

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

July 21 and 22, 2009

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

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.

After Dr. Mutter welcomed the new board member, Ms. Monica Franklin to the Board, Mr. Shiva Bozarth reviewed the Conflict of Interest Statement.

Minutes

Minutes from the following meetings were reviewed by the Board: May 19 and 20, 2009 meeting; June 12, 2009 Teleconference called to ratify the actions taken by the PA Committee regarding Tamper Resistant Prescription Pads; June 8, 2009 Summary Suspension in the matter of Settimio U. Castellani, MD; and June 14, 2009 informal hearing in of Castellani, MD. Dr. Zanolli made an amendment to the May 19, 2009 minutes to include language reflecting the fact that the Board revoked the medical license of David Taylor, MD. Dr. Ali made a motion to approve the minutes as amended and Dr. Rosen 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 Genetic Counselors were reviewed. Dr. Ali made a motion to ratify the approvals and Dr. Rosen seconded the motion. The motion passed.

The Board reviewed the documents relative to the application for certification as an Office Based Surgery Suite of Gilmer Plastic Surgery-Ronald Gilmer, MD. Dr. Ali made a motion to approve Gilmer Plastic Surgery and Dr. Zanolli seconded the motion. The motion passed.

New Applicant Interviews

Mark W. Browne, MD-Dr. Browne is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Browne's application file for the Board. Dr. Brown had not seen patients since 2002. Dr. Brown requested an administrative license. Dr. Ali made a motion to grant Dr. Browne an administrative license with no clinical practice and Dr. Beckford seconded the motion. The motion passed.

Heather Swartz, MDX-Ms. Swartz is applying for a medical x-ray operator license in Tennessee. Dr. Arnold reviewed Ms. Swartz's application file for the Board. Ms. Swartz was accused of theft from a business where she was employed. She was placed on a lengthy probation to afford her an opportunity to repay the money. She was not adjudged to be convicted. Dr. Beckford made a motion to grant a license to Ms. Swartz and Dr. White seconded the motion. Ms. Franklin opposed. The motion passed.

Berry A. Campbell, MD-Dr. Campbell is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Campbell's application file for the Board. Dr. Campbell had boundary violations on two occasions: first with a patient and a second occasion with a colleague. The conduct led to his license being disciplined by the Kentucky Board of Medical Licensure. Dr. Campbell has a contract with the Kentucky Medical Foundation and informed the Board that he has been in contact with the Tennessee Medical Foundation. The Board asked several questions regarding the boundary violations. Dr. Rosen made a motion to grant Dr. Campbell a license contingent on a favorable recommendation from the Tennessee Medical Foundation and Dr. Beckford seconded the motion. Ms. Franklin and Ms. Wells opposed. The motion passed.

Reinstatement Interviews

Charles A. Moore, MD-Dr. Moore is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Moore's application file for the Board. Dr. Moore had issues of substance abuse and his Kentucky license was placed on probation for five (5) years. Dr. Moore explained that he has been in recovery for nineteen (19) years. Dr. Arnold informed the Board that Dr. Moore did not need advocacy of the Tennessee Medical Foundation. Dr. Beckford made a motion to grant Dr. Moore reinstatement of his license and Dr. White seconded the motion. The motion passed.

John C. Ring, MD-Dr. Ring was not present. Dr. Arnold explained that Dr. Ring has not been in a clinical practice in 4-5 years. The Board suggests closing the file after the application deadline of August 21, 2009 if there has not been any contact from Dr. Ring.

Deidre Bloom Sumida, MD-Dr. Sumida is applying for reinstatement of her medical license in Tennessee. Dr. Arnold reviewed Dr. Sumida's application file for the Board. Dr. Sumida has had no patient care in approximately 8-10 years. Dr. Sumida appeared before the Board previously and was required to complete a CPEP evaluation. Instead, Dr. Sumida completed eighty (80) hours under the supervision of Dr. Burton, a

pediatrician that practices in Chattanooga, Tennessee. Dr. Sumida informed the Board that she has renewed her Board certification which is valid until 2014. Dr. Burton addressed the Board and described Dr. Sumida's patient skills as very good. Dr. Zanolli made a motion to grant Dr. Sumida reinstatement of her medical license and Dr. White seconded the motion. The motion passed.

