

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

November 2 and 3, 2009

The meeting was called to order at 9:20 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, Neal Beckford, Subhi Ali, Charles White, Sr., George Eckles, Michael Zanolli, Ms. Regine Webster and Ms. Monica Franklin. Absent members were: Drs. Keith Lovelady, Dennis Higdon and 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.

Mr. Bozarth reviewed the Conflict of Interest Statement for the Board. Afterwards, board members were selected to sit on the contested case panels.

An appearance was made by Donald Polk, DO. Dr. Polk his desire to run for office on the Federation of State Medical Board and asked for the Medical Board's support. Dr. Zanolli made the motion to support Dr. Polk's nomination and Dr. Ali seconded the motion. The motion passed unanimously.

Minutes

The minutes from the following meeting were reviewed: September 15 and 16, 2009 meeting; October 1, 2009 Summary Suspension in the matter of Charles G. Cowden, MD; October 21, 2009 Summary Suspension in the matter of Rodney Dunham, MD; and October 28, 2009 informal hearing of Rodney Dunham, MD. Ms. Arnold informed the Board that Ms. Franklin's name was not listed but will be corrected. Dr. Rosen made a motion to accept the minutes with noted amendments and Ms. Franklin 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, Clinical Perfusionists and Genetic Counselors were reviewed. Ms. Franklin made a motion to ratify the approvals and Dr. Rosen seconded the motion. The motion passed.

The Board reviewed the actions taken by the Committee on Physician Assistants for the following:

1. Ratify the actions of the Committee regarding Tamper Resistant Prescription Pads.
2. Ratify the action of the Committee regarding a to rulemaking hearing rule relative to disciplinary grounds, actions, civil penalties and renewal fees.
3. The Committee's action to close the application for reinstatement of Joel Burnett.
4. The Committee granted licensure to Ms. Mickie Wilkerson conditioned upon her completing a 6 week clinical rotation at Trevecca.
5. The Committee denied reinstatement to Mr. Anthony Loope because he was not in compliance with their previous order which required him to do certain things within one year of the date of entry of his existing order.
6. The Committee granted a license to Mr. Thomas Clark conditioned upon his signing a five year contract with the Tennessee Peer Assistance Program and maintaining their advocacy for the duration of the contract.

Dr. White made a motion to ratify the actions taken by the PA Committee 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 Maxwell Aesthetics. Dr. Rosen made a motion to approve Maxwell Aesthetics and Dr. White seconded the motion. The motion passed.

Consideration of Applications

Eric W. Berg, MD-Dr. Berg is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Berg's application file for the Board. Dr. Berg has a history of alcohol dependency. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation, spoke on behalf of Dr. Berg. Dr. Ali made a motion to grant Dr. Berg a license contingent on a five year contract with TMF with time beginning August, 2008. Dr. Beckford seconded the motion. The motion passed.

Scott B. Edwards, MD-Dr. Edwards is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Edwards' file for the Board. Dr. Edwards has been in an administrative position since 1998 and has not been in a clinical setting since 1997. Dr. Arnold's recommendations were to restrict Dr. Edwards to administrative medicine. The Board suggested that Dr. Edwards contact Dr. Arnold regarding the required training he will need to obtain a full, unrestricted license. The Board gave Dr. Edwards the option to withdraw his application until such time that the required training is completed. Dr. Edwards withdrew his application.

Robert C. Grafton, MD-Dr. Grafton is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Grafton's application file for the Board. Dr. Grafton was censored in Manitoba in 1995 and in 2000 his license was denied in Pennsylvania for unprofessional conduct. Dr. Grafton explained the other actions taken against his license in Michigan for substance abuse. After further discussion, Ms. Franklin made a motion to deny license and Dr. Beckford seconded the motion. The Board then decided to give Dr. Grafton the opportunity to withdraw his application, in which he did.

Shelby L. Hill, MD-Dr. Hill is applying for reinstatement of her medical license. Dr. Arnold reviewed Dr. Hill's application for the Board. Dr. Hill has a history of alcohol problems. Dr. Hill informed the Board that she plans to work in Tennessee with a group of four or more partners. Dr. Zanolli suggested that Dr. Hill be supervised for six months. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Dr. Hill. Dr. Gray informed members that Dr. Hill is being monitored by Alabama and she has a five year contract with TMF. Dr. White made a motion to grant Dr. Hill reinstatement and Dr. Eckles seconded the motion. Dr. Ali made a motion to amend the motion to add TMF contract and 100% compliance with aftercare. Dr. Eckles seconded the motion. The motion passed as amended.

Thomas G. Lundquist, MD-Dr. Lundquist is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Lundquist's application file for the Board. Dr. Lundquist has been working with Blue Cross/Blue Shield and has not seen patients in five years. Dr. Lundquist informed the Board that he has seen some patients within the last five years and that he will re-certify in Pediatrics in 2010. He stated that he plans to work at Erlanger Hospital in Chattanooga, Tennessee. The Board asked about continuing medical education hours and was informed by Dr. Lundquist that he acquired approximately 50 hours of CME's last year. Dr. Zanolli made a motion to grant Dr. Lundquist a license and Dr. White seconded the motion. The motion passed.

