

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

September 14, 2010

The meeting was called to order at 8:50 a.m. at the Health Related Boards' Iris Room, 227 French Landing, Ground Floor, Heritage Place Metrocenter, Nashville, Tennessee 37247 by President Dr. Mitchell Mutter. Other members present were: Drs. Barrett Rosen, Keith Lovelady, Neal Beckford, Michael Baron, Subhi Ali, Charles White, Sr., Dennis Higdon, Michael Zanolli, Ms. Regine Webster and Ms. Monica Franklin. Absent member: Ms. Irene Wells.

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

Dr. Mutter explained the circumstances regarding recent flooding of the facility which caused board staff to be out of the office and unable to provide members with interview materials prior to the meeting. Therefore, the Board recessed until 10:30 a.m. to review materials for interviews. After the Board returned, they would take a limited agenda.

Interviews

Syed A. Ali, M.D. - Dr. Ali was board certified in 2007 and was licensed in Florida in 2005 and Texas in 2010. Senate Bill 1552 changed the Board's seven-year rule and now requires the Board to license an applicant who is outside the seven year rule so long as he/she is licensed in good standing in three other jurisdictions. A motion was made by Dr. Beckford to grant the license which was seconded by Ms. Franklin. It was the Board's view that Dr. Ali's qualifications meet or exceed the statute. All members voted in favor of the motion. Following the vote, Ms. David Mills from Vanderbilt apologized to the Board for "acting in haste" last year when he had the Board's statute amended. Dr. Mutter said that the Board did not need an apology but it was appreciated.

Adam A. Allie, M.D. - Dr. Allie appeared briefly because the largest part of his interview was conducted when the Board last met in July 2010. Ms. Webster made a motion to approve to license Dr. Allie which was seconded by Dr. Rosen. All members voted in favor of the motion.

Suzanne Collier, M.D. - Dr. Collier had successfully completed all three steps of the USMLE but is outside the "one point rule," and is here to ask for a waiver of that rule. Ms. Franklin made a motion to grant the waiver which was seconded by Dr. Rosen. Ms. Webster asked for Dr. Arnold's opinion which he was reluctant to give. He stated he did not wish to see continued erosion of the seven year rule, but on the other hand, she is a

life-long resident of Tennessee. Dr. Ali stated that it is logical for the Board to grant her a license. All members voted in favor of the motion.

Kenyetta M. Gordon, M.D.-Dr. Gordon graduated from the University of the Americas which does not meet the Board's requirements for international medical schools. She did pass the USMLE but not all steps on the first attempt and she is not currently board certified. Dr. Gordon is licensed in Arkansas which permits her to sit for her boards. She is contemplating doing an obstetric fellowship and needs a license in Tennessee in order to participate in the fellowship in Tennessee. The non-ACGME approved fellowship is intended to train physicians to perform C-sections. The participants must have completed their family medicine residency before they can participate in the fellowship. Dr. Zanolli discussed with the board the fact that she does not meet any of the requirements for someone from a non-LCME approved medical school to get licensed in Tennessee. Her school was not LCME approved for many reasons including no MCAT requirement. All members of the board are supportive of bringing good doctors in and keeping bad doctors out, but should the Board craft an exception for her that will have a cascade effect on future applicants. Dr. Ali discusses the power of the precedent and he discouraged the board from going down that path. He recommended that she withdraw her application and continue in Arkansas until she gets her board certification and then return to Tennessee. Dr. Beckford concurs; she should withdraw her application and then sit for and pass her boards. He encourages the program in Tennessee to work with her and keep the slot available for her until she passes her boards. There was a discussion regarding granting her a license contingent upon her passing her boards. She would not have to return to appear again before the board. Dr. Zanolli made a motion to grant her a license contingent upon passing her boards and forwarding that information to the medical director. Dr. Ali seconded the motion. All members voted in favor of the motion except Ms. Franklin, who voted no.

