

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

July 20, 2010

The meeting was called to order at 8:40 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, Neal Beckford, Subhi Ali, Charles White, Sr., Dennis Higdon, Michael Baron, Michael Zanolli, Ms. Irene Wells, Ms. Regine Webster and Ms. Monica Franklin.

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

Minutes

The minutes from the May 18 and 19, 2010 meeting, the May 18, 2010 CME Task Force meeting and the June 30, 2010 Teleconference held to ratify the actions taken by the Polysomnography Professional Standards Committee. Dr. Lovelady made a motion to accept the minutes from the May 19 and 20, 2010 meeting and Dr. Ali seconded the motion. The motion passed. Dr. Rosen made a motion to accept the minutes from the CME Task Force and Dr. Beckford seconded the motion. The motion passed. Ms. Franklin made a motion to accept the minutes from June 30, 2010 teleconference and Dr. White 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 and Genetic Counselors were reviewed. Dr. Rosen made a motion to ratify the approvals and Ms. Franklin seconded the motion. The motion passed.

Ms. Otto reviewed the Rickman Family Clinic's application for an Office Based Surgery Suite. The Board was reluctant to approve the application because of concerns about the surgical skills of the principal physician. Dr. White made a motion to deny and Dr. Beckford seconded the motion. The motion passed. Dr. Zanolli discussed a legislative solution and then made a motion to omit the wording "if any" and "board eligible" from the office based surgery statute and Dr. Lovelady seconded the motion. The motion passed.

Consideration of Applications

Adam Allie, MD-Dr. Allie is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Allie's application file for the Board. Dr. Allie had issues of professionalism during his residency program at two different institutions. The Board asked several questions regarding the circumstances. The Board asked for clarification from Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation. Dr. Gray explained the breakdown of boundaries and stated that there are programs that will address the issue. Dr. Gray informed the Board that he will obtain pertinent information from South Carolina. Ms. Franklin made a motion to grant a license and Dr. Rosen seconded the motion. Dr. Ali made an amendment and suggested approval contingent on the medical director receiving a positive VCAP evaluation. Ms. Wells seconded the motion. Dr. Mutter suggested tabling the matter until the next meeting and until the Board receives more documents and a favorable letter. The previous motion was withdrawn. Dr. Ali made a motion to table until the next meeting and Dr. Zanolli seconded the motion. The motion passed.

Brett Campfield, MD-Dr. Campfield is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Campfield's application file for the Board. Dr. Campfield had a history of problems during his residency and a drug screen led to treatment and Tennessee Medical Foundation (TMF) advocacy. Dr. Campfield explained the circumstances and informed the Board that he met with Dr. Roland Gray and has been in compliance for three years. Dr. Gray informed the Board that he has received only positive reports about Dr. Campfield. Dr. Beckford made a motion to grant a license to Dr. Campfield and Dr. Rosen seconded the motion. The motion passed.

Wilson Esme, MD-Dr. Esme is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Esme's application file for the Board. Dr. Esme has not successfully passed the USMLE because of the one point rule. Dr. Esme informed the Board that he is board certified in occupational medicine. The Board suggested that Dr. Esme withdraw his application which he did. After further discussion, Dr. Ali made a motion to reconsider Dr. Esme's application and Ms. Webster seconded the motion. The motion passed. Dr. Ali stated that because Dr. Esme's board certification obviates the one point rule. Dr. Ali then made a motion to grant a license and Dr. Beckford seconded the motion. The motion passed.

Scott Jay, MD-Dr. Jay is applying for a license to practice medicine Tennessee. Dr. Arnold reviewed Dr. Jay's application file and informed the Board that he appeared before the Board on May 18, 2010 and was asked to re-appear today. Dr. Jay was disciplined by Hutchinson Hospital in Hutchinson, Kansas and then was disciplined by the Kansas Board of Medicine for being disruptive in the workplace. The Board granted a license contingent on a positive VCAP evaluation. After review of the VCAP assessment, Dr. Arnold requested Dr. Jay re-appear before the Board. Dr. Arnold informed the Board that the evaluation had made recommendations for Dr. Jay to follow. After further discussion, Ms. Franklin made a motion to grant a license contingent on compliance with the VCAP recommendations and a two year contract with TMF. Dr. Higdon seconded the motion. Ms. Webster and Dr. Beckford opposed. The motion passed.