Joni L. Oberlin, MD-Dr. Oberlin is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Oberlin's application file for the Board. Dr. Zanolli recused himself. Dr. Oberlin attended a medical school that is listed on California's list of disapproved medical schools. Dr. Oberlin stated that she is board certified in Pediatrics and has taken the MCAT. Mr. Bozarth informed the Board of the Rule 0880-2-.04 (3) regarding international medical schools. The Board discussed the situation and suggests a Declaratory Order be set and the situation discussed at the next meeting. Dr. Rosen made a motion to discuss at the next scheduled meeting and Dr. Beckford seconded the motion. The motion failed. Dr. Beckford made a motion to grant a license and Ms. Franklin seconded the motion. The motion failed. A roll call vote was conducted and tied. The Board decided to discuss whether the medical school meets the criteria as required in the rule governing the practice of medicine in Tennessee. Later in the meeting, Dr. Oberlin appeared again with Mr. Robert Kraemer, legal counsel on behalf of Dr. Oberlin. Mr. Kraemer proved the qualifications obtained by Dr. Oberlin were the same requirements in the rule. After further discussion, Dr. Beckford made a motion to

grant a license to Dr. Oberlin and Ms. Franklin followed with a second. The motion passed unanimously.

Annie M. Riley-Bussey, MD-Dr. Riley-Bussey is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Riley-Bussey's file for the Board. Dr. Rile-Bussey is outside the seven year time frame for taking all three steps of the USMLE. Dr. Arnold recommended denial of licensure. Dr. White made a motion to accept Dr. Arnold's recommendation to deny the license of Dr. Rile-Bussey and Dr. Rosen seconded the motion. The motion passed.

John C. Ring, MD-Dr. Ring is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Ring's application for the Board. Dr. Ring has not practiced in approximately four to five years. The Board was informed that this was the third meeting in which Dr. Ring was invited and he has not appeared. Dr. Ring was notified that the file would close if there was not a response regarding the meeting. Ms. Franklin made a motion to close Dr. Ring's application and Dr. Ali seconded the motion. The motion passed.

Rupa R. Shetty, MD-Dr. Shetty is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Shetty's application for the Board. Dr. Shetty is outside seven years for taking all three steps of the USMLE by fourteen days. Dr. Shetty appeared before the Board and was represented by legal counsel, Mr. Dan Warlick. Dr. Shetty was also supported by Mr. Howard Burley from the Department of Mental Health who spoke on her behalf. The Board was informed that the USMLE scores were exempt by Georgia and a license was issued to Dr. Shetty. North Carolina also granted Dr. Shetty a license. Mr. Warlick spoke on behalf of Dr. Shetty regarding license by reciprocity. The Board asked for reasons why Dr. Shetty did not take the required steps in a timely fashion. Dr. Ali made a motion to grant a waiver and Dr. Beckford seconded the motion. Mr. Bozarth informed the Board that the waiver extension regarding the seven year rule expired on May 24, 2009. The Board discussed the issues surrounding the waiver and reciprocity. After discussion, Dr. White made a motion to grant Dr. Shetty a license by reciprocity and the decision is based entirely on the seven year rule of Georgia and North Carolina's actions regarding the waiver to exempt the seven year rule. Ms. Franklin seconded the motion. The motion passed.

David L. Stockton, MD-Dr. Stockton is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Stockton's application file for the Board. Dr. Stockton has a history of substance abuse. Ms. Sarah Whitehead, the States legal counsel addressed the Board. The Board was informed that Dr. Stockton has an open complaint in the Office of General Counsel and a Consent Order was presented. Dr. Stockton retired his license before the complaint was received in OGC. If Dr. Stockton is licensed, he will need the advocacy of the Tennessee Medical Foundation and the license will be placed on probation. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Dr. Stockton and stated that Dr. Stockton presently has a contract with TMF. Ms. Franklin made a motion to deny the reinstatement of licensure. The motion failed for lack of a second. Dr. Rosen made a motion to grant reinstatement of license

contingent on the Consent Order presented and lifetime advocacy with TMF and Ms. Webster seconded the motion. Ms. Franklin opposed. The motion passed. Dr. Zanolli made a motion to accept the Consent Order with the amendments of lifetime advocacy of the TMF and payment of civil penalties for costs of prosecuting the case. Dr. Ali seconded the motion. The motion passed.

Robert K. Ueda, MD-Dr. Ueda is applying for a license to practice Telemedicine in Tennessee. Dr. Arnold reviewed Dr. Ueda's application file for the Board. Dr. Ueda was denied a license in North Carolina and had malpractice issues in Washington which he explained the circumstances. The Board had reservations granting a license and proceeded with questions. After further discussion, Dr. Zanolli made a motion to grant Dr. Ueda a license. Dr. Rosen seconded the motion. The motion carried with Ms. Franklin opposing.

Jason Worley, MDX-Mr. Worley is applying for a license to practice as a medical x-ray operator in Tennessee. Dr. Arnold reviewed Mr. Worley's application file for the Board. Mr. Worley had a driving while intoxicated conviction and explained the situation to the Board and that he is employed at a walk-in clinic in Murfreesboro, Tennessee. The Board suggested that Mr. Worley be screened. Ms. Webster made a motion to grant a license contingent on a clean hair analysis conducted by the Tennessee Medical Foundation along with a five year contract. Ms. Franklin seconded the motion. The motion passed.

