

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

September 18 and 19, 2007

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. Keith Lovelady, George Eckles, Subhi Ali, Charles White, Sr., Michael Zanolli, Neal Beckford, Dennis Higdon, Barrett Rosen and Ms. Irene Wells. Member absent was Mr. Mark Brown.

Dr. Mutter welcomed new member Dr. Barrett Rosen to the Board. Ms. Christie Allen, Assistant Commissioner introduced Mr. Al Partee, General Counsel for the Office of General Counsel on behalf of Commissioner Susan Cooper. Mr. Matthew Scanlan was also introduced as the Board's new advisory attorney.

Staff present included Rosemarie Otto, Executive Director, Dr. Larry Arnold, Medical Director, Sandra Powell, Board Administrator, Marsha Arnold, Unit Manager and Mr. Matthew Scanlan, Advisory Attorney.

The Conflict of Interest Statement was reviewed with the Board by Mr. Scanlan.

Minutes

Minutes from the July 17 and 18, 2007 meeting, July 16, 2007 and September 11, 2007 contested case hearings were reviewed. Dr. Beckford made a motion to accept the minutes as written and Dr. Ali 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, Physician Assistants, Clinical Perfusionists and the Acupuncture Committee were reviewed. Dr. White made a motion to ratify the approvals and Dr. Ali seconded the motion. The motion passed.

New Applicant Interviews

Jose E. Garza, MD-Dr. Garza is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Garza's application file for the Board. Dr. Garza was suspended during his residency program following a confrontation with another physician. Board members asked Dr. Garza what he has done to prevent similar events in the future. Dr. Roland Gray, president of the Tennessee Medical Foundation spoke on

behalf of Dr. Garza and stated that he would be willing to help Dr. Garza find a psychiatrist in the Greenville, Tennessee area. Dr. Zanolli made a motion to grant Dr. Garza a license and Dr. White seconded the motion. The motion passed.

Eduardo R. Gonzales, MD-Dr. Gonzales is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Gonzales' application file for the Board. Dr. Gonzales' staff privileges were suspended at Forsyth Medical Center in North Carolina and he was placed on probation. The Board asked several questions regarding the probation. Dr. Gonzales plans to work in Oneida, Tennessee. Dr. Beckford made a motion to grant Dr. Gonzales a license and Dr. White seconded the motion. Ms. Wells opposed. The motion passed.

Sean D. Hendricks, MD-Dr. Hendricks is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Hendricks' application file for the Board. In 1994, Dr. Hendricks was charged with aggravated battery, battery and disorderly conduct. He pled guilty to the disorderly conduct charge. In 2001, Dr. Hendricks was charged with a DUI and in 2004 he pled guilty and his driver's license was revoked. The Board asked several questions regarding the charges. Dr. Beckford made a motion to grant Dr. Hendricks a license and Dr. Rosen seconded the motion. The motion passed.

Marshall G. Katz, MD-Dr. Katz was not present. The Board's decision was to defer Dr. Katz to the next scheduled meeting.

Freeland Williams, MD-Dr. Williams is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Williams' application file for the Board. Dr. Williams' license was disciplined by the Florida Medical Board for overprescribing scheduled drugs. Dr. Williams informed the Board that he plans to be working in Carthage, Tennessee. Dr. White made a motion to grant Dr. Williams a license and Dr. Zanolli seconded the motion. Dr. Ali and Ms. Wells opposed. The motion passed by a majority.

Reinstatement Interviews

Robert Allen Burson, MD-Dr. Burson is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Burson's application file for the Board. Dr. Burson's last date of full time practice was July 3, 1991. Dr. Arnold's suggestion was for Dr. Burson to enter into a residency training program for at least one year and a VCAP evaluation. The Board gave Dr. Burson the option to withdraw his application. Dr. Burson withdrew his application for reinstatement.

Alexander Chernowitz, MD-Dr. Chernowitz is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Chernowitz's application for the Board. Dr. Chernowitz has done no clinical work since February, 1998. Dr. Chernowitz informed the Board that he wants to work as an orthopedic surgeon. The Board's suggestion was for Dr. Chernowitz to obtain a training license for the purpose of re-training and then returning to the Board at a later date to pursue licensure. Dr. Mutter suggested that Dr.