Discussion

Ms. Alison Cleaves, Deputy General Counsel addressed the Board for the purpose of conducting a rulemaking hearing. The rulemaking hearing regarding Tamper Resistant Prescription Pads began at 9:00 a.m.

Mr. Yarnell Beatty, Director of Legal and Government Affairs' Division of the Tennessee Medical Association was recognized to present a comment to the Tamper Resistant Prescription Pads. The TMA's comments were relative to three provision of the proposed rule, and are set forth below:

"First, it is TMA's position that "the proposed rules contain a drafting error in the definition section. The definition of "prescriber" in section (2) (b) includes reference to "advanced practice nurse with a certificate of fitness to prescribe". The reference should instead be to "nurse practitioner with a certificate of fitness to prescribe". It is true that nurse practitioners are advanced practice nurses; one of a subset of four identified in statute: nurse practitioner, nurse anesthetist, nurse midwife, and clinical nurse specialist. See TCA 63-7-126(a). However, the General assembly has only given the nurse practitioner subset of advance practice nurses the authority to obtain a certificate of fitness to prescribe. See TCA 63-7-123, the statute in the nursing practice act giving a limited category of nurse the authority to prescribe, does not use the definition "advance practice nurse" but limits prescribing authority to "nurse practitioner". The General Assembly could have given all four categories of advance practice nurse the authority to prescribe simply by using the term "advance practice nurse" but did not do so when it amended TCA 63-7-123(a). It stayed with the term "nurse practitioner". You will agree the terms are not necessarily synonymous and in order to carry out the intent of the General Assembly the prescribing authority for nurses should be limited to nurse practitioners with a certificate of fitness to prescribe. Therefore, in order to avoid misrepresentation and confusion by the public and to pharmacists who might fill prescriptions from nurse practitioners, and to implement the obvious intent of the General Assembly, the reference to "advanced practice nurse with a certificate of fitness to prescribe" should be replaced with "nurse practitioner with certificate of fitness to prescribe "in this and in all of the tamper proof prescription paper rules."

"Second, proposed rules (5) (a) (2) and (5) (b) (2) require the prescriber or someone designated by the prescriber to document in the file the method by which the prescription is transmitted to the pharmacy (fax or electronic). The problem with these provisions is that often at the time the prescription is written the person documenting the prescription has no idea *how* the prescription will be transmitted to the pharmacy and it may be difficult to follow up with an entry in the patient chart. Medical practices have different

work flows that would make such documentation onerous on the practice with little or no benefit to the patient. The following example is illustrative.

Say for instance a patient receives a handwritten prescription in the exam room by the prescriber. The prescription is written on tamper-proof prescription paper because it is anticipated that the patient will carry it to a pharmacy to fill it. At checkout, the patient decides she wants to have the prescription faxed to her pharmacy so she can pick it up on her way home from work. By rule, the prescription cannot be faxed if it is on tamper-proof paper. So, the practice workflow has to be interrupted and a new prescription written on non-tamper-proof paper or the office has to inconvenience the patient by refusing to fax the prescription. If the patient is accommodated, a staff person has to locate the file in order to enter the fact that the prescription was faxed instead of given to the patient.”

Any time the prescription form has to be changed away from the location of the patient chart, it will cause disruption in the practice’s work flow. Staff should not have to chase the patient file down just to enter how the prescription was transmitted. *How* the prescription is transmitted is irrelevant to the patient as long as the drug, dosage, etc. is entered in the chart. The rule should conform to how medical offices operate; until all prescriptions are transmitted by electronic means, this requirement will be an administrative burden on medical offices. So, we propose that those proposed revisions be amended as follows to delete the *requirement* (it can still be recommended) that the transmission method is documented to read as follows:

Section (5) (a) (2):

If a prescriber transmits a prescription order to a pharmacy by facsimile transmission, the prescriber or someone designated by the prescriber shall document in the patient's medical record the name of the drug, strength, and quantity prescribed, ~~and the method by which the prescription has been transmitted.~~ The prescriber may, but is not required to, document the means by which the prescription was transmitted.

Section (5) (b) (2):

If a prescriber transmits a prescription order to a pharmacy by electronic transmission, the prescriber shall document ~~that the prescription was transmitted electronically~~ in the patient's file and in accordance with the applicable laws and rules for each of the prescribers' respective professions as well as applicable federal laws and rules. The prescriber may, but is not required to, document the means by which the prescription was transmitted.”

