Board reviewed the report from the Administrative Office.

### **Investigative Report**

The report was reviewed by Ms. Denise Moran, Director of the Office of Investigations. Ms. Moran gave a brief update regarding the need for more investigators. The Board suggest sending a letter to support releasing the freeze of three investigator positions. Dr. Ali made a motion to send a letter and Dr. Beckford seconded the motion. The motion passed. Ms. Moran asked the Board to add Drs. Joe Willoby and Steven Stagg to the lists of specialty consultants to assist Dr. Arnold. Dr. Ali made a motion to accept both to the consultant lists and Dr. Rosen seconded the motion. The motion passed.

### **Disciplinary Report**

The report was reviewed by Ms. Juanita Stone. Ms. Stone stated that there are 238 practitioners being monitored.

### **OGC Report**

Mr. Bozarth introduced Ms. Sarah Whitehead, attorney with the Office of General Counsel. Mr. Bozarth reviewed his report for the Board and gave a brief update of the rule action regarding international medical school graduates. Mr. Bozarth further explained that there are 111 cases presently open and 13 should be closed at the end of the day.

Dr. Ali suggested scheduling a meeting of the Development Committee for the meeting in July. Dr. Ali nominated Ms. Webster as the 4<sup>th</sup> member of the Development Committee and Dr. Beckford seconded the motion. Ms. Webster accepted the nomination to the Committee.

### **CME Audit Office regarding compliance with CME requirements**

Ms. Otto reviewed the report for the Board. A brief update was given regarding audits between January 2008 and December 2008. The Audit Compliance Office audited 406 physicians and found 345 (85%) to be compliant and 61 (15%) to be non-compliant. The Board suggests discussing issues relating to the audits at the next Development Committee meeting.

### **Agreed Orders**

**Robert W. Osteen, MD**-Dr. Osteen was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Osteen diverted Fentanyl for his personal use and altered a narcotic count sheet in an effort to conceal the diversion. The Board had reservations accepting the Order. Dr. Beckford made a motion to accept the agreed Order and Dr. Higdon seconded the motion. Drs. Eckles, Zanolli, Rosen, Higdon, Ali, Lovelady, Mutter and Ms. Webster opposed. A roll call vote was conducted and the motion failed.

**Gardner L. Dixon, MD**-Dr. Dixon was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. From at least January 1, 2007 to the present, Dr. Dixon prescribed regular and medically unjustifiable doses of Hydrocodone and Alpraxolam (Xanax) to numerous patients of his practice without performing an appropriate history or physical examination, without a diagnosis based on diagnostic or laboratory tests, and without formulating a treatment plan. On occasion, Dr. Dixon prescribed narcotics to some of these patients without office visits or recording notes with respect to the diagnosis or prescriptions. Dr. Dixon failed to heed warnings from an area pharmacy regarding the prescription habits of certain patients of his, including being provided with proof of “doctor shopping”. On November 10, 2008, Dr. Dixon’s medical license was summarily suspended by the Tennessee Board of Medical Examiners as a result of the above allegations of inappropriate and/or over-prescribing to numerous patients. The Agreed Order stipulated that Dr. Dixon’s medical license is hereby permanently surrendered. Dr. Dixon acknowledges that the surrender of his medical license shall have the same effect as revocation. The Board asked if members who participated in the summary suspension can participate in the vote. Dr. Ali made a motion to allow members to participate in the vote and Dr. Eckles seconded the motion. Dr. Zanolli made a motion to accept the Agreed Order and Dr. Higdon seconded the motion. The motion passed.