Gregory Johnson, MD-Dr. Arnold reviewed Dr. Johnson's file for the Board. Ms. Miller explained to the Board the presence of Dr. Johnson's application and reasons why he was not present for the interview. The Board decided to defer Dr. Johnson's interview to the next meeting to give him the opportunity to be present.

Discussion

Dr. White gave a brief report of the Development Committee meeting. The Board discussed privilege tax cases and how they are handled. Dr. White made a motion that privilege tax cases be referred to administration and the Administrative Law Judge before being presented to the Board. Dr. Zanolli followed with a second. The motion passed.

The Board discussed the ratification of action of the Office Based Surgery Committee in denying the request for a waiver of Stephen Lazarus, MD. Dr. Lazarus was present and was represented by Mr. Matthew Scanlan. Mr. Scanlan handed out documents to the Board for review. Mr. Bozarth informed the Board that a decision will need to be made regarding the grandfather clause. Mr. Steve Baker from Health Care Facilities addressed the Board regarding the steps their department take when inspecting a facility. Mr. Scanlan informed the Board that Dr. Lazarus has been performing Office Based Surgery since 1992. Dr. Lazarus explained the costs, codes and permits of the facility. The Board discussed issues including piped gases and suggested that the Committee meet before the next meeting to discuss the issues regarding OBS Suites and regulations and bring that information back to the Board with suggestions. Dr. White made a motion to that effect

and Ms. Franklin seconded the motion. The motion passed. Dr. Zanolli made a motion to allow Dr. Lazarus to continue his practice until such time that the Board meets again with a decision. Dr. Eckles seconded the motion. The motion passed.

The Board discussed the ratification of action of the Office Surgery Committee in denying the request of the Galen Group to permit ASA 3 patients to undergo endoscopies under deep sedation in an office setting. Ms. Otto reviewed information regarding the Galen Group. Dr. Eckles gave a brief report of the Committee and their views on the issue of the drug Propofol. The Committee recommended denial. Dr. Zanolli made a motion to ratify the actions of the Committee to deny and Dr. Rosen seconded the motion. The motion passed. Dr. Mutter recused himself and Ms. Webster abstained. The motion passed by a majority.

The Board discussed a rulemaking hearing rule relative to International Medical School Graduates from unapproved medical schools. Dr. Rosen made a motion to send the rule to rulemaking and Dr. White seconded the motion. The motion passed. The Board suggested that Mr. Bozarth notify all medical schools regarding the rulemaking hearing.

The Board discussed September 2009 action of the Board of Nursing to endorse legislation which would: (1) change the title of advanced practice nurse to advanced practice registered nurse; (2) change certification to licensure; and (3) remove supervision requirements. Dr. Mutter suggested that the Board wait until additional information is received and is brought back before the Board.

There was a discussion by the Board regarding increasing the penalty for CME violations. The Board discussed CME policies of other states and their penalties for non-compliance. Dr. Ali made a motion to increase the penalty fees to \$100 and Dr. Zanolli seconded the motion. The motion passed.

Dr. Ali made a motion to authorize a rulemaking hearing to increase the CME requirement for licensure renewal from 40 to 80 hours every two (2) year cycle. Dr. White seconded the motion. The motion passed.

The Board was given a status update regarding the Department's efforts to enter into a contract with the U.S. Citizenship and Immigration Services (USCIS) for the purpose of utilizing the Systematic Alien Verification for Entitlements (SAVE) program for verification of legal entitlement to live and work in the country. The Board discussed preferences and alternatives. Mr. Bozarth reviewed issues of entering into a contract with the program. Dr. Arnold stated that he did not want the responsibility of approving legal entitlements without the proper primary source verification. After further discussion, Dr. Mutter suggested that the Board will review applications on a case by case base.

The Board discussed designating a member(s) to attend FSMB annual meeting in 2010. The Board suggests sending a member several times in hopes to get the Board of Medical Examiners known. Dr. Zanolli stated he would attend the meeting again. The Board made suggestions to allocate funds to send another member. Dr. Mutter and Dr.

Beckford stated that they would be interested in attending the meeting. Dr. Beckford stated that Ms. Franklin and Ms. Webster should attend. Dr. Ali will be attending by way of the Finance Committee. Ms. Webster stated it would be at least another year before she would be available to attend. Dr. Rosen made a motion to send designated members and Dr. White seconded the motion. The motion passed.

Reports

Budget Report

The Board had questions regarding the absence of budget information. Ms. Miller explained to the Board that all Boards are awaiting information due to the Edison System and uncertain of the delay.

Statistical Report from Administrative Office

The Board reviewed the report from the Administrative Office.

Investigative Report

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

Disciplinary Report

The report was reviewed by Ms. Juanita Stone.

OGC Report

Mr. Bozarth reviewed his report for the Board and gave a brief update of cases open in the Office of General Counsel. The Board suggests putting in noteworthy information regarding expert witness and the pre-selective criteria.

CME Audit Office regarding compliance with CME requirements

The Board reviewed the report regarding the CME compliance.