Chernowitz may want to ask Vanderbilt to provide a training exemption and gave him the option to withdraw his application. Dr. Chernowitz withdrew his reinstatement application.

John M. Miller, MD-Dr. Miller is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Miller's application file for the Board. Dr. Miller appeared before the Board at the July 17, 2007 meeting but had not had any clinical practice since 2001. The Board asked Dr. Miller to obtain 120 additional continuing medical education hours which he did. Dr. Higdon made a motion to grant Dr. Miller reinstatement of his license and Dr. Rosen seconded the motion. The motion passed.

Stephen Taylor, MD-Dr. Taylor is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Taylor's application file for the Board. Dr. Taylor appeared before the Board at the July 17, 2007 meeting to discuss problems he had regarding staff privileges and disruptive behavior. The Board's decision was for Dr. Taylor to be evaluated and upon successful completion of an evaluation by the Vanderbilt Comprehensive Assessment Program, appear back before the Board. Dr. Arnold informed the Board that Dr. Taylor successfully completed the evaluation. Dr. White made a motion to grant Dr. Taylor reinstatement of his license and Dr. Eckles seconded the motion. The motion passed.

David M. Wilson, MD-Dr. Wilson is applying for reinstatement of his medical license. Dr. Arnold reviewed Dr. Wilson's application file for the Board. Dr. Wilson has been retired for five years. The Board suggested Dr. Wilson get six months training and re-apply at a later date and Dr. Arnold recommended re-training. The Board gave Dr. Wilson the option to withdraw his application which he complied.

Declaratory Order

Larry Howard, MD-Dr. Howard was present and represented by legal counsel, Mr. Timothy Millirons of the Nashville Bar. Mr. Matthew Scanlan represented the State. Dr. Howard's medical license was suspended and placed on probation indefinitely and conditions were placed on his license. Mr. Millirons addressed the Board on behalf of Dr. Howard. Dr. Howard is applying to have certain restrictions on his license lifted. To that end, he filed a petition for a declaratory order. Dr. Zanolli made a motion to reject the petition for declaratory order and Dr. Ali seconded the motion. The motion passed.

Rule Action

Mr. Jerry Kosten, Rules Coordinator, reviewed the following rules that went to rulemaking hearing on September 17, 2007:

- a. Length of validity for Special Training licenses
- b. Conditions imposed upon disciplined licenses
- c. Licensure of genetic counselors
- d. Application/interpretation of "remote Services" portion of advertising rule

- e. Amendment to rule 0880-2-.05(9) to refer to "rank of full professor" in lieu of professorial rank"

During the rulemaking hearing, the Tennessee Genetic Counsel Association made several recommendations and comments. After review by the Board, Dr. White made a motion to accept the changes recommended by the Tennessee Genetic Counsel Association and Dr. Ali seconded the motion. The motion passed. Mr. Kosten discussed the economic impact of the rule. Dr. Rosen made a motion to adopt the rules as amended for Genetic Counselors and Dr. Lovelady seconded the motion. A roll call vote was conducted. The motion passed. Dr. White made a motion to adopt all rules and Dr. Beckford seconded the motion. A roll call vote was conducted. The motion passed.

Mr. Kosten discussed the Public Necessity Rules to implement the requirements of Public Chapter 373 of the Public Acts of 2007 regarding Office Based Surgery. Mr. Kosten stated that the initial application for certification and annual survey fee would be set at \$1,080.00. Dr. White made a motion to accept the fees of \$1,080.00 and annual renewal fees of \$540 and Dr. Ali seconded the motion. The motion passed. Mr. Kosten presented the economic impact statement to the Board. Dr. Ali made a motion to send the rule to rulemaking hearing and Dr. White seconded the motion. The motion passed. Mr. Kosten read the Public Necessity rules Statement. Dr. Ali made a motion to adopt the language in the Public Necessity Rule and Dr. Rosen seconded the motion. A roll call vote was conducted. The motion passed.