**David H. Taylor, MD**-Dr. Taylor was not present nor represented by legal counsel. Ms. Andrea Huddleston represented the State. Ms. Huddleston explained the out of state action taken in Texas. On March 28, 2008, an Agreed Order was entered before the

Texas State Board of Medical Examiners. Action was taken pursuant to adverse peer review action relating to complications and/or adverse outcomes as a result of two endoscopic procedures performed by Dr. Taylor. Restrictions were placed on Dr. Taylor's Texas medical license for a period of one year and were satisfactorily complied with and completed on March 28, 2004. Dr. Taylor failed to report this adverse action on his renewal application for his Tennessee medical license, having understood that the attorney representing him in the Texas matter would notify the proper entities. The Agreed Order stipulated that Dr. Taylor's medical license be reprimanded. Dr. Taylor shall pay one (1) Type C civil penalty in the amount of one hundred dollars (\$100.00) each, representing a penalty for failure to report the discipline on his Texas license. Dr. Ali made a motion to accept the Agreed Order and Dr. Rosen seconded the motion. The motion passed.

### **Consent Orders**

**John R. Wickman, MD**-Dr. Wickman was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Beckford recused himself. In October 2007, Dr. Wickman engaged in unwanted and inappropriate sexual conduct with a female patient of his practice. At various points during his treatment of another female patient of his practice, Dr. Wickman engaged in unwanted and inappropriate sexual conduct, culminating for the final time on April 22, 2008. Recognizing that he has a problem with observing professional boundaries with female patients, Dr. Wickman sought intensive inpatient treatment at Keystone Center Extended Care Unit-Center for Healing from sexual Compulsivity and Trauma in Chester, Pennsylvania from February 16, 2009 to March 30, 2009. Dr. Wickman was discharged with a prognosis of cautious optimism for recovery contingent upon strict compliance with the aftercare plan. The Consent Order stipulated that Dr. Wickman's medical license is hereby suspended for a period of not less one hundred eighty (180) days from the date of the Order. Prior to suspension being lifted, Dr. Wickman must be re-evaluated by either Keystone Center Extended Care Unit-Center for Healing from Sexual Compulsivity and Trauma or the Vanderbilt Comprehensive Assessment Program and either must certify that he is fit to resume practice. Upon lifting of the suspension, Dr. Wickman's license shall be placed on not less than five (5) years of probation. Prior to the one hundred eighty (180) day suspension, Dr. Wickman shall obtain a six (6) year contract for monitoring and advocacy with Affiliated Monitors, Inc. of Boston, Massachusetts. Dr. Wickman shall be and remain one hundred percent (100%) compliant with all recommendations and requirements of the contract with the Affiliated Monitors, Inc. Dr. Rosen made a motion to accept the Consent Order and Dr. Eckles seconded the motion. The motion passed.

**Sanford K. Myers, MD**-Dr. Myers was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On November 24, 2008, Dr. Myers pled guilty to "Conspiracy to Possess with the Intent to distribute and to distribute Oxycodone Hydrochloride, a Schedule II Controlled Substance" in the United States district Court-Eastern District of Tennessee. Dr. Myers was sentenced to be imprisoned for a total term of 156 months in a federal correctional institution. Dr. Myers is currently incarcerated in Ashland Federal Correctional Institution in Ashland, Kentucky. Dr. Zanolli made a

motion to accept the Consent Order revoking his license and Dr. Ali seconded the motion. The motion passed.

**Agustin V. Vitualla, MD**-Dr. Vitualla was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Ali recused himself. On several occasions Dr. Vitualla failed to maintain an accurate and complete controlled substance dispensing log for his Hendersonville, Tennessee medical practice. The Consent Order stipulated that Dr. Vitualla's medical license is hereby reprimanded. In addition to the Continuing Medical Education (CME) courses required each year to maintain his license to practice medicine in the State of Tennessee, Dr. Vitualla must personally attend and complete the "*Intensive Course in Medical Record Keeping with Individual Preceptorships*" at the School of Medicine, Case Western Reserve University, in Cleveland, Ohio; and "*Prescribing Controlled Drugs*" at the Center for Professional Health at Vanderbilt University Medical Center, Nashville, Tennessee. Dr. Vitualla must comply with all federal and state regulations pertaining to the dispensing of controlled substances. Dr. Rosen made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.