After consideration, the Board voted to reject comment number one opting for the broader term “advanced practice nurse with a certification to prescribe” as defined

in the proposed rule. However, the Board voted to accept the comments relative to Section (5) (a) (2) and (5) (b) (2).

The Board discussed the Tennessee Foundation for Quality Patient Healthcare (TFQPH) request that the new prescribing course entitled, “Are You Smarter Than a Drug Seeker?” be approved to fulfill the requirements that at least one CME hour be dedicated to prescribing practices. Dr. Ali made a motion to approve the course and Dr. Rosen seconded the motion. The motion passed. Mr. Beatty informed the Board that the course will be available on the internet soon.

Dr. White gave a brief update on the July 20, 2009 Development Committee meeting regarding recent legislation in 3 states that require the registration of pain management clinics. Legislation has been passed in Louisiana, Florida and Texas requiring pain clinics to register with the state and be inspected once a year. Dr. White stated that Tennessee is one of the highest states for prescription drugs and that guidelines need to be set and standards followed in regards to pain management practices. Dr. Zanolli had reservations creating a rule change and stated that the Board should be thoughtful in regards to approaching the subject. Gary Zeilzer addressed the Board and described TMA’s role in the legislative process. The Board discussed pulling together interested stakeholders to gather ideas and recommendations regarding pain management. Dr. Higdon agreed to be the point person for the Medical Board. The Board asked Ms. Otto if she would contact one person from Boards affected by this type of legislation to see if they would be interested in participating in a stakeholder discussion on the subject. She indicated she would and report back to the Board on her progress.

Mr. Bozarth requested another case be brought before the Board through the Administrative Law Judge (ALJ) process. Mr. Bozarth informed the Board that the case involved boundary issues and there would be witnesses and video tapes. Dr. White made a motion to approve the case and Dr. Zanolli seconded the motion. The motion passed.

Dr. White made a motion to extend the pilot project for another year to finish the last nineteen (19) cases. Dr. Rosen seconded the motion. The motion passed.

The Board discussed Public Chapter 421 regarding Polysomnography. Mr. Bozarth gave a brief overview from the meeting of the Board of Respiratory Care. Mr. Bozarth informed the Board of the Third Pathway Taskforce and asked if the Board would be interested in delegating one member to serve on the Committee. Dr. Lovelady, a diplomate in sleep medicine, agreed to serve on the Committee.

Ms. Otto reviewed Joel Herring’s Limited Scope X-Ray Pass Rate Report and informed the Board that High Tech of Nashville and Memphis have improved their scores. Ms. Kathy McLaren, representative from High Tech /Memphis addressed the Board. Ms. McLaren informed the Board that their scores improved because they concentrated on one area at a time and credit was given to Ms. Desiree Bass, Program Director. Ms.

McLaren asked the Board to removed High Tech from probation. Dr. White made a motion to remove High Tech from probation and Dr. Beckford seconded the motion. The motion passed.

The Board discussed the letter from Select Medical Corporation regarding their procedures relative to blood and body fluid exposures. Ms. Otto asked the Board to review the letter closely and give suggestions on how to respond. The Board stated that no clarification was needed. Dr. Mutter stated that he did not think it was a Medical Board issue. Dr. Ali agreed that it is not an issue that the Board needed to address. No action was taken on the letter.

Ms. Otto reviewed the report from the Board of Pharmacy regarding the Controlled Substance Database. The most commonly prescribed controlled substances were, in descending order, as follows:

1. Hydrocodone
2. Alprazolam
3. Oxycodone
4. Codeine
5. Lorazepam
6. Propoxyphene
7. Ambien/Zolpidem
8. Diazepam
9. Morphine

Dr. Zanolli gave a brief report on the Federation of State Medical Boards' annual meeting which was held April 30- May 2, 2009 in Washington, DC. Dr. Zanolli reviewed four controversial and difficult issues discussed at the meeting which included:

1. The Nurse Doctor;
2. Maintenance of licensure/certification as evidence of continuing competency;
3. Med Spas regulation; and
4. International Medical Schools.

Dr. Zanolli recommended that a board member go to the next meeting in Chicago, Illinois. He also informed members that Donald Polk, DO, who is a member of the Board of Osteopathic Examinations, expressed an interest in the Board of Directors position for the FSMB. Dr. Zanolli asked members to give Dr. Polk their unequivocal support.