Robert J. Grossman, M.D. - Dr. Mutter recused himself and turned the meeting over to Dr. Charles White. Dr. Grossman has not seen patients since 2005. Dr. White took the gavel. Dr. Grossman is a trained cardiologist and participates in peer review and discusses cases with other physicians, but has no doctor to patient contact. An administrative license would work so long as it is not disciplinary in nature. Mr. Bozarth explained that an administrative license is not disciplinary but does result in a databank entry, unfortunately. Dr. Grossman stopped practicing medicine five years ago. He has also had a long hospitalization following an accident. He currently lives in California and works with preventive health programs. He also has a master's degree in public health and has maintained his CMEs. He is on the faculty of UCLA's medical school. He informed the board that he has maintained his medical skills even though he has not had patient contact. He also works with Health Ways here in Nashville. Dr. Ali indicated that there are several problems including his not showing competence in his field of medicine. Dr. Ali indicated that from a medical point of view, he would have problems granting him an active license for both the sake of the doctor and the patient. Dr. Ali made a motion that the Board grant an administrative license to Dr. Grossman instead of a full license. The motion was seconded by Dr. Beckford. There was a discussion about the view that at Dr. Grossman's stage of life and career, an administrative license and a databank entry would not have a negative effect on his

career. Dr. Grossman indicated that he previously asked the California Board of Medicine if an administrative license would be an issue in California and he indicated that the Board said it would not. Following Dr. Grossman's comments, all members voted in favor of the motion.

Okwuolisa A. Ikediobi, M.D.-Dr. Ikediobi is outside the seven year rule. Dr. Mutter resumed the Chair. Dr. Mutter indicated that he could see no reason to grant Dr. Ikediobi a license and asks him to explain his many problems in his residency programs. He went to Michigan to do OB/GYN but made a career change. He also had several family problems that required him to leave his training program to deal with his family issues. He is currently in his third year at Meharry and his wife is a resident as well. He will be able to sit for his family medicine boards in June 2011. He will need a license to do that. He is only four months outside the seven year rule. Dr. Rosen recused himself since Dr. Ikediobi's wife is a resident at Baptist. Dr. Mutter asked for advice from counsel about "wobble room" relative to the seven year rule. Dr. Beckford asked for an explanation from the prior residency training program wherein Dr. Ikediobi was considered to be unsatisfactory and unacceptable in many, many categories. Dr. Ikediobi explained that his family issues were the cause of his poor performance. He indicated that those problems are in the past and he is looking forward. Dr. Beckford responded by saying that while it is good that he has put these things in the past, the board as a body cannot. Dr. Mutter inquired as to whether he would like to withdraw his application at this time to avoid denial. Dr. Mutter said that Dr. Beckford made a very good point when he said that Dr. Ikediobi's record is not good and it is a part of the total package. Dr. Mutter indicated that there is nothing in his application that would compel the board to waive the rule, even if they could. Dr. Ikediobi would like a license and would like further explanation about what he has to do to get a license. Mr. Bozarth indicated that he would have to re-take two steps of the USLME to come into compliance with the seven year rule. Dr. Ikediobi indicated that he was not amendable to doing that and therefore withdrew his application.

Barry J. Politi, M.D. - Dr. Politi wanted a license in Tennessee despite his past problems so he could work in occupational medicine. He was aware that he has some significant past issues but wants to practice medicine in Tennessee. Dr. Mutter questioned not just his missteps, but his ability to be honest about his missteps. He admitted that he definitely "sugar coated" his application in Ohio and that West Virginia permitted him to withdraw his application without any formal denial. Dr. Mutter expressed some concerns and refers to his "sugar coating" as being "not truthful." Dr. Politi discussed his Mississippi license and his monitoring there. He discussed his "situational depression and his ADD" which has caused him some significant problems. He did eventually complete a residency program without significant problems. He has been working in emergency rooms but had not completed an emergency medicine residency. He has worked in occupational medicine, urgent care and a local prison. He works primarily in smaller settings. He has a restricted license in North Carolina currently. He has to be in the North Carolina Physicians Health Program and had his practice location approved if he planned to practice medicine in North Carolina pursuant to the 2006 North Carolina Order. Dr.