**Kou-Wei Chiu, MD**-Dr. Chiu was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On or about November 2007, Dr. Chiu pled guilty to one (1) felony count of false information and threats for allegedly calling in three (3) bomb threats to the SeaTac airport, within the Western District of Washington. The Consent Order stipulated that Dr. Chiu's medical license be placed on probation for a period of three (3) years or for as long as the Tennessee Medical Foundation deems necessary. Dr. Ali made a motion to deny the Consent Order and Dr. Zanolli seconded the motion. The motion passed unanimously.

**James L. Ellis, Jr., MD**-Dr. Ellis was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. A complaint was made against Dr. Ellis in December 2006 alleging that he had written prescriptions in the names of family members or for a patient for medications or controlled substances for his own personal use. Dr. Ellis was first contacted regarding the investigation in July 2007 at which time he cooperated and appeared for an investigative interview. Dr. Ellis was contacted by U.S. Mail in November 2008 with a request that he meet with a screening panel of the Board. Dr. Ellis cooperated and met with the screening panel on February 11, 2009. Dr. Ellis has worked with one practice group and one hospital since completing medical school with no complaints of any impairments or disruptive behavior. Dr. Ellis has never had malpractice judgment rendered against him since completing medical school in 1985. The Consent Order stipulated that Dr. Ellis' medical license be placed on probation for a period of one (1) year or for the duration of his Tennessee Medical Foundation (TMF) contract whichever period of time is longer. During the disciplinary period, Dr. Ellis must complete/comply and undergo a complete evaluation by the Vanderbilt Comprehensive Assessment Program for Professionals (VCAP) at Vanderbilt University Medical Center, in Nashville, Tennessee, maintain advocacy of TMF throughout the disciplinary period, in addition to CME courses required each year, attend and complete the "*Intensive Course in Medical Record Keeping with Individual Preceptorships*" at the

School of Medicine, Case Western Reserve University, in Cleveland, Ohio; and *“Prescribing Controlled Drugs”* at the Center for Professional Health at Vanderbilt University Medical Center, Nashville, Tennessee. Dr. Zanolli made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

**Adam W. Ellis, MD-**Dr. Adam Ellis was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On December 18, 2008, Dr. Ellis entered into an Agreed Order with the Commonwealth of Kentucky, Board of Medical Licensure. Dr. Ellis’ license was placed on indefinite restriction as a result of inappropriate prescribing to his wife. In addition, Dr. Ellis failed to create and maintain any medical record of his treatment for his wife. The consent Order stipulated that Dr. Ellis’ medical license be placed on indefinite restriction to run concurrently with the Kentucky Board’s Agreed Order. During the disciplinary period Dr. Ellis shall not prescribe, dispense or otherwise provide any medications, including controlled substances, to himself or to members of his immediate family. Dr. Ellis shall completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose. Dr. Ellis shall submit any and all documentation to the board pertaining to any such medical treatment and prescribing is reported directly to the Board in writing by his treating physician within ten (10) days after the date of the treatment. Dr. Ellis must submit any and all test results pertaining to the periodic, unannounced breathalyzer, blood or urine alcohol and/or drug analysis tests as required by the Kentucky Board to the board within ten (10) days of the occurrence. Dr. Ellis must comply with all federal and state regulations pertaining to the dispensing of controlled substances. Any other violations of the Kentucky Board’s Agreed Order or this consent Order will result in further disciplinary action before the Board. Dr. Ali made a motion to accept the Consent Order and Dr. Higdon seconded the motion. The motion passed.

**Allen R. Powell, PA-** Mr. Powell was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On or about June 23, 2008, Mr. Powell self-reported to the Board of Medical Examiners’ Committee on Physician Assistants that he had written several prescriptions for 15 mg Roxicodone tablets in two other people’s name, between April 9, 2008 and April 21, 2008, totaling fifty-six (56) pills. Mr. Powell further admitted that the medication was for his personal use and that neither person was a patient nor did he have medical records for either. The Consent Order stipulated that Mr. Powell’s physician assistant license be placed on probation. The probation shall run concurrent with any monitoring contract through Tennessee Professional Assistance Program, but shall remain in place at least five (5) years. Mr. Powell must submit an evaluation by the Tennessee Professional Assistance Program within thirty (30) days of the Order. Mr. Powell is prohibited from prescribing any and all scheduled substances until the Tennessee Professional Assistance Program determines he is safe and fit to resume that aspect of practice. This shall remain in place not less than two (2) years. Mr. Powell must complete the Vanderbilt University Medical Center *“Prescribing Controlled Drugs”* course and submit proof of completion to the Committee’s Disciplinary Coordinator. Mr. Powell must pay three (3) 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.