Sunthosh V. Parvathaneni, MD-Dr. Parvathaneni is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Parvathaneni's application file for the Board. Dr. Parvathaneni was placed on probation during his residency in 2008. Dr. Parvathaneni explained the circumstances surrounding the probation. After further discussion, Dr. Zanolli made a motion to grant Dr. Parvathaneni a license and Dr. Beckford seconded the motion. The motion passed.

Joseph M. Pastor, MD-Dr. Pastor is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Pastor's application file for the Board. Dr. Pastor has a history of alcohol abuse and his Ohio license was suspended and later placed on probation for five years. The probation was terminated in 2003. Dr. Pastor's medical license was also placed on probation in Colorado and Massachusetts and terminated in 2004. Ms. Webster made a motion to grant a license to Dr. Pastor and Dr. Beckford seconded the motion. The motion passed.

Anup Satpathy, MD-Dr. Satpathy is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Satpathy's application file for the Board. Dr. Baron and Dr. Ali recused themselves. Dr. Satpathy was disciplined by the Board and his license was revoked on March 25, 2009. Dr. Satpathy explained the circumstances surrounding the revocation. Ms. Juanita Stone, Disciplinary Coordinator informed the Board that Dr. Satpathy had not paid his costs associated with the revocation. The Board decided that Dr. Satpathy's application cannot be heard until all requirements of the previous Board order have been satisfied. Dr. Satpathy withdrew his application.

Christopher M. Stewart, MD-Dr. Stewart is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Stewart's application file for the Board. Dr. Mutter recused himself. Dr. Stewart entered an alcohol treatment program during his residency. Dr. Stewart informed the Board that he has a contract with the Tennessee Medical Foundation (TMF) and a sobriety date of March, 2005. Dr. Stewart is currently attending at Erlanger Hospital in Chattanooga, Tennessee. Dr. Arnold recommended an additional five year contract with TMF. After questioning by the Board, Ms. Franklin made a motion to grant a license contingent on one more year with TMF advocacy and complete the 3 1/2 months of residency training. Dr. Beckford seconded the motion. The motion passed.

Raymond C. Strickland, MD-Dr. Strickland is applying for reinstatement of his medical license. Dr. Strickland was not present. Dr. Arnold explained that Dr. Strickland has had no professional activity since 1998. The Board decided to defer Dr. Strickland's interview to the next scheduled meeting.

Frank M. Sutton, MD-Dr. Sutton is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Sutton's application file for the Board. Dr. Sutton's North Carolina license was disciplined for inappropriate prescribing to friends and family in August, 2005. Dr. Sutton surrendered his California license in 2006. Dr. Sutton explained the circumstances regarding prescribing practices. Dr. Beckford made a

motion to grant a license to Dr. Sutton and Dr. Rosen seconded the motion. The motion passed.

Gerson A. Teran, MD-Dr. Teran is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Teran's application file for the Board. Dr. Teran passed Step 2 of the USMLE on the ninth attempt with a score of 79. Dr. Teran explained the circumstances surrounding the exam and informed the Board he plans to take the Boards in August. After further discussions, Dr. Rosen made a motion to grant Dr. Teran a license and Dr. Beckford seconded the motion. The motion passed. Dr. Rosen amended his motion to explain that there were significant circumstances and performances and that he is eligible to take the Boards in August. Dr. White seconded the motion. The motion passed.

Robert Wegner, MD-Dr. Wegner is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Wegner's application file for the Board. Dr. Wegner attended Medical University of the Americas. The school does not meet the Board's requirements for an international medical school. As of October, 2009, Dr. Wegner became board certified in Surgery. Dr. Wegner stated that he plans to work in Memphis, Tennessee in the area of bariatrics. Because Dr. Wegner passed the USMLE and is board certified, he meets the criteria to be license. Ms. Franklin made a motion to grant a license to Dr. Wegner based on the criteria that he passed the USMLE and is board certified. Dr. Rosen seconded the motion. The motion passed.

Stephen F. Winer, MD-Dr. Winer is applying for a license to practice medicine in Tennessee. Dr. Winer was not present. Dr. Arnold reviewed Dr. Winer's application file for the Board and explained that this was the second time Dr. Winer did not appear and did not notify the administrative office that he could or would not attend. Dr. Winer has multiple malpractice actions which gave rise to the request for an interview. Dr. Ali made a motion to deny a license to Dr. Winer and Dr. Zanolli seconded the motion. The motion passed.