Ms. Otto asked the Board to appoint a fourth member to the Office Based Surgery Committee. Dr. Beckford agreed to serve on the Committee.

Reports

Budget Report

The Budget report, which reflects a \$108, 302.81 adjusted cumulative carryover as of June 30, 2008, was reviewed by the Board. Ms. Otto informed members that the budget remains the same but there should be a new report by the next meeting.

Statistical Report from Administrative Office

The Board reviewed the report from the Administrative Office. Dr. White suggested a report that would give a breakdown by specialty. Ms. Arnold stated that she will have a report of the breakdown of active licensees by specialty at the next meeting.

Investigative Report

The report was reviewed by Ms. Denise Moran, Director of the Office of Investigations.

Disciplinary Report

The report was reviewed by Ms. Juanita Stone. Ms. Stone reviewed the list of physicians who have been removed from monitoring.

OGC Report

Mr. Bozarth introduced Ms. Ashley Carter, Mr. David Hemingwright and Mr. Ben Mezzer, attorneys with the Office of General Counsel.

Mr. Bozarth reviewed his report for the Board and stated that there were no rules pending at this time. The Board requested for the next meeting, a report that breakdowns the number of cases in OGC and how long they had been there.

CME Audit Office regarding compliance with CME requirements

Ms. Otto reviewed the report for the Board. Ms. Otto presented a report to the Board which compared CME compliance among the various health- related boards. Dispensing Opticians and Physician Assistants led with 100% compliance while Message Therapists had the lowest compliance rate at 64%. Physicians in the state are compliant at a rate of 85%.

Orders of Compliance

Charles D. Morgan, MD-Dr. Morgan was present but not represented by legal counsel. Mr. Shiva Bozarth represented the State. From October, 2001 to October, 2002, Dr. Morgan wrote twenty (20) prescriptions, prescribing two thousand seven hundred (2,700) tablets of Oxycontin (80 mg), twenty (20) tablets of Dilaudid (4 mg), and ninety (90) tablets of Percocet to a patient. During an interview with a Department of Health Investigator on January 10, 2003, Dr. Morgan admitted that the patient was his girlfriend and that he did not maintain a medical record for her and further admitted that he was

aware that this constituted a conflict of interest. As of January 10, 2003, Dr. Morgan had been treating the patient for approximately two years and had been in a romantic relationship with her for about eighteen (18) months. Although Dr. Morgan claimed to have attempted to reduce her medication below the level as stated and send her to another doctor, she refused and he did not persist because of his relationship with her. The Board ordered Dr. Morgan's medical license be placed on probation for five (5) years, attend the three day course entitled "*Prescribing Controlled Drugs*", at the Center for Professional Health at Vanderbilt University Medical Center in Nashville, Tennessee, attend the three day course entitled, "*Maintaining the Proper Boundaries*" at Vanderbilt University Medical Center and create and maintain accurate records on all patients. Mr. Bozarth informed the Board that Dr. Morgan has met all the requirements as set by the Board. Dr. Zanolli made a motion to accept the Order of Compliance and Dr. Rosen seconded the motion. The motion passed.

Poplar Room

Panel: Ali, Rosen, Franklin, Lovelady, Higdon

Consent Orders

David Larsen, MD-Dr. Larson was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. Dr. Larsen prescribed controlled medications to multiple patients without obtaining sufficient medical history, physical examinations and/or diagnostic testing to justify the prescriptions he wrote. Dr. Larsen failed to appropriately monitor many of these patients to determine that they were not abusing the medications he prescribed. The Consent Order stipulated that Dr. Larsen be placed on probation for a period of not less than five (5) years. Dr. Larsen must enroll in and successfully complete the medical course entitled "Intensive Course in Medical Record Keeping" offered at The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio. Dr. Larsen shall be assessed eight (8) Type A civil penalties in the amount of five hundred dollars (\$500.00) each, for a total amount of four thousand dollars (\$4,000.00). Dr. Rosen made a motion to accept the Consent Order and Ms. Franklin seconded the motion. The motion passed.