Rosen made a motion to ratify the Consent Order and Dr. Ali seconded the motion. The motion passed.

**Morris R. Butcher, Jr., PA-** Mr. Butcher was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. Mr. Butcher was issued a temporary license to practice as a physician assistant, which expired August 28, 2006. Mr. Butcher obtained an extension of the temporary license, extending the expiration date to August 28, 2007. Since that date, Mr. Butcher has not obtained a license to practice as a physician assistant. Mr. Butcher was employed as a physician assistant by Regional Medical Center of Memphis, Tennessee in its emergency department. On August 28, 2007, Mr. Butcher was notified by the Tennessee Department of Health that he was no longer authorized to practice as a physician assistant and should cease using the title “physician assistant” and/or its derivations. Between August 28, 2007 and October 19, 2007, Mr. Butcher continued to engage in practice as a physician assistant. On or about October 12, 2007, Mr. Butcher caused to be submitted to the manager of Provider Credentialing and Enrollment of the University of Tennessee Medical Group in Memphis, Tennessee a letter, purportedly from the Tennessee Department of Health Bureau of Health Licensure and Regulation, Division of Health Related Boards, which purported to grant him a one year extension of his temporary license, until August 28, 2008. Mr. Butcher forged a letter from the Tennessee Department of Health, Bureau of Health Licensure and Regulation, Division of Health Related Boards. On October 19, 2007, Mr. Butcher was terminated from the Regional Medical Center Emergency Department. The Consent Order stipulated that Mr. Butcher is hereby ordered to pay four (4) Type A civil penalties in the amount of one thousand dollars (\$1,000) each for each violation and twenty-nine (29) Type A civil penalties in the amount of one thousand dollars (\$1,000) each representing each day he continued to work after his temporary license expired for a total assessment of thirty-three thousand dollars (\$33,000). Dr. Zanolli made a motion to accept the Consent Order and Dr. Ali seconded the motion. Dr. Ali made an amendment to request counsel to forward the matter for prosecution and to so inform the Committee. Dr. Lovelady seconded the motion. The motion passed as amended.

### **Orders of Compliance**

**Thomas C. McDonald, MD-**Dr. McDonald was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On January 26, 1999, a disciplinary case alleging violations of the medical practice act was heard before the Board. Dr. McDonald was found to have abused controlled substances. On March 16, 2000 the Board received a letter from the Tennessee Medical Foundation stating that Dr. McDonald relapsed into controlled substance abuse and had lost their advocacy. On May 12, 2000, Dr. McDonald retired his license. Mr. Bozarth informed the Board that Dr. McDonald has met all the requirements as set by the Board. Dr. Ali made a motion to accept the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

**Mark N. Hendrixson, MD-**Dr. Hendrixson was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Hendrixson entered into an Agreed Order with the Tennessee Board of Medical Examiners on November 21, 2003 due to the illegal use of drugs. Dr. Hendrixson was required to meet specific conditions and terms during the three (3) year period of probation of his medical license. The Department of Health's investigation revealed that Dr. Hendrixson again violated the Medical Practice Act when he tested positive for marijuana and admitted to having smoked marijuana on two occasions. As a result the Board ordered Dr. Hendrixson's license be suspended for one (1) year, five (5) years probation and five (5) years contract with the Tennessee Medical Foundation (TMF) and lifetime advocacy of the TMF and other restrictions. Mr. Bozarth informed the Board that Dr. Hendrixson has met all the requirements as set by the Board. Dr. Lovelady made a motion to accept the Order of Compliance and Dr. Ali seconded the motion. The motion passed.