Orders of Compliance

Rexford Agbenohevj, MD-Dr. Agbenohevj was present and represented by legal counsel, Mr. Garrett Asher, Esq. Mr. Shiva Bozarth represented the State. On or about January 27, 2009, Dr. Agbenohevj engaged in consensual sexual activity with a patient during office hours in a patient exam room. The Board suspended Dr. Agbenohevj's license for a period of sixty (60) days. Dr. Agbenohevj was self-admitted to the Menninger Clinic in Houston, Texas for evaluation and treatment. The Order stipulated that Dr. Agbenohevj must comply with all recommendations of the Menninger Clinic and shall ensure that discharge is sent to the Board's Medical Director. Mr. Bozarth informed

the Board that Dr. Agebenohevj has met all the requirements as set by the Board. Dr. Rosen made a motion to accept the Order of Compliance and Dr. Ali seconded the motion. The motion passed.

Alton Ingram, MD- Dr. Ingram was present but not represented by legal counsel. Mr. Shiva Bozarth represented the State. An Order of Emergency Suspension of License was filed by the Florida Board on September 12, 2002, immediately suspending Dr. Ingram's Florida license. Dr. Ingram failed to practice medicine with a degree of care, skill and treatment required for a medical professional and failure to keep adequate records of drugs administered to a patient during surgery. On or about April 21, 2004, Dr. Ingram submitted an online application for renewal of his Tennessee medical license. Dr. Ingram failed to indicate whether he has any licenses which have been subject to discipline in another state. Dr. Ingram failed to notify the Board that his Florida medical license had been summarily suspended. On December 20, 2004, the Florida Board issued a Final Order which incorporated the Recommended Order and in which Florida Board accepted Dr. Ingram's offer to voluntarily relinquish his license in the State of Florida and to never reapply for licensure as a physician in the State of Florida in lieu of consideration of the proposed discipline in the Recommended Order to suspend his license for a period of three years, placing his license on probation for a period of two years. The Tennessee Board suspended Dr. Ingram's license for period of three years. Mr. Bozarth informed the Board that Dr. Ingram has met all the requirements as set by the Board. Dr. Ingram addressed the Board and explained the circumstances and stated he plans to go to work at the VA Hospital in Memphis, Tennessee. Dr. Rosen made a motion to accept the Order of Compliance and Dr. White seconded the motion. The Board had reservations with Dr. Ingram not practicing in five years. Drs. Beckford, Ali, Mutter and Ms. Franklin opposed. The motion failed and the Order was not accepted.

Richard W. Robinson, MD- Dr. Robinson was present but not represented by legal counsel. Mr. Shiva Bozarth represented the State. An investigation revealed that Dr. Robinson prescribed several pharmaceuticals to a patient without documenting an appropriate patient history and physical examination, without documenting a diagnosis based upon the examinations and all diagnosis and laboratory tests consistent with good medical care and without documenting a therapeutic plan for the patient. Dr. Robinson entered into a sexual relationship with aforementioned patient during the course of the physician/patient relationship which lasted approximately one year. The Order stipulated that Dr. Robinson's license be placed on probation for a period of five years, enter into a contract with the Tennessee Medical Foundation, be evaluated by the Vanderbilt Comprehensive Assessment Program for Professionals (VCAP) and successfully complete the three (3) day course entitled "Prescribing Controlled Substances" and successfully complete the three (3) day course entitled "Maintaining Proper Boundaries". Mr. Bozarth informed the Board that Dr. Robinson has met all the 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.

Petition for Declaratory Order

John Crawford, MD-Dr. Crawford was not present but represented by Mr. Dan Warlick. Mr. Shiva Bozarth represented the State. Mr. Warlick addressed the Board and asked that the probation placed on Dr. Crawford's medical license be lifted. Dr. Beckford recused himself. Ms. Franklin made a motion to deny request and Dr. Ali seconded the motion. Dr. White abstained. The motion passed.

Consent Orders

Richard Clark, MD- Dr. Clark was not present but represented by legal counsel, Mr. Robert Kraemer. Mr. Shiva Bozarth represented the State. On July 18, 1998, the Arkansas State Medical Board issued an Order disciplining Dr. Clark for violating the Medical Practices Act by pre-signing blank prescriptions. Dr. Clark's license was suspended for three months and indefinite suspension of his Drug Enforcement Administration (DEA) license. On May 19, 1999, as a result of the 1998 Arkansas Order, North Carolina Medical Board took action against Dr. Clark's North Carolina license on June 3, 1999. His license was suspended for three months. On November 11, 2006, the Arkansas State Medical Board initiated another disciplinary action against Dr. Clark's medical license and issued an Emergency Order suspending his license due to allegations of exhibited gross malpractice and ignorant malpractice in over-prescribing scheduled medications. After a hearing on December 8, 2006, the Arkansas State Medical Board granted Dr. Clark's request that the suspension be lifted and he be allowed to practice in the Arkansas Correctional System. On May 11, 2007, Dr. Clark entered into a Consent Order restricting him to practice to the Arkansas Correctional System. Following the 2007 Arkansas Order, North Carolina Medical Board took action against Dr. Clark's license and on January 9, 2009, signed a Consent Order and his license was suspended indefinitely. The Consent Order stipulated that actions taken to mirror other states' action and comply with the restrictions until license is unrestricted in North Carolina. Mr. Kraemer informed the Board that the suspension has been lifted from Dr. Clark's license. Dr. Ali made a motion to accept the Consent Order and Dr. Zanolli seconded the motion. The motion passed.