The Board discussed the Office Based Surgery site survey and certification application. Dr. Ali made a motion to accept the application as developed by Board staff and Ms. Wells seconded the motion. The motion passed.

Discussion

The Board discussed procedures regarding contested cases. Dr. Mutter reported that Dr. White and Mr. Brown, members of the Improvement Committee, met Monday night, September 17, 2007. Dr. White is chairman of the Committee and informed the Board that Mr. Matthew Scanlan and Judge Tom Stovall proposed new procedures for increasing the speed to process cases. Under the proposal, contested cases would be heard by the Administrative Law Judges. They would hear the case in full, develop findings of facts and conclusions of law and refer back to the Board for a determination of what, if any disciplinary action should be taken. The Board discussed overprescribing cases in particular and who would determine the standard of care. Dr. Zanolli suggested developing guidelines for presentation to the committee before the Board's next meeting in November. Dr. Beckford made a motion for the Committee to develop a pilot project together and suggested adding Dr. Ali as part of the Committee. Dr. Zanolli seconded the motion. The motion passed.

The Board discussed designating a member to represent the Board on the Tennessee Improving Patient Safety (TIPS) Committee. Ms. Otto informed the Board that Dr.

Edmondson was the former representative for the Board. Dr. Beckford made a motion to appoint Dr. Lovelady and Dr. Ali seconded the motion. The motion passed.

Ms. Otto informed the Board that a consumer member is needed to represent the Board on the Controlled Substance Database Advisory Committee to replace Ms. Yeiser who was the past member of the committee. Ms. Otto suggested the Board table electing a member until a new consumer Board member has been appointed. The Board decided to table for a later date.

The Board discussed the Attorney General opinion 07-116 regarding utilization of allied health professionals. Mr. Scanlan reviewed the opinion for the Board.

Reports

Budget Report

The Budget report was reviewed by the Board. Ms. Otto gave a brief review and stated that the Board continues to have a surplus. Ms. Otto stated that the costs assessed for the move and the upgrade of the RBS still has not been reflected in the budget. Dr. Ali restated his view that more members be permitted to attend the annual meeting of the Federation of State Medical Boards. He asked that the Executive Committee of the Board approach the Department early next year to get approval for increased presence at the annual meeting.

Director/Manager Report

There was not a report for the Board to review at this meeting.

Investigation Report

The report was reviewed by the Board. Ms. Juanita Stone, Disciplinary Coordinator gave a brief update in the absence of Ms. Denise Moran, Director of the Bureau of Investigations.

Disciplinary Report

The Disciplinary report was reviewed by the Board. Ms. Juanita Stone gave a brief review of the report.

OGC Report

There was no report for the Board from the Office of General Counsel. Mr. Matthew Scanlan stated there will be a report at the next scheduled meeting.

Dr. Zanolli did a brief review of the Laser Utilization Committee meeting. The Board decided to refer to the Pharmacy Board certain questions regarding Lipodissolve. Mr. Scanlan stated he will submit a letter to the Board of Pharmacy on behalf of Dr. Mutter.

“Noteworthy” section of the internet

The Board did not designate anything for the “noteworthy” section of the internet.

Disciplinary Action

Order of Compliance

Daniel Logan, MD-Dr. Logan was present but not represented by legal counsel. Mr. Matthew Scanlan represented the State. Mr. Scanlan informed the Board that Dr. Logan has met all requirements set by the Board from the March, 2005 Order. Dr. Logan informed the Board he plans on remaining in Florida. Dr. White made a motion to accept the Order of Compliance and Dr. Lovelady seconded the motion. The motion passed.

Martin Gebrow, MD-Dr. Gebrow was present but not represented by legal counsel. Mr. Matthew Scanlan represented the State. Dr. Gebrow is asking for the probation to be lifted. Mr. Scanlan informed the Board that Dr. Gebrow has met all requirements as set by the Board. Dr. White made a motion to accept the Order of Compliance and Dr. Rosen seconded the motion. The motion passed.