**Julian Fields, MD-** Dr. Fields was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Fields came before the Tennessee Board of Medical Examiners for a license to practice in the State of Tennessee. The Board's final decision on Dr. Fields' licensure application was based on information that his license has been disciplined in Alabama and privileges to practice obstetrics in that state were restricted. Dr. Fields signed an agreement which stipulated that his license be placed on probation for a period of one (1) year. During that period of probation Dr. Fields shall be enrolled in a training program which provides sufficient oversight and mentoring such that immediately upon completion he would be eligible to sit for the family practice boards. The enrollment must be continuous and the level of supervision must be "at the elbow." While in the program, Dr. Fields was ordered to send quarterly reports to the disciplinary coordinator. On December 10, 2007, Dr. Fields was found to have not met compliance for license application. Mr. Bozarth informed the Board that Dr. Fields has met all the requirements as set by the Board. Dr. Ali made a motion to accept the Order of Compliance and Ms. Webster seconded the motion. The motion passed.

**Andrea S. Merriweather, MDX-**Ms. Merriweather was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Ms. Merriweather was found to have been charged with nine (9) counts of fraud and obtaining controlled substances. As a result, the Board ordered that Ms. Merriweather's license be issued unrestricted on the condition that she successfully complete a five (5) year contract with the Tennessee Medical Foundation. Mr. Bozarth informed the Board that Ms. Merriweather has met all the requirements as set by the Board. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Ms. Merriweather and stated that she is compliant with TMF. Dr. Eckles made a motion to accept the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

**Thomas R. Cox, III, MD-**Dr. Cox was present but not represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Cox was found to have abused his authority to prescribe and/or dispense scheduled or controlled drug prescriptions. Dr. Cox engaged in highly abusive prescribing practices to members of his immediate family and others. These prescribing practices include the use of highly dangerous and addictive scheduled

narcotic analgesics and other scheduled central nervous system depressant drugs. As a result the Board ordered Dr. Cox's license be placed on probation for two years, his authority to prescribe and/or dispense any scheduled or controlled substance limited to one (1) dose per patient in an emergency room situation and not to prescribe and /or dispense scheduled medication. Dr. Cox must attend a course at Vanderbilt on prescribing and dispensing controlled substances. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Dr. Cox and stated he has been on probation for approximately 17 years. Mr. Bozarth informed the Board that Dr. Cox has met all the requirements as set by the Board. Dr. Ali made a motion to accept the Order of Compliance and Dr. Zanolli seconded the motion. The motion passed.

**Venkatachalam Ayyagari, MD**-Dr. Ayyagari was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On November 22, 2004, Dr. Ayyagari performed an inappropriate breast examination on a patient and/or fondled the patient's breasts. While performing this act, Dr. Ayyagari made inappropriate comments and/or asked inappropriate questions of sexual nature. On occasions prior to the date of the Order, Dr. Ayyagari made inappropriate comments and/or asked inappropriate questions of a sexual nature. Dr. Ayyagari inappropriately used his position as a physician to attempt to entice the patient to become involved in his sideline business. As a result the board ordered that Dr. Ayyagari's license be placed on probation for a period of six (6) months. Mr. Bozarth informed the Board that Dr. Ayyagari has met all the requirements as set by the Board. Dr. Ali made a motion to accept the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

**Adjourned at 4:00 p.m.**

\*\*\*\*\*

**May 20, 2009**

**Panel: Ali, Mutter, Higdon**

**Consent Orders**

**Alex A. S. Fider, MD**-Dr. Fider was not present but represented by legal counsel, Mr. Jason R. Reeves. Ms. Andrea Huddleston represented the State. On or about March 10, 2008, Dr. Fider entered a plea of guilty to a charge of Reckless Aggravated Assault (a Class D Felony) in the Criminal Court of Marion County, Tennessee, related to a road rage incident wherein Dr. Fider fired a gun striking another vehicle which contained some children. Dr. Fider was approved for judicial diversion and placed on three (3) years probation. The Consent Order stipulated that Dr. Fider's license be placed on probation for a period of three (3) years. Within twelve (12) months of the order, Dr. Fider shall enroll in and complete the Living Centered Program offered by Onsite Therapeutic Workshops, as recommended by the Vanderbilt Comprehensive Assessment Program. Dr. Fider shall ensure that, upon completion, a report of his attendance, evaluation and prognosis be submitted by the program to the Board's Medical Director.