Keith E. Pratt, MD- Dr. Pratt was not present nor represented by legal counsel. Mr. Benjamin Mezer represented the State. Dr. Pratt inappropriately prescribed legend drugs to two (2) friends and one (1) family member. Dr. Pratt failed to maintain proper records for the three patients. The Consent Order stipulated that Dr. Pratt's license be Reprimanded. Dr. Pratt must enroll in and successfully complete within six (6) months of the Order, the three (3) day 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 or an equivalent course pre-approved by the Board's Consultant. Dr. Pratt must enroll in and successfully complete within six (6) 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. Pratt is assessed three (3) Type A civil penalties in the amount of one thousand dollars (\$1,000) for a total of three thousand dollars (\$3,000). Ms. Franklin made a motion to accept the Consent Order and Dr. Beckford seconded the motion. The motion passed.

Suzanne P. Riva Grisham, MD- Dr. Grisham was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. During the course of her practice, from approximately 2007 to the present, Dr. Grisham wrote prescriptions using the name of Susan Grisham, her married name, for codeine/phenergan syrup. The Consent Order stipulated that Dr. Grisham's license be placed on probation for not less than five years, but not before completing all recommendations or requirements of the TMF, including a request that her TMF contract be extended. During the term of her contract, Dr. Grisham shall cause the TMF to issue quarterly reports to the Board's Consultant, notify Consultant in writing of any violations of the TMF contract even if TMF continues advocacy, maintains one hundred percent (100%) compliance with her TMF contract. Mr. Bozarth informed the Board that if a contract is not in place by November 30, 2009, a Notice of Charges will be filed by the next meeting. Dr. White made a motion to accept the Consent Order and Dr. Zanolli seconded the motion. Dr. Beckford and Ms. Franklin opposed. The motion passed.

Robert Osteen, MD- Dr. Osteen was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Osteen diverted fentanyl for his personal use and altered a narcotic count sheet in an effort to conceal the diversion. Mr. Bozarth informed the Board that if Dr. Osteen has not signed a contract with TMF by November 30, 2009, a Notice of Charges will be filed by the next meeting. Dr. Rosen made a motion to accept the Consent Order and Dr. Eckles seconded the motion. The motion passed.

Angela Moss, MD- Dr. Moss was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Rosen recused himself. Dr. Moss prescribed controlled medications for fifteen (15) patients without adequately documenting the monitoring of the patients to ensure that these patients did not abuse the medications or divert them for illegal purposes. Dr. Moss undertook numerous steps to improve her quality of care upon being made aware that the documentation of her treatment might be unacceptable. Dr. Moss instituted an internal auditing procedure to ensure she delivers quality patient care that exceeds the requirements of the Board. The Consent Order stipulated that Dr. Moss license be placed on probation for a period of not less than two (2) years and until she has completed the requirements as set forth in the Order. During the period of probation, Dr. Moss shall maintain good and lawful conduct and any violation of law will be a violation of the terms of the Order. Dr. Ali made a motion to accept the Consent Order and Dr. White seconded the motion. The motion passed.

Rajashaker Reddy, MD- Dr. Reddy was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Reddy entered into a Consent Order with the Alabama State Board of Medical Examiners that imposed a civil penalty of \$85,000

for allowing unlicensed radiology assistants to practice in Alabama. Dr. Reddy notified Tennessee of the Alabama action. Dr. Reddy's New York and Georgia license was disciplined because of Alabama's actions and he failed to notify Tennessee of this action. Dr. Reddy applied for a North Carolina medical license and was denied because he failed to disclose the disciplines in Alabama to the North Carolina Board. The Consent Order stipulated that Dr. Reddy is assessed four (4) Type B civil penalties in the amount of five hundred dollars (\$500) for a total of two thousand dollars (\$2,000.00). Dr. Eckles made a motion to accept the Consent Order and Ms. Franklin seconded the motion. The motion passed.

Forrest Ward, MD- Dr. Ward was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. From approximately November 2004, until at least August 2006, Dr. Ward wrote prescriptions for controlled substances for his wife and four other family members in violation of the standard of care for prescribing controlled substances. Dr. Ward's prescribing to friends and family members constitutes unprofessional. The Consent Order stipulated that Dr. Ward's medical license be reprimanded. Dr. Ward must enroll in and successfully complete within one (1) year 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 or equivalent course pre-approved by the Board's Consultant. Dr. Ward shall pay five (5) Type C civil penalties in the amount of one-hundred (\$100.00) dollars each, for a total amount of five hundred (\$500.00) dollars for each family member to which he prescribed in violation of the Medical Practice Act. Mr. Bozarth explained that there was an error made from the Office of General Counsel and there should not be a stipulation in the Consent Order regarding anger management. Dr. White made a motion to accept the Consent Order with corrections and Ms. Franklin seconded the motion. The motion passed.