Politi is amenable to working with the Tennessee Medical Foundation's Physician Health Program. He currently lives and works in Mississippi. Dr. Politi is currently taking ambien for sleep (rarely) and takes lexapro off and on. He has a personal physician but he has not seen him in six months. He sees a psychiatrist in Tennessee who he states has been helpful. Dr. Politi has had some issues with depression due to his clash with the medical board in Ohio. Dr. Ali asked Dr. Politi to summarize his legal issue with the Ohio Board of Medicine. Dr. Politi's license was eventually denied in the state of Ohio. Dr. Beckford asked Dr. Politi to explain why it was so difficult for staff to get information from him to us. Dr. Politi says that the difficulty was on the Medical Board of Ohio side. Dr. Arnold explained that Dr. Politi wanted the board staff in Tennessee to contact Ohio for the information and that this was not staff's responsibility but the applicant's. Dr. Politi received his first discipline in Ohio when he failed to report information he should have reported. Dr. Politi discussed his problems in his various training programs which centered on his personal and family problems. He eventually resigned from his family residency training program in South Carolina under threat of dismissal. He did okay at his training program in Pittsburgh. He then moved on to a program in emergency medicine. He left under the threat of termination from that program as well. Mike Todd indicated to the Board that Dr. Politi may have spoken briefly with Dr. Gray, but they have no file on him and they do not currently work with him. Dr. Baron inquired about his not seeing a physician for his medications. Dr. Politi said it has been well over six months since he was last seen and is currently not being monitored by anyone except Dr. Collins about once a year. Dr. Baron expressed some concerns that he is not being monitored closely enough. Dr. Mutter is skeptical about giving him a license at this time until he gets a little more direction and stability. Dr. Mutter said that Dr. Politi would need a very strong advocate that will come to the board and say "he has it together." Dr. Baron said it is not just a question of compliance but, rather a question of monitoring. Dr. Beckford stated that he believed that the consensus was that Dr. Politi currently lacks "structure" which is necessary for the board to feel comfortable giving him a license. The lack of structure is very daunting and problematic. Dr. Zanolli gave Dr. Politi an opportunity to withdraw his application and suggest he get involved with TMF, at least. Dr. Politi withdrew his application.

Anup K. Satpathy, M.D.: Dr. Ali recused himself and acknowledged that Dr. Satpathy worked in his community and also that Dr. Satpathy did contact his office at least twice trying to secure a meeting with Dr. Ali after the Board's action in July 2010. Dr. Ali contacted Ms. Rosemarie Otto who asked the Office of General Counsel to contact Dr. Satpathy's lawyer. Dr. Satpathy said he only wanted Dr. Ali's advice. He did not see it as an act that would compromise Dr. Ali. Dr. Satpathy described all that he has done to try to satisfy the board and to get a new medical license. There were no conditions other than costs placed on Dr. Satpathy pursuant to the order that revoked his medical license more than a year ago. Dr. Satpathy wants to practice emergency medicine. He has some training in internal medicine "back home" and has some general surgery and internal medicine. Dr. Satpathy is not board certified. Mr. Bozarth reminded the board that they are under no obligation to grant him a new medical license. Dr. Satpathy admitted to the Board that he is not comfortable managing chronic pain. He is also not aware that most of the diversion of pain medications in the United States comes from prescriptions from the emergency room. Dr. Lovelady said that the reason his license was revoked was not

simply bad record keeping but, rather, poor practice. Dr. Lovelady indicated that he had not heard anything that would persuade him to give Dr. Satpathy a license back. There was also a discussion about his 1996 board action. Dr. Mutter wanted Dr. Satpathy to describe what he has done to “earn” his medical license back. Dr. Satpathy said that he will not practice in the area of chronic pain management. Dr. Satpathy did not acknowledge that the board found as a fact that he was deficient in standard of care matters as well as unprofessional conduct. Dr. Zanolli indicated that he was not comfortable giving him a license back at this time since he had not demonstrated any remediation. Dr. Mutter indicated that Dr. Satpathy will need to take a mini-residency before he would feel comfortable giving Dr. Satpathy his medical license back. Dr. Rosen pointed out that he is a foreign medical school graduate but did not complete three years of residency training program and thus, under the law he is not eligible for a medical license. Dr. Beckford recommended that Dr. Satpathy withdraw his application at this time since he does not meet the minimum requirements for licensure in Tennessee. Dr. Satpathy withdrew his application.