During the term of the probation required, Dr. Fider shall submit to the therapeutic services of a treating psychologist or psychiatrist and shall ensure that quarterly reports of his progress are submitted to the Board's Medical Director. Dr. Fider shall pay one (1) Type A civil penalty in the amount of one thousand dollars (\$1,000). Dr. Higdon made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

**Chip H. Fountain, MD**-Dr. Fountain was not present but represented by legal counsel, Mr. Jack D. Lowery, Jr. Ms. Andrea Huddleston represented the State. Between approximately 2004 and 2006, Dr. Fountain engaged in a romantic and/or sexual relationship with a minor child between the ages of thirteen and fifteen years old. The minor child in question is the daughter of a psychiatric patient of Dr. Fountain. The relationship came to light when Dr. Fountain asked the patient for permission to marry the minor girl. The Consent Order stipulated that Dr. Fountain's license shall be revoked. Dr. Higdon made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

### **Agreed Citations**

**John M. Ferguson, MD**-Dr. Ferguson failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Ferguson shall pay a civil penalty in the amount of four hundred dollars (\$400), provide proof of completion of ten (10) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Thomas H. Landon, MD**-Dr. Landon failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Landon shall pay a civil penalty in the amount of two hundred eighty dollars (\$280), provide proof of completion of seven (7) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Rose Cohen Ellen, MD**-Dr. Cohen failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Cohen shall pay a civil penalty in the amount of one thousand four hundred eighty dollars (\$1,480), provide proof of completion of thirty-seven (37) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Howard H. Rosenblum, MD**-Dr. Rosenblum failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Rosenblum shall pay a civil penalty in the amount of eight hundred thirty dollars (\$830), provide proof of completion of twenty and three quarters (20.75) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Kevin S. Merigian, MD**-Dr. Merigian failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Merigian 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 education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Andrea Galloway, MD**-Dr. Galloway failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Galloway shall pay a civil penalty in the amount of three hundred ten dollars (\$310), provide proof of completion of seven and three quarters (7.75) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Thomas Scott Benefield, MD**-Dr. Benefield failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Benefield shall pay a civil penalty in the amount of eighty dollars (\$80), provide proof of completion of two (2.0) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Warren T. Hill, MD**-Dr. Hill failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Hill 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 education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Eli M. Watts, MD**-Dr. Watts failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Watts shall pay a civil penalty in the amount of one thousand four hundred sixty dollars (\$1,460), provide

proof of completion of thirty-six and one half (36.5) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours of continuing education within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Linda K. Johnson, MDX-**Ms. Johnson failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Ms. Johnson shall pay a civil penalty in the amount of two hundred dollars (\$200) and provide proof of completion of ten (10) hours of continuing education within one hundred eighty (180) days of the citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

**Haresh K. Mirani, MD-**Dr. Mirani failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Mirani 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 education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Dr. Higdon made a motion to accept the Agreed Citation and Dr. Ali seconded the motion. The motion passed.