Christine Evans, MD-Dr. Evans was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. In 2004, Dr. Evans began seeing Dr. Fred King for wrist and shoulder pain. Dr. King treated Dr. Evans for approximately a year and a half, during which time Dr. Evans became addicted to Hydrocodone. Dr. Evans worked as a physician at Caballero Family Healthcare Group from June 2005 until October 2006. Dr. Evans admitted that she probably did take Hydrocodone while at work. In May, 2007, Dr. Evans signed a contract with the Tennessee Medical Foundation. On May 8 and June 2, 2008, Dr. Evans had a prescription for 30 Hydrocodone Bitartrate and Acetaminophen tablets 500mg/5mg. On May 27, 2009, Dr. Evans was admitted to Bradford Health Services after a relapse on alcohol. On June 4, 2009 Dr. Evans

completed an evaluation in the Healthcare Professional Program at Bradford Health Services and began a twelve (12) week residential chemical dependency treatment program. The Consent Order stipulated that Dr. Evans' license be placed on probation for a period of not less than five (5) years. Dr. Evans must obtain the advocacy of the Tennessee Medical Foundation for a period of not less than five (5) years, submit quarterly reports to the Board's Consultant and maintain one hundred percent (100%) compliance with the contract. Dr. Evans shall pay three Type A civil penalties in the amount of one thousand dollars (\$1,000.00) for a total amount of three thousand dollars (\$3,000.00). Dr. Lovelady made a motion to accept the Consent Order and Ms. Franklin seconded the motion. The motion passed.

William Shippen, MD-Dr. Shippen was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. On July 13, 2004, Dr. Shippen entered into a five (5) year contract with the Tennessee Medical Foundation. On July 25, 2006, the Board placed Dr. Shippen's license on probation after his behavior towards an emergency room patient was found to be unprofessional. Dr. Shippen's probation was ordered to run concurrent with his TMF contract. While Dr. Shippen was on probation in 2008, the Department of Health mailed him a Notice of Audit letter, requesting proof of compliance documentation for continuing education requirements for the calendar years 2006 and 2007. On August 26, 2008, Dr. Shippen was mailed another letter from the Director of the Compliance Unit for Health Related Boards, informing him that the necessary documentation had not been received. On September 15, 2008, Dr. Shippen sent documentation to the Department of Health that showed continuing education hours for 2008, but no continuing education hours for 2006 or 2007. Dr. Shippen failed to produce any documentation of continuing education hours for the years 2006 and 2007. The Consent Order stipulated that Dr. Shippen's license be reprimanded. In addition to the yearly continuing education courses required each year to maintain his license to practice medicine in Tennessee, Dr. Shippen must complete an additional forty (40) hours of continuing education to be submitted within one hundred and eighty (180) days from effective date of the Order. Dr. Shippen shall complete an additional ten (10) continuing education hours within two (2) years from the effective date of the Order. Dr. Shippen shall pay forty (40) Type B civil penalties in the amount of one hundred dollars (\$100.00) each, for a total amount of four thousand dollars (\$4,000.00) payable within sixty (60) days from the effective date of the Order. Dr. Rosen made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.

James H. Hudson, MD-Dr. Hudson was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. On or about March 10, 2009 Dr. Hudson became angry with a patient and more than once called him a "jerk." On or about March 30, 2009, Dr. Hudson became angry with another patient and more than once called her "an asshole." The Consent Order stipulated that Dr. Hudson's license be reprimanded. Dr. Hudson must enroll in and successfully complete within sixty (60) days of the Order, the medical course entitled "*Physician Universal Leadership Skills Education*" ("PULSE") offered at Physicians Development Program located in Miami, Florida. Dr. Hudson must complete all phases of the PULSE evaluation and training. Dr. Hudson shall pay all costs associated with the prosecution of the case. Ms. Franklin made a

motion to accept the Consent Order and Dr. Lovelady seconded the motion. The motion passed.

Carl Recine, MD-Dr. Recine was not present nor represented by legal counsel. Ms. Sara Whitehead represented the State. Following settlement of a disputed insurance claim, the Colorado State Board of Medical Examiners issued a letter of admonition to Dr. Recine on or about December 14, 2006; the North Carolina Medical Board issued a public letter of concern to Dr. Recine on or about May 16, 2007 and the Medical Board of California issued a public letter or reprimand on or about November 2, 2007. On or about March 13, 2009 the Hawaii Medical Board reprimanded Dr. Recine's medical license because he failed to report all of these allegations to the Hawaii Board within thirty (30) days as required by law. The Consent Order stipulated that Dr. Recine's Tennessee medical license be reprimanded and he must pay all costs associated with prosecuting the case. Dr. Lovelady made a motion to accept the Consent Order and Dr. Rosen seconded the motion. The motion passed.