Naveed A. Khan, MD-Dr. Khan was not present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Khan operated Sohna Laser and Skin Care Center in and around Knox County, Tennessee. Dr. Khan believed he had an agreement with a physician to provide supervision. However, there was inadequate supervision by a physician of Sohna Laser and Skin care Center and no such agreement was in fact in existence. Dr. Khan utilized an intermittent pulse laser to treat patients for skin issues. The Agreed Order stipulated that Dr. Khan be assessed one (1) Type B civil penalty in the amount of five hundred dollars (\$500.00) and immediately cease and desist any conduct that is considered the practice of medicine and shall engage in any conduct unless he obtains a license to do so. Dr. Rosen made a motion to accept the Agreed Order and Dr. White seconded the motion. The motion passed.

David L. Stockton, MD-Dr. Stockton was present but not represented by legal counsel. Ms. Sarah Whitehead represented the State. On August 3, 2007, Dr. Stockton was arrested and charged with driving under the influence (DUI). Through the peer review process at Harton Regional Medical Center, an investigation regarding Dr. Stockton's professional competence and fitness was initiated due to concerns about quality of care. While the investigation was ongoing and before any final action was taken on the

suspension of his privileges, Dr. Stockton voluntarily surrendered his hospital privileges by not reapplying for medical staff membership. According to the bylaws of the medical staff, "failure by the practitioner to return the reappointment application will be accepted as a voluntary resignation." On July 18, 2008, Dr. Stockton retired his Tennessee medical license. On November 6, 2008, Dr. Stockton pled guilty to misdemeanor DUI in the Criminal/Circuit Court of Coffee County, Tennessee. The Consent Order stipulated that Dr. Stockton's medical license, upon reinstatement, is immediately placed on probation for a period of not less than five (5) years and until he has completed the requirements set forth in the Order. Dr. Stockton must maintain lifetime advocacy of the Tennessee Medical Foundation (TMF). During the period that Dr. Stockton is required to maintain the advocacy of the TMF, quarterly reports must be sent to the Board's Consultant, notification in writing of any violation of the TMF contract, comply with all recommendations of the TMF and maintain one hundred percent (100%) compliance with his TMF contract. Dr. Zanolli made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

November 3, 2009

Iris Room

Panel: Ali, Beckford, Franklin

Contested Case Hearing

Maria Leacche, MD-Dr. Leacche was present and represented by Mr. C. J. Gideon of the Nashville Bar. Mr. Shiva Bozarth represented the State. The Honorable Mary Collier, Administrative Law Judge presided. Dr. Leacche came before the Board and was granted a Petition for Declaratory Order on September 15, 2009. The Order was to waive post-graduate training and to accept her fellowship to fulfill the three years of post graduate training requirement. Opening statements began. Mr. Gideon asked the Board to grant Dr. Leacche a full unrestricted medical license. Mr. Bozarth followed and informed the Board needed to make a determination whether the fellowship program is equivalent to a three year program. The Board asked several questions regarding ACGME and qualifications. After closing arguments, the Board deliberated. Dr. Beckford made a motion to grant Dr. Leacche a full and unrestricted license and Ms. Franklin seconded the motion. The motion passed. Dr. Ali made a motion that in review of the required training in the United States, Dr. Leacche meets and exceeds requirements of the rules regarding post graduate training. Dr. Beckford seconded the motion. The motion passed. The policy statement was read and reasons action taken is to enhance and care for the citizens of the State of Tennessee. Dr. Beckford made a motion to accept the policy statement and Ms. Franklin seconded the motion. The motion passed.

Summary Suspension

Larry Perry, MD- A meeting was held to summarily suspend the medical license of Larry Perry, MD. Ms. Andrea Huddleston represented the State. Ms. Huddleston made a brief opening statement. A Notice of Charges was presented and Ms. Margaret Chuinard, Special Agent with the Tennessee Bureau of Investigations was called as a witness. Evidence was presented that Dr. Perry, while in the examination room with a female patient, exposed his penis and urged the patient to perform oral sex on him. The patient refused to do so initially, and then offered to do so if Dr. Perry would increase the amount of Xanax that he was prescribing for her. Dr. Perry agreed to increase the patient's Xanax dosage from twice a day to three times a day and the patient performed oral sex on Dr. Perry. Evidence was further presented that Dr. Perry, on at least four (4) occasions, would approach female patients in the examination room by rolling close to the patient on his stool and rub his genitals on the patient's leg. Ms. Huddleston gave her closing statement and that emergency action is needed and asked that the panel summarily suspends the license of Dr. Perry. Dr. Beckford made a motion to summarily suspend the license of Dr. Perry and Ms. Franklin seconded the motion. The motion passed.

Poplar Room

Panel: Higdon, White, Webster

Agreed Citation

Teresa D. Warren, MDX-Ms. Warren failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Ms. Warren shall pay a civil penalty in the amount of two hundred eighty dollars (\$280) and provide proof of completion of six (6) hours of continuing education within one hundred eighty (180) days of the citation. Dr. Higdon made a motion to accept the Agreed Citation and Ms. Webster seconded the motion. The motion passed.

Stephen J. Yallourakis, MD-Dr. Yallourakis failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Yallourakis shall pay a civil penalty in the amount of one hundred dollars (\$100), proof of completion of two and one half (2.5) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Ms. Webster made a motion to accept the Agreed Citation and Dr. Higdon seconded the motion. The motion passed.