Rule Action

Mr. Bozarth informed the Board there were two rule amendments. Mr. Bozarth reviewed the rule regarding implementation of Senate Bill 1552 regarding the seven year rule and asked the Board to authorize a rulemaking hearing. Dr. White made a motion to authorize a rulemaking and Dr. Ali seconded the motion. The motion passed.

Mr. Bozarth gave an overview of the rule regarding international medical schools. After further discussion, the Board decided to table the rule until the next meeting. A sub-committee with Drs. Beckford, Baron and Lovelady will assist in the drafting of the rule.

Discussion

The Board discussed the advisory opinion request from Thomas Carter, MD. After the Board reviewed a draft of the response letter, Dr. Mutter suggested some changes. Dr.

Zanolli made a motion to approve the letter with the amendments and Ms. Wells seconded the motion. The motion passed.

The Board reviewed the advisory opinion request of J. Scott McCullough, MD. Dr. McCullough was present and addressed the Board. Dr. McCullough is a pathologist in Clarksville, Tennessee and wants to be able to contact patients directly with lab results. Dr. McCullough believes that the Medical Laboratory Practice Act requires that the ordering physician be contacted with results of laboratory work but does not preclude the pathologist from contacting others. However, he concedes that the rules and regulations that govern the practice of medical laboratories permit only notification of ordering physicians. After a lengthy discussion wherein the board generally expressed its reservations about pathologists contacting patients directly with the results of lab work, especially in the absence of an agreement with the ordering physician, Dr. Mutter summarized the discussion saying that if a medical laboratory has a contract, either written or implied, with the referring physician to give results then it is within the scope of practice for a pathologist to do so.

The Board discussed attendance at the CLEAR Board Member Training September 23-25, 2010 in Nashville. There was a discussion regarding those members interested in attending the training. Dr. Ali made a motion to send all members interested in attending and Ms. Franklin seconded the motion. The motion passed.

The Board discussed out-of-state travel for Mr. Shiva Bozarth to attend the FSMB Board Attorney Training November, 2010. Dr. Zanolli made a motion to send Mr. Bozarth to the training and Dr. Beckford seconded the motion. The motion passed.

The Board considered a request by James Kennedy, MD to consider discontinuing the requirement for him to report to the Board's medical director annually. Dr. Kennedy petitioned to have the 1999 Board ordered annual report back condition removed from his license. After presentation in Dr. Kennedy's absence by his attorney, Robert Kraemer, the Board, upon the motion of Ms. Wells and seconded by Ms. Franklin, voted unanimously to not only remove the annual report back condition but also the condition that Dr. Kennedy maintain the advocacy of the Tennessee Medical Foundation.

Ms. Otto reviewed the lapsed license policy for the Board. Dr. Lovelady made a motion to accept the policy and Ms. Franklin seconded the motion. The motion passed.

The Board discussed the SAVE program. Mr. Bozarth gave a brief update on the progress of the program and stated it will be ready and available to Ms. Otto and Ms. Powell.

The Board discussed recommendations of the CME Task Force. Dr. Rosen gave a report and recommendations made. The Task force suggested raising the CME's from 40 to 60 for a 2 year cycle. Mr. Bozarth informed the Board he will get a rule together by the next meeting. Dr. Ali made a motion to accept the recommendations made by the Task Force and Dr. White seconded the motion. The motion passed.

The Board discussed the petition for an Order of Compliance regarding Alton Ingram, MD to discuss and offer guidance relative to re-entry to practice. Mr. Chris Etchings represented Dr. Ingram and stated that Dr. Ingram cannot get training because no one will accept him in a training program and was asking for guidance from the board for suggestions. The Board could not make any suggestions.

Dr. White gave a report from the Development Committee. Dr. White informed the Board that the Committee reviewed the pilot program which started two years ago.

Reports

Financial Report

Ms. Elizabeth Miller, HRB Director gave an overview of the financial report.

Investigation Report

Ms. Juanita Stone reviewed the Investigative report in Ms. Denise Moran's absence.

Disciplinary Report

Ms. Juanita Stone gave her report for the Board.

OGC Report

Mr. Shiva Bozarth reviewed the OGC report for the Board.