Iris Room

Panel: Beckford, Webster, Mutter, White, Wells, Zanolli

Consent Orders

Robert B. Hashemiyoan, MD-Dr. Hashemiyoan was not present nor represented by legal counsel. Ms. Andrea Huddleston represented the State. On May 30, 2008, a Decision and Order was entered before the Medical Board of California adopting a Stipulated Settlement and Disciplinary Order. Between January 14, 2002 and January 23, 2002, Dr. Hashemiyoan prescribed dangerous drugs to patients over the internet and spoke to the patients over the telephone but never examined the patients in person. Dr. Hashemiyoan's California medical license was reprimanded and he was fined sixty-five hundred dollars (\$6,500.00) and ordered to attend a medical record keeping course and prescribing course. Dr. Hashemiyoan has provided proof of compliance with all terms of the California Board Order. Dr. Hashemiyoan has prescribed Ambien to a Tennessee patient without benefit of an in-person examination as required by the rules of the Tennessee Board of Medical Examiners. The Consent Order stipulated that Dr. Hashemiyoan's license be reprimanded based on the Disciplinary Order issued in the state of California. Dr. Hashemiyoan must pay two (2) Type A civil penalties in the amount of five-hundred dollars (\$500.00) each, for a total penalty of one-thousand dollars (\$1,000.00). Ms. Huddleston informed the Board that Dr. Hashemiyoan retired his Tennessee medical license prior to the hearing. Dr. White made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.

Andrew J. Hanly, MD-Dr. Hanley was not present nor represented by legal counsel. Ms. Andrea Huddleston represented the State. On February 3, 2008, Dr. Hanley's license to practice medicine was reprimanded by the North Carolina Medical Board as a result of a licensure denial by the State of Alaska due to his failure to disclose certain requested

information on his application for licensure, resulting in a denial of licensure. On November 6, 2008, Dr. Hanley's license to practice medicine was censured and reprimanded by the New York State Board for Professional Medical Conduct for being denied licensure by the State of Alaska as a result of his failure to disclose certain requested information on his application for licensure, resulting in a denial of licensure. On or about June 6, 2009, the Florida Board of Medicine issued a "Letter of Concern" and imposed a one thousand dollar (\$1,000.00) on Dr. Hanley as a result of his licensure denial by the State of Alaska. The Consent Order stipulated that Dr. Hanley's license be reprimanded and pay all costs associated with prosecuting the case. Dr. White made a motion to accept the Consent Order and Ms. Webster seconded the motion. The motion passed.

Raja A. Atiyah, MD-Dr. Atiyah was not present nor represented by legal counsel. Ms. Andrea Huddleston represented the State. Dr. Atiyah prescribed narcotic medications, on a limited basis, for himself and members of his staff at ENT Plastic Surgery Group in Lawrenceburg, Tennessee without performing an adequate history and physical examination, diagnostic tests, making a diagnosis or developing a treatment plan. Dr. Atiyah has permitted staff to call prescriptions into pharmacies for patients of his practice and other staff members at ENT Plastic Surgery Group in Lawrenceburg, Tennessee without established written protocols. Upon being made aware of the deficiencies in his practice, Dr. Atiyah took immediate and voluntary remedial action to bring his practice into compliance with the statutes and rules governing the practice of medicine. The Consent Order stipulated that Dr. Atiyah's license be reprimanded. Within twelve (12) months of the Order, Dr. Atiyah shall enroll in and complete the "Prescribing Controlled Drugs" course offered by Vanderbilt University Medical Center, the "Intensive Course in Medical Record Keeping with Individual Preceptorships" offered by the Case Western Reserve University School of Medicine and pay two (2) Type A civil penalties, in the amount of one thousand dollars (\$1,000.00) each, for a total of two thousand dollars (\$2,000.00). Dr. White made a motion to accept the Consent Order and Dr. Zanolli seconded the motion. The motion passed.