Barton W. Warner, MD- Dr. Warner failed to comply with the Board rules regarding required continuing medical education. The Agreed Citation stipulated that Dr. Warner

shall pay a civil penalty in the amount of one hundred twenty dollars (\$120), proof of completion of two (2) hours of continuing education within one hundred eighty (180) days of the citation and complete an additional ten (10) hours continuing education hours within two (2) years of ratification of the Agreed Citation. Ms. Webster made a motion to accept the Agreed Citation and Dr. Higdon seconded the motion. The motion passed.

Order of Compliance

Stuart H. Fox, MD-Dr. Fox was present but not represented by legal counsel. Ms. Mona Jean Baptiste represented the State. In submitting his application for a license in Tennessee, Dr. Fox failed to submit three malpractice claims against him in which he settled on favor of the plaintiff and an order was entered against him. The combined total amount of these omitted three (3) settlements is \$1, 712, 500.00. Dr. Fox's Oklahoma medical license was restricted from July 26, 2001 to March 8, 2006. The restriction on Dr. Fox's Oklahoma license was lifted by the Oklahoma board on March 9, 2009. The Tennessee board of Medical Examiners denied Dr. Fox's application for an unrestricted medical license. The denial was based on out-of-state discipline in West Virginia and his pattern of malpractice. The board did grant Dr. Fox an administrative medical license. On June 26, 2006, Dr. Fox requested a contested hearing to appeal the Board's decision to grant him just an administrative license. The Order stipulated that Dr. Fox be granted a restricted medical license in which he can not perform obstetric or gynecological surgery in the State of Tennessee. The license is to be placed on probation for a period of three (3) years from the date of the order. The Board was informed that Dr. Fox has met all the requirements as set by the Board. Ms. Webster made a motion to accept the Order of Compliance and Dr. Higdon seconded the motion. The motion passed.

Consent Orders

James M. Bachstein, MD-Dr. Bachstein was not present nor represented by legal counsel. Ms. Mona Jean Baptiste represented the State. From at least 2007 to present, Dr. Bachstein prescribed regular and medically unjustifiable doses of controlled substances to at least three patients of his practice without making a diagnosis based on diagnostic or laboratory tests and without formulating treating plans. After being notified of the deficiencies in his practice, Dr. Bachstein enrolled in both the Case Western Reserve University Medical School's "Intensive Course in Controlled Substance Management" and "Intensive Course in Medical Record Keeping" and has begun incorporating methods in his practice to ensure the appropriate treatment of those patients requiring chronic pain management. The Consent Order stipulated that Dr. Bachstein's license shall be placed on probation for a period of not less than three (3) years unless otherwise stated. Dr. Higdon made a motion to accept the Consent Order and Ms. Webster seconded the motion. The motion passed.

Carl E. Lawrence, MD-Dr. Lawrence was present and represented by Mr. Frank Scanlon of the Nashville Bar. Mr. David Himmerreich represented the State. Dr. Lawrence practiced medicine at various hospitals, primary care clinics and in a private

practice in the Knoxville area before becoming employed at Westbrook Medical Center in January 2007. From 2005 to 2007, Dr. Lawrence inappropriately prescribed controlled substances to several of his patients. After being interviewed by an Investigator, Dr. Lawrence voluntarily consulted the Tennessee Medical Foundation (TMF), left employment at Westbrook Medical Center in Knoxville, Tennessee on October 23, 2007, voluntarily relinquished his DEA certificate in November 2007, worked as a hospitalist at Cumberland River Hospital from December, 2007 until August, 2008. From August, 2008, Dr. Lawrence was employed in August, 2008 as a hospitalist for the Indian Hospital in San Carlos, Arizona, in a setting that did not involve pain management. In June, 2008, Dr. Lawrence completed the prescribing course offered at the University of South Florida, College of Medicine, entitled, "*Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Misprescribing;*" Dr. Lawrence's DEA registration was re-issued on his application in April 2009. The Consent Order stipulated that Dr. Lawrence's medical license shall be placed on probation for a period of five (5) years and complete a medical record course entitled: "*Intensive Course in Medical Record Keeping with Individual Preceptorships,*" offered at the School of Medicine, Case Western Reserve University in Cleveland, Ohio. Dr. Lawrence is assessed ten (10) Type B civil penalties in the amount of five hundred dollars (\$500.00) each, for a total amount of five thousand dollars (\$5,000.00). Ms. Webster made a motion to accept the Consent Order and Dr. White seconded the motion. The motion passed.

Agreed Orders

Joseph G. Grau, MD-Dr. Grau was not present nor represented by legal counsel. Ms. Mona Jean Baptiste represented the State. Dr. Grau failed to pay the professional privilege taxes for the year 2004. The Agreed Order stipulated that Dr. Grau is ordered to pay all delinquent privilege taxes and penalties to the Tennessee Department of Revenue within one hundred-eighty days of the Agreed Order. Ms. Webster made a motion to accept the Agreed Order and Dr. Higdon seconded the motion. The motion passed.