Raymond C. Strickland, M.D. - Dr. Strickland was invited to the board meeting in July 2010 and again in September 2010 to provide the board with information relative to his clinical competency since he has been out of practice for a number of years. Dr. Strickland failed to appear each time even though he was informed that the board could take action on the application in his absence. Dr. Zanolli made a motion to deny the application which was seconded by Ms. Franklin. All members voted in the affirmative.

Sam D. Toney, M.D.-Dr. Toney did not have a traditional medical practice. His day to day activities include consulting (telephonically) and working with patients over the phone providing interventions. Dr. Toney has nineteen unrestricted licenses in the United States and does not want a databank entry. He handles medical and behavioral case management and provides case management for psychiatric issues. Dr. Toney did recertify in psychiatry in 2005 which is good for ten years and has a few clients that represent less than one percent of his work. Dr. Lovelady made a motion to grant a full, unrestricted medical license to Dr. Toney. The motion was seconded by Dr. Beckford. All members voted in favor.

End of Interviews

Ratification of Licenses

Dr. Rosen made a motion to ratify the new licenses, reinstatement licenses and failed to renew for Medical Doctors, X-ray Operators in Physician Offices, Radiologist Assistants and Genetic Counselors. The motion was seconded by Dr. White. All members voted in favor of the motion.

Reports

Financial Report

Ms. Miller gave an overview of the financial report.

Investigative Report

Ms. Denise Moran, director of the Bureau of Investigations provided the Board with the report from her agency. Ms. Moran answered several questions from board members about the number and types of complaints coming into her office indicating that the numbers for this year were definitely up from last year.

OGC Report

Mr. Shiva Bozarth provided the board with his report for the Office of General Counsel which included information on board orders that have been taken up on appeal. OGC currently has 150 respondents representing 223 complaints/cases open in OGC. Of these cases 70 are more than 365 days old. The total does not include 40 professional privilege tax cases. There are ten cases on appeal relevant to Board of Medical Examiners' board orders. Seven are awaiting a hearing in Chancery Court. Two have been decided in the Board's favor and one has been appealed to the Tennessee Court of Appeals. One has been remanded by the Tennessee Court of Appeals to be resolved by the Board. This case dealt with pre-trial rulings of an administrative law judge and was not based on a BME order.

Disciplinary Report

Ms. Juanita Stone reviewed her report for the Board.

Discussion

The Board heard a report from and then discussed and voted on a proposed "Training Pathway" for Respiratory Therapists to perform Polysomnography services. Mr. Anthony Czyerniak of the Office of General Counsel addressed the Board. Dr. Lovelady summarized for the board what has occurred with the task force to date. Dr. Beckford expressed serious concerns about allowing the director of the sleep lab to sign off on the competency of his/her sleep technologist because he/she has a vested interest in seeing that that person becomes certified. There was also a discussion about the hours involved in order to gain certification through the third pathway. There was a discussion about the sleep labs not being certified and the director of the sleep center not being board certified physicians (i.e. certified in sleep medicine by the American Board of Sleep Medicine.) Mr. Bozarth reminded the board that their role was merely to be "consulted" with and that they could not be the board actually promulgating the rule. They would, however, provide comments to the Board for Respiratory Care at the rule making hearing.

The Board heard a report from the Development Committee and discussed and voted on the status of the pilot project which refers certain cases to the Administrative Law Judges for trial. Dr. White discussed the Development Committee's consideration of the ALJ process. The board voted to table the decision on the pilot project until next year on a motion by Dr. Ali which was seconded by Dr. Zanolli. Dr. Mutter told the members to take the report from OGC home with them for future study.