CME Audit Office regarding compliance with CME requirements

Ms. Otto gave a brief overview of the report received from Ms. Dea Smith regarding physician compliance with the board's CME requirements. Ms. Otto stated that 90% of the physicians are in compliance.

Order of Compliance

Craig E. Dean, P.A.C- Mr. Dean was present and represented by Ms. Erin Begley. Ms. Mona Jean-Baptiste represented the State. Ms. Begley and Mr. Dean addressed the Board regarding issues that Mr. Dean did not surrender his DEA certificate. Dr. Zanolli had reservations regarding the certificate. Dr. Baron recused himself. Between at least June 2005 and December 2006, Mr. Dean engaged in a pattern of continuing or repeated malpractice and unprofessional conduct by prescribing Prozac to a patient and failing to document medical histories, conduct physical examinations, make diagnoses, formulate a written treatment plan and maintain complete and accurate records. While operating Mobile Medical Clinic, he had pre-signed blank prescription sheets to be completed by staff for patients. Ms. Jean-Baptiste informed the Board that Mr. Dean has met all

requirements as set in the Order. Dr. Rosen made a motion to accept the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

Charles Mosure, MD-Dr. Mosure was present and represented by Mr. Phillip Barber of the Nashville Bar. Mr. Shiva Bozarth represented the State. Dr. Mosure had a substance abuse problem and as a result, the Board ordered that Dr. Mosure's license be placed on probation for a period of five years and maintain advocacy with the Tennessee Medical Foundation (TMF) for a period of five years. Mr. Mike Todd from the TMF spoke on behalf of Dr. Mosure. Mr. Bozarth informed the Board that all requirements have been met as set by the Board. Dr. Higdon made a motion to accept the Order of Compliance and Dr. Zanolli seconded the motion. The motion passed.

John Crawford, MD-Dr. Crawford was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Beckford recused himself. Dr. Crawford was found to have a sexual encounter with a patient. As a result, the Board ordered Dr. Crawford's license be placed on probation for three years. Dr. Crawford must establish a patient-doctor relationship with a psychiatrist who would submit quarterly reports to the Board regarding his treatment. Mr. Bozarth informed the Board that Dr. Crawford has met all requirements as set by the Board. Dr. Zanolli made a motion to accept the Order of Compliance and Ms. Franklin seconded the motion. The motion passed.

Scott Hambleton, MD-Dr. Hambleton was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Hambleton was found to have been reprimanded by the North Carolina Board of Medical Examiners for fraudulently writing prescriptions. Dr. Hambleton also failed to comply with the requirements of a May, 2003 Agreed Order by failing to enter into a contract with the Tennessee Medical Foundation. As a result, the Board ordered that Dr. Hambleton's license be suspended for a period of three months and thereafter placed on probation for a period of five years. Dr. Hambleton was also ordered to abstain from the consumption of alcohol, dangerous drugs or controlled substances in any form, submit to drug and alcohol screens, provide written quarterly reports and maintain the advocacy of the TMF. Mr. Bozarth informed the Board that all requirements have been met as set by the Board. Ms. Franklin made a motion to accept the Order of Compliance and Dr. Higdon seconded the motion. Dr. Zanolli abstained. The motion passed.

Ronald M. Short, MD-Dr. Short was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Short's Tennessee medical license was previously restricted and made subject to several conditions by a July 22, 2003 Order from the Board of Medical Examiners. This Order was issued pursuant to a June 7, 2002 Order by the Wyoming Board of Medicine, which imposed certain examinations, reporting, information production and other conditions upon Dr. Short's Wyoming medical license. Dr. Short was found to be in violation of the July 22, 2003 Order to maintain advocacy with the Tennessee Medical Foundation. As a result, the Board ordered Dr. Short's license be revoked which was stayed and placed on a five year probationary period. Dr. Short was also required to maintain advocacy with the TMF. Mr. Bozarth informed the Board that all requirements have been met as set by the Board.

Dr. Beckford made a motion to accept the Order of Compliance and Dr. Zanolli seconded the motion. The motion passed.