Sharon L. Iglehart, MD-Dr. Iglehart was not present nor represented by legal counsel. Ms. Andrea Huddleston represented the State. On or about April 3, 2009, an Agreed Order was entered before the Texas Medical Board in which Dr. Iglehart's license was reprimanded for failure to maintain adequate patient medical records and unprofessional conduct as she submitted distinctly different notes when the Texas Board requested the same patient records from her on two separate occasions. The Consent Order stipulated that Dr. Iglehart's license be reprimanded and she must comply with all conditions of the Texas Agreed Order. Dr. Beckford made a motion to accept the Consent Order and Dr. Zanolli seconded the motion. The motion passed.

Joseph Thomasson, MD-Dr. Thomasson was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Thomasson prescribed cough syrup containing codeine to a patient since 1994 without a legitimate medical basis for the prescription. The Consent Order stipulated that Dr. Thomasson's medical license be reprimanded. Dr. Thomasson must enroll in and successfully complete within twelve

(12) months of the Order, the three (3) day medical course entitled, “Prescribing Controlled Drugs” offered at The Center for Professional Health at Vanderbilt University Medical Center located in Nashville, Tennessee and complete five (5) hours of American Medical Association Type I Continuing Medical Education in the area of Medical Ethics. Dr. White made a motion to accept the Consent Order and Ms. Webster seconded the motion. Ms. Wells opposed. The motion passed.

Andrew W. Wyant, MD-Dr. Wyant was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Wyant provided false information indicating that he was maintaining sobriety when he had in fact had a substance abuse relapse when he applied for his Tennessee medical license. The Consent Order stipulated that Dr. Wyant’s license to practice medicine in Tennessee be permanently surrendered immediately. Ms. Wells made a motion to accept the Consent Order and Ms. Webster seconded the motion. The motion passed.

Ely David Zaslow, MD-Dr. Zaslow was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. On or about February 4, 2009, Dr. Zaslow entered into a stipulation and Consent Order with the State of Vermont Board of Medical Practice reprimanding his Vermont medical license because he had entered into a Consent Order reprimanding his North Carolina medical license. Dr. Zaslow’s North Carolina medical license was placed on probation. On or about May, 2007, Dr. Zaslow, as an independent contractor, provided medical services for a period of three days through Secure Telemedicine, a business corporation located in Miami, Florida that renders medical services in North Carolina, including prescriptions, via telephone conferences between physicians and patients. Dr. Zaslow issued a limited number of prescriptions over a three day period only, including a few prescriptions for controlled substances, for patients without a physical examination and without any prior physician-patient relationship between Dr. Zaslow and the patients that might have permitted, depending on good medical practice, issuing a prescription without a physical examination. Dr. Zaslow denied prescriptions over this three day period to patients seeking medication, referred patients to the Emergency Department or to other providers, issued prescriptions only for chronic conditions for which the patients had prior prescriptions through their primary or other care providers, and Dr. Zaslow did evaluate the patients’ presenting set of symptoms through telephone conference to determine the source of the problem and the need for a particular drug. During May, 2007, Secure Telemedicine, through Dr. Zaslow, rendered medical care in North Carolina to patients and thus, Secure Telemedicine engaged in the unauthorized practice of medicine. Dr. Zaslow also rendered services to CallMD located in Frisco, TX. Call MD, through Dr. Zaslow rendered medical care to patients in North Carolina, and thus CallMD engaged in the unauthorized practice of medicine. The Consent Order stipulated that Dr. Zaslow’s license be placed on probation for not less than sixty (60) days. Dr. Zaslow must enroll and successfully complete the three (3) day course entitled “Prescribing Controlled Drugs” offered at The Center for Professional Health at Vanderbilt University Medical Center located in Nashville, Tennessee. Dr. Zaslow shall not prescribe medication for any person without first physically examining that person, unless such prescription is consistent with the Board’s position statement titled “Contact with Patients before

Prescribing”, shall not split fees with a business corporation or share fees generated from the practice of medicine with a business corporation on a percentage basis. Dr. White made a motion to accept the Consent Order and Ms. Wells seconded the motion. The motion passed.