The Board divided into the groups and heard the following consent orders:

1. **Jenny Mason**, Unlicensed Practice. Ms. Mason agreed to Cease and Desist the practice of Naturopathy and to pay 14 Type A civil penalties in the amount of \$1,000 each for a total of \$14,000. Dr. Rosen made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.
2. **Barry Kneer** at Bellevue MediSpa. Unlicensed Practice/Unsupervised Use of a Laser. Mr. Kneer agreed to cease and desist performing and directing others to perform laser treatments without the supervision of a licensed physician and has agreed to pay 28 Type A civil penalties in the amount of \$750 each for a total of \$21,000. Dr. Rosen made a motion to accept the Consent Order and Ms. Webster seconded the motion. The motion passed.
3. **Lori Kneer** at Bellevue MediSpa. Unlicensed Practice/Unsupervised Use of a Laser. Ms. Kneer agreed to Cease and Desist performing laser treatments without the supervision of a licensed physician and has agreed to pay 28 Type A civil penalties in the amount of \$750 each for a total of \$21,000. Dr. Ali made a motion to accept the Consent Order and Ms. Webster seconded the motion. The motion passed.
4. **Curtis Lee Beauregard, MD**. Out-of-State Discipline. Dr. Beauregard agreed to Probation for five years, mirrored reporting of compliance from Louisiana PHP to disciplinary coordinator and costs. Ms. Webster made a motion to accept the Consent Order and Dr. Rosen seconded the motion. The motion passed.
5. **William L. Fontenot, MD**. Misdemeanor Convictions/Substance Abuse. Dr. Fontenot agreed to Probation for five years, contract with TMF, 100% compliance and costs. Dr. Rosen made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.
6. **Beth Nicole Boyer, MDX**. Failure to obtain continuing education in a timely manner. Ms. Boyer agreed to a Reprimand, ten additional hours of continuing education, \$240 and costs. Dr. Rosen made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.
7. **Richard Donaldson, MD**. Prescribed controlled substances for himself and his family. Dr. Donaldson agreed to probation to run until expiration of initial five year. contract with TMF. Dr. Zanolli made a motion to accept the Consent Order and Ms. Franklin seconded the motion. The motion passed.
8. **Katherine Wilson, MDX**. Practicing beyond scope of training. Ms. Wilson agreed to a Reprimand, pay two Type B civil penalties of \$250 totaling \$500. During the deliberations on this consent order, it was noted by the Panel that Ms.

Wilson's supervising physician, Dr. Ponce should likewise be disciplined. Mr. Bozarth represented (albeit with a good deal of equivocation), that there was an open matter in OGC relative to Dr. Ponce. Dr. Zanolli made a motion to accept the Consent Order and Ms. Franklin seconded the motion. The motion passed.

9. **James L. Crabb, MD.** Incompetence, pattern of repeated malpractice. Dr. Crabb agreed to Probation for three years, CPEP evaluation; pay one Type A civil penalty of \$1,000. Dr. Higdon made a motion to accept the Consent Order and Dr. Zanolli seconded the motion. The motion passed.

10. **Robert Hollister, MD.** Failure to keep complete and accurate patient records. Dr. Hollister agreed to a voluntarily and unconditional surrender of license. Ms. Franklin made a motion to accept the Consent Order and Dr. Higdon seconded the motion. The motion passed.

11. **Debra K. McKenzie, MD.** Failure to maintain her office up to appropriate standards. Specifically, Dr. McKenzie was found to have inappropriately disposed of needles, and had expired medications in her office. Dr. McKenzie agreed to a reprimand, pay four Type B civil penalties of \$500, totaling \$2,000, costs. Ms. Franklin made a motion to accept the Consent Order and Dr. Baron seconded the motion. The motion passed.

The following Consent Order was proposed and eventually withdrawn:

Charles P. Bownds, MD, This was an inappropriate prescribing case. The order Dr. Arnold approved was somewhat different from the order that was presented. After questioning by the panel, the order was rejected.

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