Frederic Huffnagle, MD-Dr. Huffnagle was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Huffnagle was found to have fraudulently procured renewal of his medical license with the Massachusetts Medical Board. Dr. Huffnagle provided false answers on two Massachusetts renewal applications and one Pennsylvania renewal application. Dr. Huffnagle was also found to have submitted a false answer on the application for the Tennessee medical license. As a result, the Board ordered Dr. Huffnagle be reprimanded and also his license was placed on probation for one year and he was required to provide a complete copy by certified mail of the Order to every medical and nursing home facility where he practices or had privileges to practice medicine and every licensing board of every state in which Dr. Huffnagle was licensed. Mr. Bozarth informed the Board that all requirements have been met as set by the Board. Ms. Franklin made a motion to accept the Order of Compliance and Dr. Beckford seconded the motion. The motion passed.

Billy Couch, MD-Dr. Couch was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Couch was found to have been administering 2003/2004 flu vaccines to persons believing they were receiving the 2004/2005 flu vaccines. As a result, the Board ordered Dr. Couch's license to be placed on probation for one year. Dr. Couch was also required to attend the "Prescribing Controlled Drugs" course at Vanderbilt Center for Professional Health. Mr. Bozarth informed the Board that all requirements have been met as set by the Board. Ms. Franklin made a motion to accept the Order of Compliance and Dr. Lovelady seconded the motion. The motion passed.

Audrey Smith, MD-Dr. Smith was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Smith was found to have prescribed cough syrup containing a narcotic to family members and for private purposes and also did not maintain appropriate medical records for any members of her family. The Board ordered that Dr. Smith's license be placed on probation for a period of four years and maintain advocacy with her contract with the Tennessee Medical Foundation for a period of at least the duration of the probationary period. Dr. Smith was required to submit quarterly reports, proof that she completed the "Prescribing Controlled Substances" course, 40 hours of continuing medical education in the areas of pain management or prescribing controlled substances every two years for the duration of the probationary period and enter into a relationship with a psychologist or psychiatrist for improved stress management, exploration of codependency issues and to explore strategies for dealing with challenging patient interactions. Mr. Bozarth informed the Board that all requirements have been met as set by the Board. Ms. Franklin made a motion to accept the Order of Compliance and Dr. Higdon seconded the motion. The motion passed.

Consent Orders

Deborah Mark, MD-Dr. Mark was not present nor was legal counsel. Ms. Sara

Whitehead represented the State. On or about July 12, 2010, Dr. Mark was indicted by a Wilson County grand jury on one count of perpetration of aggravated child abuse, one count of aggravated child abuse and four counts of child abuse stemming from the death of her four-year old daughter. The Consent Order stipulated that Dr. Mark's medical license is suspended pending further orders of the Board. Ms. Franklin made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.

Justin Lee Turner, P.A.C- Mr. Turner was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. Mr. Turner admits to an addiction to Oxycontin 80 mg, using as many as six tablets each day and providing services as a physician assistant at Americare Urgent Care Clinic in McMinnville, Tennessee while under the influence of Oxycontin. Mr. Turner voluntarily removed himself from practice as a physician assistant on August 23, 2009 as a result of his addiction. Mr. Turner has contacted the Tennessee Professional Assistance Program (TNPAP) and undergone an evaluation. Based upon TNPAP's recommendations, Mr. Turner entered treatment at Talbot Recovery Campus in Atlanta, Georgia on May 26, 2010. Mr. Turner was indicted in Warren County, Tennessee on November 13, 2009 and also has criminal charges pending in Rutherford County, Tennessee. The charges in both counties relate to incidents arising from Mr. Turner's addiction to Oxycontin. The Consent Order stipulated that Mr. Turner's physician assistant license be suspended for a period of not less than one hundred and eighty (180) days followed by five year probation after an Order of Compliance is granted. Mr. Turner must enter into a five year monitoring contract with TNPAP and maintain 100% compliance. Mr. Turner must attend the Case Western record keeping and prescribing courses within twelve months of the effective date of the Order. Dr. Zanolli felt that Mr. Turner's DEA certificate should be surrendered. Dr. Rosen had reservations and Dr. Ali suggested making changes before accepting the order. Dr. Beckford made a motion to accept the order with amendments and Dr. Zanolli seconded the motion. Mr. Bozarth informed the Board that the Order will go back before the PA Committee in October, 2010 and the Board agrees. Dr. Beckford explained that the order should be accepted as issued because not accepting the order will delay taking action against Mr. Turner's license. Dr. Higdon seconded the motion. Dr. Baron and Ms. Franklin opposed. The motion passed.