Hani M. Sonbati, MD-Dr. Sonbati was not present nor represented by legal counsel. Ms. Mona Jean Baptist represented the State. Dr. Sonbati failed to pay the professional privilege taxes for at least the years 2003 and 2004. The Agreed Order stipulated that Dr. Sonbati is ordered to pay all delinquent privilege taxes and penalties to the Tennessee Department of Revenue within one (1) year of the date of the Order. Ms. Webster made a motion to accept the Agreed Order and Dr. Higdon seconded the motion. The motion passed.

Sara B. Willing, MD- Dr. Willing was not present or represented by legal counsel. Ms. Mona Jean Baptiste represented the State. Dr. Willing failed to pay the professional privilege taxes for at least the years 2003, 2004 and 2005. The Agreed Order stipulated that Dr. Willing is ordered to pay all delinquent privilege taxes and penalties to the Tennessee Department of Revenue within one (1) year of the date of the Order. Ms. Webster made a motion to accept the Agreed Order and Dr. Higdon seconded the motion. The motion passed.

Contested Case Hearing

Helmut G. Kraemer, MD-Dr. Kraemer 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. Kraemer to inform him of the proceedings, Ms. Baptiste ask for motion to proceed. The Judge granted that motion. Opening statements began and witnesses sworn in. Dr. Kraemer has failed to pay the professional privilege taxes for at least the years 2004, 2005, 2006, 2007, 2008 and 2009. The panel was informed that the State called the tax enforcer to ask the amount that Dr. Kraemer owed. The Order stipulated that Dr. Kraemer's medical license is hereby revoked and is ordered to pay all delinquent privilege taxes and penalties to the Tennessee Department of Revenue After a brief closing statement, the panel deliberated. Ms. Webster made a motion to accept the Findings of Fact and Dr. Higdon seconded the motion. The motion passed. Ms. Webster made a motion to accept the Conclusions of Law and Dr. Higdon seconded the motion. The motion passed. Ms. Webster made a motion to revoke Dr. Kraemer's license and pay all delinquent privilege taxes and penalties. Dr. Higdon seconded the motion. The motion passed. Ms. Webster made a motion to pay all costs associated with the case and Dr. Higdon seconded the motion. The motion passed. The policy statement was read and reasons action taken was to protect the health, safety and welfare of the citizens of the State of Tennessee. Ms. Webster made a motion to accept the policy statement and Dr. Higdon seconded the motion. The motion passed.

Milton Smith, MD-Dr. Smith was not present nor represented by legal counsel. Ms. Mona Jean Baptiste represented the State. The Honorable Margaret Robertson, Administrative Law Judge presided. Ms. Baptiste presented documents showing the attempts made to notify Dr. Smith to inform him of the proceedings and asked for a motion to proceed in default and the Judge granted that motion. Ms. Baptiste gave her opening statement and called her witness, Ms. Kathy Smith from the Department of Revenue. Dr. Smith has failed to pay the professional privilege taxes for at least the years 2003, 2004, 2005, 2006 2007 and 2008. Dr. Smith's licensure file/record indicates that he may have been in poor medical condition affecting his ability to pay the privilege tax and practice medicine. Ms. Baptist gave her closing statement and provided the panel with the proposed Findings of Fact and Conclusions of Law. The Order stipulated that Dr. Smith's license be revoked and ordered to pay all delinquent privilege taxes and penalties to the Tennessee Department of Revenue. The panel deliberated. Ms. Webster made a motion to accept the Findings of Fact and Dr. White seconded the motion. The motion passed. Dr. White made a motion to amend that Dr. Smith was in poor health in 2005 and Ms. Webster seconded the motion. The motion passed. Ms. Webster made a motion to accept the Conclusions of Law and Dr. White seconded the motion. The motion passed. The policy statement was read and the reason for actions taken was to protect the citizens of the State of Tennessee. Dr. White made a motion to accept the policy statement and Ms. Webster seconded the motion. The motion passed.

Ronald R. Trotman, MD-Dr. Trotman was not present nor represented by legal counsel. Ms. Mona Jean Baptiste represented the State. The Honorable Margaret Robertson represented the State. After reviewing documentation of the attempts the State made to contact Dr. Trotman to inform him of the proceedings, Ms. Baptiste ask for motion to proceed. The Judge granted that motion. Opening statements began and the Notice of Charges was handed to the panel for review. Ms. Baptiste called Ms. Kathy Smith, from the Department of Revenue to testify. Dr. Trotman has failed to pay the professional privilege taxes for at least the years 2003 and 2004. Ms. Baptiste gave a brief closing statement. The Order stipulated that Dr. Trotman's license is suspended and ordered to pay all delinquent privilege taxes and penalties to the Tennessee Department of Revenue. The panel deliberated. Dr. Higdon made a motion to accept the Findings of Fact and Dr. White seconded the motion. The motion passed. Dr. Higdon made a motion to accept the Conclusions of Law and Dr. White seconded the motion. The motion passed. Dr. Higdon made a motion to suspend Dr. Trotman's license and not revoke it because he was delinquent two years only. Dr. White seconded the motion. The motion passed. Dr. Higdon made a motion that Dr. Trotman pay penalties and assessed costs of the case. Dr. White seconded the motion. The motion passed. The policy statement was read and the reason action taken was to protect the citizens of the State of Tennessee. Dr. Higdon made a motion to accept the policy statement and Dr. White seconded the motion. The motion passed.

These minutes were ratified by the Medical Board January 26, 2010.