Michael A. Rhodes, Sr., MD-Dr. Rhodes was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Rhodes prescribed controlled drugs for nine (9) patients without documenting appropriate medical histories or performing adequate physical examinations. Dr. Rhodes prescribed controlled drugs for nine (9) patients that were not medically necessary or for inappropriate durations according to his medical records. The Consent Order stipulated that Dr. Rhodes license be reprimanded. Dr. Rhodes must enroll in and successfully complete within twelve (12) months of the Order, the two (2) day medical course entitled “Medical Ethics, Boundaries and Professionalism” offered at The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio. Dr. Rhodes must enroll in and successfully complete within twelve (12) months of the Order, the three (3) day medical course entitled “Prescribing Controlled Drugs” offered at the Center for Professional Health at Vanderbilt University Medical Center located in Nashville, Tennessee. Dr. Rhodes is assessed nine (9) Type A civil penalties in the amount of one thousand dollars (\$1,000.00) for a total of nine thousand dollars (\$9,000.00). Ms. Franklin made a motion to accept the Consent Order and Ms. Webster seconded the motion. The motion passed.

James W. Adams, II, MD-Dr. Adams was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Adams prescribed numerous controlled medications to himself and family members without maintaining medical records. The Consent Order stipulated that Dr. Adams’ license be reprimanded. Dr. Adams must enroll in and successfully complete within twelve (12) months of the Order, the three (3) day course entitled “Prescribing Controlled Drugs” offered at the Center for Professional Health at Vanderbilt University Medical Center located in Nashville, Tennessee. Dr. Adams is assessed one hundred thirty-nine (139) Type B civil penalties in the amount of one hundred dollars (\$100.00) for a total of thirteen thousand nine hundred dollars (13,900.00). Ms. Webster made a motion to accept the Consent Order and Dr. Higdon seconded the motion. The motion passed.

July 22, 2009

Panel: Rosen, Mutter, Lovelady

Agreed Order

Charles M. Allen, MD-Dr. Allen was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. Between 2003 and 2004, Dr. Allen failed to

perform an appropriate history or a medically appropriate physical examination and/or failed to document such, requisite to justify prescribing or dispensing of narcotics and other medication and controlled substances to several patients. Dr. Allen failed to perform medically appropriate diagnostic tests or obtain appropriate medical consultations and/or failed to document such, requisite for the appropriate initiation and/or continuation of care. Dr. Allen prescribed or otherwise distributed controlled substances to several patients when the quantity, duration and method was such that the persons would likely become addicted to the habit of taking said controlled substances, failed to provide the patient with information about the benefits and risks of narcotics and/or other controlled substances or failed to document such and failed to make a bona fide effort to cure the habit of such persons or failed to document any such effort. The Agreed Order stipulated that Dr. Allen's medical license be voluntarily surrendered and shall have the same effect as a revocation. The costs associated with the prosecution of the case shall be waived. Dr. Lovelady made a motion to accept the Agreed Order and Dr. Rosen seconded the motion. The motion passed.

Contested Case Hearing

Jerome N. Sheridan, MD-Dr. Sheridan was not present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. The Honorable Margaret Robertson, Administrative Law Judge presided. After reviewing documentation of the attempts the State made to contact Dr. Sheridan to inform him of proceedings, Dr. Rosen made a motion to deny Dr. Sheridan's request for a continuance and proceed in default. Dr. Lovelady seconded the motion. The motion passed and the hearing began. Witnesses were sworn in and Ms. Jean-Baptiste gave an opening statement. Since 2003, Dr. Sheridan failed to pay the professional privilege taxes authorized by TENN. CODE ANN. § 67-4-1702(a) (4) (G). Dr. Sheridan's failure to pay the professional privilege taxes constitutes unprofessional conduct pursuant to TENN. CODE ANN. § 63-6-214(b) (1). Ms. Kathy Smith from the Department of Revenue and Ms. Marsha Arnold from Health Related Boards were called as witnesses. After closing statements, the panel deliberated. Dr. Rosen made a motion to accept the Findings of Fact and Dr. Rosen seconded the motion. The motion passed. Dr. Lovelady made a motion to accept the Causes of Action and Dr. Rosen seconded the motion. The motion passed. Dr. Lovelady made a motion to add TCA 67-4-1704 to the Causes of Action and Dr. Rosen seconded the motion. The motion passed. Dr. Rosen made a motion to suspend the license of Dr. Sheridan until all delinquent privilege taxes and penalties to the Tennessee Department of Revenue are paid and to assess costs. Dr. Lovelady seconded the motion. The motion passed. The policy statement was read and adopted to indicate actions taken were to protect the health, safety and welfare of the citizens of the State of Tennessee.

Adjourned

These minutes were ratified by the Board on September 15, 2009.