Howard B. McNeely, MD-Dr. Neely was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. For a period of time between 2004 and 2009, Dr. McNeely prescribed controlled medications to family members. The case came before the screening panel. Dr. McNeely has completed the Case Western course on "Recordkeeping" and the Vanderbilt course on "Prescribing Controlled Drugs" and the Case Western course on "Medical Ethics, Boundaries and Professionalism". The Consent Order stipulated that Dr. McNeely's medical license is hereby reprimanded and does not condition or restrict the license. Dr. McNeely must pay all costs associated with the case. Dr. Lovelady recused himself. Dr. Beckford made a motion to accept the Consent Order and Dr. Higdon seconded the motion. The motion passed.

Edward M. Baylor, MD-Dr. Baylor was not present but represented by Mr. C.J. Gideon. Ms. Sara Whitehead represented the State. From January 2009 until September 2009, Dr.

Baylor continued several of his patients on regular doses of antibiotics and narcotics cough syrup for months. Repetition of essentially the same findings on physical examination, combined with the absence of diagnostic and laboratory tests with the exception of repeated rapid strep tests, raises questions regarding the propriety of the diagnoses and the therapeutic plans followed for several patients. Mr. Gideon spoke on behalf of Dr. Baylor and stated that Dr. Baylor stopped prescribing on his own. The Consent Order stipulated that Dr. Baylor's medical license is hereby reprimanded. For the next five (5) years, in addition to the continuing education courses required each year to maintain his medical license, Dr. Baylor shall complete an additional ten (10) hours of American Medical Association Type I Continuing Medical Education in the area of Family Practice and submit proof of completion to the Disciplinary Coordinator. Ms. Franklin made a motion to accept the Order and Dr. Higdon seconded the motion. The motion passes.

Jan Allen DeWitt, MD-Dr. DeWitt was not present nor represented by legal counsel. Ms. Mona Jean-Baptist represented the State. Dr. DeWitt was disciplined by the Kentucky Board of Medical Licensure on March 14, 2007 and October 12, 2007 for failing to obtain the prescribed continuing medical education credits for the cycle. The Consent Order stipulated that Dr. DeWitt's Tennessee medical license be reprimanded. Dr. DeWitt must pay all costs associated with the prosecution of the case. Ms. Webster made a motion to accept the Order and Ms. Franklin seconded the motion. The motion passed.

Thomas C. Thompson, MD-Dr. Thompson was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On May 21, 2009, and June 8, 2009, Dr. Thompson failed to timely provide the medical records of two patients respectively, after requests made by both the patients and the Department of Health. The Consent Order stipulated that Dr. Thompson's medical license be reprimanded. Dr. Thompson must pay all costs associated with the prosecution of the case. Ms. Franklin made a motion to accept the Order and Ms. Webster seconded the motion. The motion passed.

William H. Hughes, MD-Dr. Hughes was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On October 25, 2006, Dr. Hughes was found guilty of bank fraud in the United States District Court, Middle District of Tennessee. Dr. Hughes was sentenced to one day's imprisonment followed by five (5) years of supervised release. Dr. Hughes' sentence was reversed and a subsequent sentencing hearing was held in February 2009. Pursuant to his conviction, Dr. Hughes was then sentenced to fourteen (14) months' imprisonment and three (3) years of supervised release. Dr. Hughes appealed that sentence however; it was upheld and reaffirmed on March 22, 2010. The Consent Order stipulated that Dr. Hughes' medical license is hereby revoked for a period of not less than one (1) year from effective date of the Order. Dr. Hughes must pay all costs in the amount of one thousand dollars (\$1,000.00).

Ken Berry, MD-Dr. Berry was neither present nor represented by legal counsel. Mr.

Shiva Bozarth represented the State. Dr. Ali recused himself. From September 10, 2009 until April 10, 2010, Dr. Berry has advertised in newspapers, as well as his Facebook page, that he utilizes products known as MIC and MIC Ultra. Dr. Berry makes statements regarding the efficacy and superiority of his services and products that he is unable to substantiate. The Consent Order stipulated that Dr. Berry's medical license is hereby reprimanded. Dr. Berry is assessed fifteen (15) Type B civil penalties in the amount of five hundred dollars (\$500.00) for a total of seven thousand five hundred dollars (\$7,500.00) representing fifteen (15) violations of law and pay all costs associated with the prosecution of the case. Ms. Franklin made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.