Laura Grobovsky, MD-Dr. Grobovsky was present but not represented by legal counsel. Mr. Matthew Scanlan represented the State. Dr. Grobovsky informed the Board that she has a five year contract with the Tennessee Medical Foundation. Mr. Scanlan stated that Dr. Grobovsky has met all the requirements as set by the Board. Dr. Eckles made a motion to accept the Order of Compliance and Dr. Zanolli seconded the motion. The motion passed.

Consent Orders

Joseph P. Moss, MD-Dr. Moss was neither present nor represented by legal counsel. Mr. Matthew Scanlan represented the State. The Board was informed that Dr. Moss is in prison for fraud. The Consent Order stipulated that Dr. Moss has failed to meet the conditions as set out in the Agreed Order dated December 21, 2005. The Consent Order places Dr. Moss’ license in a revoked status and all costs will be assessed to him. Dr. Zanolli made a motion to accept the proposed Consent Order and Ms. Wells seconded the motion. The motion passed.

Pamela E. Brown, MD-Dr. Brown was neither present nor represented by legal counsel. Mr. Matthew Scanlan represented the State. The Consent Order stipulated that Dr. Brown inappropriately prescribed medications to a patient with whom she had a personal relationship for whom she did not maintain appropriate medical records and in whose name she called in about thirteen prescriptions for Lorazepam for her use. The Consent

Order states that Dr. Brown will immediately surrender her license to practice medicine in Tennessee. Ms. Wells made a motion to accept the proposed Consent Order and Dr. Ali seconded the motion. The motion passed.

Agreed Orders

Barrington Nash, MD-Dr. Nash was present and represented by legal counsel, Mr. Frank Scanlon of the Nashville Bar. Ms. Schean Belton represented the State. The Agreed Order stipulated that from approximately February 2004 to July 2005, Dr. Nash failed and/or neglected to document clinical indications that would substantiate the initial and/or continued use of narcotics and/or other controlled substances, failed and/or neglected to document coordination of care with other treating physicians for several patients. On or about May 23, 2005, Dr. Nash planned a vacation and left thirteen (13) pre-signed blank prescriptions for use by his LPN at which time the LPN wrote out six (6) prescriptions including prescriptions for controlled substances, without the supervision of a physician. The Agreed Order requires Dr. Nash's license be placed on probation for a period of three (3) years commencing from the date of the Order. Dr. Nash shall attend and complete, within sixty (60) days of the Order, The Vanderbilt Comprehensive Assessment Program for Professionals (VCAP) at the Vanderbilt University Medical Center, in Nashville, Tennessee. During probationary period, Dr. Nash must limit new patients to those residing only in Knox or Blount counties; maintain accurate records on all patients, which will be available for inspection by the Department of Health during the three (3) year probationary period. Dr. Nash shall create a "carbon-prescription writing" practice on all controlled drugs and provide quarterly reports which shall include current percentage of patients being treated for pain by him to patient population as a whole. Dr. Nash shall pay \$1,000.00 in Type A civil penalties for each of the pre-signed blank prescriptions left for use by the LPN during period of vacation. A total of \$13,000.00 shall be paid prior to the end of the three (3) year probationary period. Dr. Beckford made a motion to accept the proposed Agreed Order and Dr. White seconded the motion. The motion passed.

Tammy Faye Smith-Ms. Smith was neither present nor represented by legal counsel. Ms. Schean Belton represented the State. The Consent Order states that Ms. Smith practiced without a license providing colon hydrotherapy in the Nashville area at her clinic, "Healing Waters." She provided this service for fifteen (15) months or more. Ms. Smith advertised on her "Healing Waters" web site that "Colon Hydro-Therapy helps heal and alleviate a vast majority of diseases and disorders." Ms. Smith also provided ion foot baths, infrared saunas, advice regarding nutritional needs and maintained a small line of nutritional supplements for purchase. The Consent Order states that Ms. Smith must immediately cease and desist from practicing all aspects of naturopathy, including, specifically the use of hydrotherapy, massage and administration of botanical and biological drugs. Ms. Smith shall pay two (2) Type A civil penalties in the amount of two thousand dollars (\$2, 000.00) assessed for each violation of the Medical Practice Act. Dr. Rosen made a motion to accept the proposed Consent Order and Dr. Lovelady seconded the motion. The motion carried.