### **Contested Case Hearing**

**Robert B. Parker, MD-**Dr. Parker was present but not represented by legal counsel. Ms. Andrea Huddleston represented the State. The Honorable Joyce Carter Ball, Administrative Law Judge presided. Dr. Parker informed the panel he waived his right to legal counsel. Witnesses were sworn in. Ms. Huddleston gave a brief opening statement. The Notice of Charges was handed to the panel for review. Dr. Parker failed to comply with the 2006 Consent Order with the Board of Medical Examiners. 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 2006 Order stipulated that Dr. Parker's license be placed on probation for a period of no less than twenty-seven (27) months and until such time after that twenty-seven (27) months he petitions for an Order of Compliance with proof he has completed the Vanderbilt Sexual Boundaries Courses, complete an evaluation at the Vanderbilt Comprehensive Assessment Program and paid twenty-seven (27) Type B civil penalties in the amount of two hundred and fifty dollars (\$250) each, for a total of six thousand seven hundred fifty dollars(\$6,750.00). Ms. Juanita Stone, Disciplinary Coordinator for Health Related Boards was called to testify. Ms. Stone informed the Board that Dr. Parker did not complete the Vanderbilt Program. The panel asked several questions regarding Dr. Parker's non-compliance. Dr. Parker was called to testify and explained to the panel that he completed the VCAP evaluation March 10, 2009. After further discussions, Ms. Huddleston gave a closing statement and asked the panel to revoke Dr. Parker's license with the intent to re-apply after one year with conditions. The proposed Order was handed to the panel for review. The panel

deliberated. Dr. Higdon made a motion to accept the Findings of Fact # 1-5 and Dr. Ali seconded the motion. The motion passed. Dr. Higdon made a motion to accept the Causes of Action and Dr. Ali seconded the motion. The motion passed. Dr. Ali made a motion to revoke Dr. Parker's medical license and Dr. Higdon seconded the motion. Dr. Ali made a motion that Dr. Parker must comply with the recommendations made by VCAP, all recommendations as set in the 2006 Consent Order and enter into a contract with the Tennessee Medical Foundation for an evaluation and recommendations to the Board. Dr. Higdon seconded the motion. The motion passed. Dr. Higdon made a motion to assess all costs to Dr. Parker as stated and Dr. Ali seconded the motion. The motion passed. The policy statement was read. The panel adopted a policy statement that indicated that the action against Dr. Parker was taken to protect the health, safety and welfare of the citizens of the State of Tennessee.

\*\*\*\*\*

**Panel: Eckles, Zanolli, Webster**

**Contested Case Hearing**

**Bret Sokoloff, MD**-Dr. Sokoloff was present and represented by Mr. Dan Warlick. Mr. Shiva Bozarth represented the State. The Honorable Tom Stovall, Administrative Law Judge presided. The matter was previously heard by Judge Stovall who made findings of fact and conclusions of law which were provided to the panel as was a transcript of the hearing. The Notice of Charges was handed to the panel for review. Witnesses were sworn in. Mr. Warlick gave an opening statement and informed the panel that Dr. Sokoloff was present for questioning. Mr. Jonathan Martin, attorney for Delta Medical Center, where Dr. Sokoloff currently has surgical privileges was called as a witness to testify as to the relationship between the hospital and Dr. Sokoloff. He answered questions about whether or not Dr. Sokoloff was being reimbursed for medical care he was providing. After closing statements, the panel deliberated. Dr. Zanolli made a motion to suspend Dr. Sokoloff's license for one year from September 2007 until September 2008 and Ms. Webster seconded the motion. The motion passed. Ms. Webster made a motion that Dr. Sokoloff be placed on probation for five years, get an assessment from VCAP within three months that states he is mentally able to practice without harm to patients, have each facility where he practices surgery submit quarterly reports to the Board's consultant; continues with the monitoring protocol in place on May 20, 2009 with Delta Medical Center for the entirety of the probation; if respondent begins practice at another facility or seeing patients, he must engage Affiliated Monitors to develop an appropriate monitoring plan for each facility and office; pay civil penalties in the amount of three thousand dollars (\$3,000) and all costs incurred by the Department for prosecuting the case not to exceed twenty five thousand dollars (\$25,000). Dr. Zanolli seconded the motion. The motion passed. The policy statement was read and adopted that indicated that the actions taken was to protect the health, safety and welfare of the citizens of the State of Tennessee.

**Adjourned**

---

**Subhi Ali, MD**

---

**Date**