Cyrus Erickson, MD-Dr. Erickson was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Baron recused himself. Dr. Erickson has a substance abuse problem that prevents him from safely practicing medicine. Dr. Erickson prescribed controlled substances to patients and others so that they would give him portions of the prescriptions for his personal use. The Consent Order stipulated that Dr. Erickson's license is hereby immediately suspended for a period of not less than ninety (90) days from the date of the Order. Prior to obtaining an Order of Compliance, Dr. Erickson must obtain and maintain the advocacy of the Tennessee Medical Foundation (TMF) for a period of not less than ninety (90) days. Dr. Erickson must enter into a monitoring agreement with the TMF for a period of not less than five (5) years from the date of the Order, have TMF issue quarterly reports to the Board's consultant and maintain 100% compliance with his TMF contract. Dr. Ali had reservations and felt the penalties were insufficient given the nature of DR. Erickson's conduct. Ms. Franklin and Dr. Lovelady agreed. Mr. Mike Todd with the TMF explained the actions of Dr. Erickson and his treatment. After further discussion, Ms. Franklin made a motion to accept the Consent Order and Dr. Lovelady seconded the motion. The motion passed.

John W. Bacon, MD-Dr. Bacon was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Bacon prescribed controlled medications to twenty five (25) patients without conducting appropriate patient histories and physical examinations. Dr. Bacon prescribed controlled medications to twenty five (25) patients who did not have diagnosis justifying the prescriptions for the duration or amounts prescribed and did not take adequate steps to ensure medications were not abused or diverted to illegal purposes. Dr. Bacon has successfully completed course at Case Western Reserve University and Vanderbilt University. The Consent Order stipulated that Dr. Bacon's license is hereby immediately placed on probation for a period of not less than five (5) years and until all requirements have been completed. Dr. Bacon must pay twenty five thousand dollars (\$25,000.00) in civil penalties and costs. Ms. Webster made a motion to accept the Order and Dr. Zanolli seconded the motion. The motion passed.

Agreed Orders

John J. Tasker, MD-Dr. Tasker was present and represented by Mr. John Bingham. Mr. David Himmelreich represented the State. In August 2007, Dr. Roger Cicala reviewed a

non-random sample of eighteen (18) patient charts on patients seen by Dr. Tasker at Holston Regional Comprehensive Medicine between 2002 and 2007. In Dr. Cicala's opinion, all eighteen patient charts show that Dr. Tasker discuss the risks and benefits of opiate use with his patients, obtained appropriate informed consent and written agreements for such use, obtained samples for urine drug screens, had the patients return to the office at appropriate intervals and maintained accurate records of the types and amounts of controlled substances prescribed. Dr. Cicala concluded that fifteen (15) of the charts showed that Dr. Tasker prescribed controlled substances for pain without complying with one or more of the requirements of the applicable statutes, rules, and standards of accepted medical practice. The Agreed Order stipulated that Dr. Tasker's medical license shall be placed on probation for a period of five (5) years from the date of the Order. Dr. Tasker shall pay civil penalties in the amount of seven thousand five hundred dollars (\$7,500.00). This total consists of one five hundred dollar (\$500) Type A civil penalty for each of the fifteen patient records found, upon review of a non-random sample of records, to show overprescribing. Dr. Tasker must attend and complete the course entitled "Medical Record Keeping" at Case Western Reserve University in Cleveland, Ohio, enter into a monitoring contract with Affiliated Monitors and submit quarterly chart reviews. Dr. Ali made a motion to accept the Agreed Order and Dr. Higdon seconded the motion. The motion passed.

Bruce Howard Marko, MD-Dr. Marko was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On November 20, 2009, Dr. Marko entered into a consent order before the North Carolina Medical Board suspending his license for twelve (12) months as a result of a finding of unprofessional conduct flowing from a fee-splitting arrangement with a non-medical entity. The North Carolina Medical Board stayed Dr. Marko's suspension as a result of his fulfillment of certain conditions imposed by the Board at the time of suspension. The Agreed Order stipulated that Dr. Marko's Tennessee medical license is hereby reprimanded and he must pay all costs associated with the prosecution of the case. Dr. Lovelady made a motion to accept the Order and Ms. Franklin seconded the motion. The motion passed.