Letters of Reprimand

Adedamola O. Oni, MD-Dr. Oni was neither present nor represented by legal counsel. Ms. Diona Layden represented the State. The Letter of Reprimand states that Dr. Oni treated a patient with a lesion and diagnosed it as acne. Dr. Oni prescribed Oxsoralen Lotion to the patient. The Letter of Reprimand reflects that Dr. Oni displayed unprofessional conduct by misdiagnosing the lesion, by prescribing Oxsoralen directly to the patient and by failing to refer the patient to a dermatologist. In addition, Dr. Oni failed to maintain an accurate and complete medical record for the patient and furthermore, an investigation revealed that her office was maintained in an unsanitary condition and without the usual and customary medical supplies and equipment. The Letter of Reprimand states that Dr. Oni shall be assessed three (3) Type A civil penalties in the amount of One Thousand Dollars (\$1, 000.00) each, for a total of Three Thousand Dollars (\$3, 000.00) for each violation of the practice act. Dr. White made a motion to accept the Letter of Reprimand and Ms. Wells seconded the motion. The motion carried.

Adjourned at 4:55 p.m.

September 19, 2007

Panel: Beckford, Rosen, Mutter

Contested Case Hearing

Jeffrey E. Whitlow, MD-Dr. Whitlow was present but not represented by legal counsel. Ms. Erin Begley represented the State. The Honorable John Hicks, Administrative Law Judge presided. The Notice of Charges and the Kentucky Order were handed to the panel for review. Ms. Begley gave her opening statement. Dr. Whitlow was later called as a witness. Dr. Whitlow is charged with violating TCA 63-6-214(b) (20). After an investigation, it was determined that Dr. Whitlow was seeing large numbers of patients each day the office was open and he wrote a comparatively large number of prescriptions for anorectics, primarily Popndimin, Adipex and Phentermine. On March 16, 1998, the Kentucky Board disciplined Dr. Whitlow's Kentucky license by prohibiting him from prescribing, dispensing, or utilizing anorectics or anorectic-like substances until he has successfully completed the University of Kentucky mini-residency on "The Use and Prescribing of Controlled Substances." On or about May 19, 2004, it was reported that Dr. Whitlow was prescribing controlled substances on a cash only basis without a proper physical examination. On March 17, 2005, pursuant to an Emergency Order of Restriction, the Kentucky Board restricted Dr. Whitlow's license. On June 22, 2006, Dr. Whitlow entered into an Agreed Order. After closing statements, the panel deliberated. Dr. Beckford made a motion to accept the Finding of Facts and Dr. Rosen seconded the

motion. The motion passed. Dr. Beckford made a motion to accept the Conclusions of Law and Dr. Rosen seconded the motion. The motion passed. Dr. Beckford made a motion to suspend Dr. Whitlow's Tennessee medical license until he has fulfilled the Kentucky Order. Dr. Rosen seconded the motion. The motion passed. The policy statement was read. The reason actions were taken to suspend the medical license of Dr. Whitlow is to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Mutter made a motion to accept the policy as stated and Dr. Rosen seconded the motion. The motion passed.

Robert M. Cannon, MD-Dr. Cannon was present but not represented by legal counsel. Ms. Diona Layden represented the State. The Honorable John Hicks, Administrative Law Judge presided. The Notice of Charges was handed to the panel for review. Dr. Cannon is charged with violating TCA 63-6-214(b) (1) and TCA 63-6-214(b) (2). On March 1, 2004, Dr. Canon was found guilty of ninety-five (95) felony counts in the United States District Court for the Eastern District of Tennessee. Dr. Canon was guilty of violating fifty (50) counts of Healthcare Fraud and forty-five (45) counts of false statements relating to a healthcare matter. Dr. Canon was sentenced to forty-one (41) months of imprisonment and upon release placed on supervised release for a period of three (3) years for each felony count to run concurrently. On August 20, 2004, Dr. Canon's Tennessee medical license was suspended and he was ordered to pay costs in the amount of six hundred eighty seven dollars and forty-nine cents (\$687.49). Dr. Canon was notified on or about January 5, 2007 that he was not in compliance with the 2004 Board Order in that he failed to pay his court costs. The panel was informed that Dr. Canon paid his costs on that morning. The panel deliberated. Dr. Beckford made a motion to accept the Findings of Fact and Dr. Rosen seconded the motion. Dr. Beckford made a motion to accept the Conclusions of Law with the stipulation against revocation and to not incur more penalties. Dr. Rosen seconded the motion. The motion passed. The policy statement was read. The reason the action was taken was to protect the health, safety and welfare of the citizens of Tennessee. Dr. Beckford made a motion to accept the policy as stated and Dr. Rosen seconded the motion. The motion passed.

