

**MINUTES**  
**TENNESSEE BOARD OF MEDICAL EXAMINERS'**  
**IMPROVE COMMITTEE MEETING**  
**SEPTEMBER 17, 2007**

The meeting of the Board of Medical Examiners' Improvement Committee was called to order at 6:00 p.m. CDT at 227 French Landing, Heritage Place Metro Center, Ground Floor, Iris Room, Nashville, TN 37243 by Chair, Charles White, Sr., M.D. Committee members in attendance were: Mitchell Mutter, M.D. and Subhi Ali, M.D. and Mark A. Brown, J.D. by telephone.

Staff present included: Rosemarie A. Otto, Executive Director, and Matthew Scanlan, J.D., legal counsel. Also present was Ms. Sandra Sturgis, Special Assistant to the Commissioner.

Mr. Scanlan indicated that there were 28 cases ready to be tried and waiting for agreed dates between counsel for the defense and the board (6 of these are for over prescribing).

He indicated these cases represented 56 days of trial time.

He indicated that OGC had 30 over prescribing cases in the office in some stage of preparation.

He indicated that these cases represented 195 days of trial time.

Mr. Scanlan presented the Committee with a proposal that would change the board's contested case procedures. He outlined the procedures and the law that gave the Board authority to utilize Administrative Law Judges to hear contested cases.

In addition to Mr. Scanlan, Judge Tom Stovall and Mr. Dan Warlick of the Nashville Bar addressed the Committee. Judge Stovall indicated that the ALJs would hear the cases. He told the Committee that Georgia moved to this system in 1995. He believes most states utilize some ALJs in their processes. Health Care Facilities too utilize ALJs because of the length of their cases. He believes that the ALJs can handle these matters more efficiently.

At this point there was a discussion about delays.

There was a discussion about the statutory basis for the use of ALJs to hear contested cases. They would act as hearing officers. The ALJs hold the hearings but do not assess any penalty or impose any discipline. That is left to the board. They create findings of fact and conclusions of law for review and consideration by the board.

There was a lengthy discussion about standard of care cases and who would ask the probing questions the board members generally do.

After questions were concluded the Committee decided to seek the guidance from members of sister boards that utilized an administrative law judge to hear contested cases. Members were assigned board chairs to contact and then report back at the next meeting of the Improvement Committee.

They decided they would have a discussion with the full board to update them on the proposal.

The Committee adjourned at 7:20 p.m.

These minutes were ratified by the Board at the meeting on September 18, 2007.