Jack Kenneth Gray, Jr., MD-Dr. Gray was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. On December 18, 2007, the Florida Board of Medicine entered a Final Order accepting Dr. Gray's Voluntary Relinquishment of his Florida medical license and is prohibited from reapplying for licensure in the state of Florida. The action was taken because of allegations that Dr. Gray had failed to practice medicine within the standard of care, prescribed or dispensed other than in the course of professional practice and failed to keep legible records that justify the course of treatment. The Agreed Order stipulated that Dr. Gray voluntarily surrender his Tennessee medical license and pay costs. Dr. Zanolli made a motion to accept the Order and Ms. Franklin seconded the motion. The motion passed.

Poplar Room

Panel: Mutter, White, Wells

Agreed Order

Settimio Castellani, MD- Dr. Castellani was not present but represented by Mr. Frank Scanlon of the Nashville Bar. Ms. Andrea Huddleston represented the State. On March 23, 2009, during an office visit, Dr. Castellani either coerced a patient to perform oral sex on him or engaged in consensual sex with the patient. Dr. Castellani admitted to law enforcement investigators that he had engaged in oral sex with the patient and that he had had other patients perform sexual favors for him. July 2009, Dr. Castellani's medical license was summarily suspended. The proposed Agreed Order stipulated that Dr. Castellani's license is permanently revoked. Dr. Mutter made a motion to accept the Agreed Order and Ms. Wells seconded the motion. The motion passed.

Consent Orders

Clarence Jones, MD-Dr. Jones was not present but represented by legal counsel, Ms. Lisa Flowers. Ms. Andrea Huddleston represented the State. The Order was previously rejected and is bringing the Order back before the panel with added stipulations. A review of patient charts from 2007 to 2009 showed prescribing of controlled substances without sufficient clinical indication. A subsequent review of charts from 2009 to present demonstrated that Dr. Jones had dismissed approximately 75 patients and had instituted remedial measures such as urine drug screens, pill counts and regular monitoring of the Controlled Substance Monitoring Database. The proposed Consent Order stipulated that Dr. Jones' license be placed on probation for 5 years and he must complete prescribing and record-keeping courses. Dr. Jones must pay all costs associated with the case. Dr. Mutter made a motion to accept the Consent Order and Ms. Wells seconded the motion. The motion passed.

Kent Grotefendt, MD-Dr. Grotefendt was present and represented by legal counsel. Ms. Andrea Huddleston represented the State. Dr. Mutter recused himself and was replaced on the panel by Dr. Zanolli. The Order was rejected by the Board at its last meeting and was being brought back with added stipulations and changes. A review of patient charts from 2004 to 2006 showed prescribing of controlled substances with inadequate histories to justify the amounts prescribed. Between December 2009 and July 2010, Dr. Grotefendt voluntarily attended prescribing and record-keeping courses. A subsequent review of charts from December 2009 to present demonstrated that Dr. Grotefendt had made improvements in his documentation and histories, had dismissed some patients, referred others to pain management clinics and had begun weaning other patients down off their controlled dosages. The proposed Consent Order stipulated that Dr. Grotefendt's license be placed on probation for five years. Dr. Grotefendt must enter into controlled substance monitoring through Affiliated Monitors with only review and quarterly reports for the first year of probation, then quarterly review and bi-annual reports for the remainder. Dr. Grotefendt must pay \$1,000 in civil penalties and costs. Dr. Zanolli made a motion to accept the Consent Order and Ms. Wells seconded the motion. The motion

passed.

Contested Case Hearing

Larry Rowden- Mr. Rowden was present and was represented by legal counsel, Mr. Frank Scanlon. Ms. Andrea Huddleston represented the State. The Honorable Lyn England, Administrative Law Judge presided. The final Order of June 11, 2007 was handed to the panel for review. The panel was asked to clarify the civil penalties, the type, and the amount and to deliberate solely on civil penalties. The panel deliberated. Dr. Mutter made a motion to assess 12,710 Type A civil penalties at \$500 for a total of \$6,355.00 and Ms. Wells seconded the motion. The motion passed. The panel reviewed and accepted the Finding of Facts.

Adjourned 7:05 p.m.

These minutes were ratified by the Board of Medical Examiners November 16, 2010.