Agreed Order

Gulshan A. Sultan, MD-Dr. Sultan was present and represented by legal counsel, Mr. Michael Anderson. Ms. Lexie Whittmore represented the State. The Agreed Order stipulated that Dr. Sultan caused false claims to be submitted to Premier Behavioral System, in which he claimed to have provided individual psychotherapy services when in fact he knew that the patients had been seen only by a nurse and that she did not provide individual psychotherapy services as claimed. As a result of these false claims, Dr. Sultan received \$3,775.00 from Premier Behavioral Health Systems and Cigna to which she is not entitled. Dr. Sultan also provided pre-signed prescription blanks to employee nurses to be filled out and issued at their discretion. For some patients who were issued prescriptions by the employee nurses, Dr. Sultan would review such prescriptions in the patients' medical charts. Such reviews did not occur before the patients left with the nurse issued prescriptions. Said nurses have not been certified by the Board of Nursing and are therefore not certified Advanced Nurse Practitioners in the State of Tennessee.

The Agreed Order suspends Dr. Sultan's license for ninety (90) days from the date of the Order. During the suspension period, and before the suspension can be lifted, Dr. Sultan must complete the Vanderbilt prescribing course and the continuing medical education courses in the area of ethics, for a total of fifty (50) hours of courses. After completion, Dr. Sultan may petition the Board to lift the suspension on her license. If the Board determines that Dr. Sultan has submitted sufficient evidence, her license shall then be placed on probation for five (5) years. Dr. Sultan shall pay one (1) Type A civil penalty in the amount of One Thousand Dollars representing the one (1) felony conviction. Dr. Rosen made a motion to accept the proposed Agreed Order and Dr. Beckford seconded the motion. The motion passed.

Russell Wayne Hunt, MD-Dr. Hunt was not present but was represented by legal counsel, Mr. Richard Braun of the Nashville Bar. Ms. Diona Layden represented the State. The Agreed Order stipulated that Dr. Hunt was convicted of one (1) count of conspiracy to commit health care fraud which is a felony. On September 8, 2006, Dr. Hunt was convicted of six (6) counts of health care fraud and convicted of five (5) counts of making false statements relating to health care fraud which are felonies. On or about October 2000, Dr. Hunt had a doctor-patient relationship and had treated a patient for approximately two years. Dr. Hunt recommended and said patient underwent Intravenous Hydrogen Peroxide Therapy also known as Oxidation Therapy, on at least one occasion. Dr. Hunt administered Insulin Potentiation Therapy (IPT) to the patient on at least seven occasions and has treated one or more other patients with Chelation Therapy. Dr. Hunt has asserted that he is Board Certified in Chelation Therapy. The proposed Agreed Order states that Dr. Hunt's medical license shall be surrendered and shall be assessed and pay twelve (12) type B civil penalties for the twelve (12) criminal convictions obtained, in the amount of Five Hundred Dollars (\$500.00) each, for a total amount of Six Thousand Dollars (\$6,000.00), representing the established violations of the Tennessee Medical Practice Act. Dr. Hunt shall pay four (4) Type A civil penalties in the amount of One Thousand Dollars (\$1,000.00) each, for one (1) instance of Intravenous Hydrogen Peroxide Therapy and for three (3) instances of Insulin Potentiation Therapy, for a total amount of Four Thousand Dollars (\$4,000.00), representing the established violations of the Tennessee Medical Practice Act. Dr. Beckford made a motion to accept the proposed Agreed Order and Dr. Rosen seconded the motion. The motion carried.

Consent Order

Bret Robert Sokoloff, MD-Dr. Sokoloff was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. The Consent Order stipulated that Dr. Sokoloff has been indicted on multiple felony counts in Shelby County, Tennessee. A trial concerning these criminal charges has not been scheduled. Dr. Sokoloff has not practiced as a physician since at least May, 1, 2007. The proposed Consent Order states that Dr. Sokoloff shall not see patients, treat patients, perform medical procedures, prescribe medications, or otherwise engage in the practice of medicine until such time as the criminal charges against him are resolved by an Order from the Shelby County Criminal Court. Dr. Sokoloff may provide depositions and give medical opinions so long

as he does not examine patients; review medical records for other purposes he may not supervise allied medical professionals including but not limited to physician assistants, nurse practitioners and advance practice nurses. If Dr. Sokoloff violates the terms of the Order, the State may convene a summary suspension panel and move to have his license summarily suspended. Dr. Beckford made a motion to accept the proposed Consent Order and Dr. Rosen seconded the motion. The motion passed.

Contested Case Hearing

Panel: Higdon, White, Ali

Richard Feldman, MD-Dr. Feldman was present and represented by legal counsels, Mr. Frank Scanlon and Mr. Larry Roberts of the Nashville Bar. Mr. Thomas Miller represented the State. The Honorable Ann Johnson, Administrative Law Judge presided. Both sides presented opening statements. The State began putting on its proof with Dr. Feldman on the witness stand. The matter was not completed and will be continued until the next scheduled meeting.

September 19 and 20, 2007

Contested Case Hearing

Panel: Wells, Lovelady, Zanolli

Joseph Rich, MD-Dr. Rich was present and represented by legal counsel, Mr. Dan Warlick of the Nashville Bar. Mr. Siva Bozarth represented the State. The Honorable Tom Stovall, Administrative Law Judge presided. The matter is a continuation from the previous hearing dates. The matter was not concluded and will be continued to a later scheduled date.

Agreed Order

Lorenzo Nichols, MD-Dr. Nichols was neither present nor represented by legal counsel. Mr. Shiva Bozarth represented the State. Dr. Nichols' license was summarily suspended October, 2004. Dr. Nichols was arrested in Athens, Tennessee as a fugitive from justice on a Kentucky bench warrant for non-payment of child support. Dr. Nichols' office and residence was searched by the Tennessee Bureau of Investigation. Drug paraphernalia was discovered at his office. Numerous partial and empty medication bottles for Schedule II, III and IV medications, written in various patient names, numerous loose tablets of similar controlled medications, evidence of cocaine and marijuana use, a large quantity of blank prescription pads for his current Tennessee practice and his prior Kentucky practice and approximately eighty (80) patient charts were found at Dr. Nichols' residence. The proposed Agreed Order was reviewed by the panel. Dr. Lovelady made a motion not to

accept the Agreed Order and Ms. Wells seconded the motion. The motion passed. Dr. Zanolli requested that Dr. Nichols appear before the Board represented by legal counsel.

Licensure Denial Appeal

Panel: Wells, Higdon, White

Robert Burkich, MD-Dr. Burkich was present and represented by legal counsel, Mr. Dan Warlick of the Nashville Bar. Ms. Lexie Whittemore represented the State. The Honorable James Hornsby, Administrative Law Judge presided. Dr. Burkich was in violation of TCA 63-6-214(b) (10) and TCA 63-6-214(b) (20). Dr. Burkich was convicted of a federal crime of mail fraud. His Georgia license was revoked and the Tennessee Board subsequently revoked his Tennessee medical license on August 16, 2002. Dr. Burkich reapplied for a new license in Tennessee and was denied such application by the Board. Both attorneys gave their opening statements. Dr. Burkich is appealing the denial and requesting to be issued a new Tennessee medical license. After closing statements, the panel deliberated. Dr. White made a motion to grant a license to Dr. Burkich and Dr. Higdon seconded the motion. The motion passed.

These minutes were ratified at the November 6-7, 2007 meeting.