

**Tennessee Board of Medical Examiners’
Committee on Physician Assistants
January 9, 2009**

Minutes

A regular meeting of the Tennessee Board of Medical Examiners’ Committee on Physician Assistants was held in the Poplar Room at 227 French Landing, Heritage Place Metro Center, Nashville, Tennessee.

Members Present: Glen Alexander, PA; Johnny Nowlin, PA; James Montag, PA; Jonathan White, PA; Gary Tauxe, OPA and Anne Arney, Consumer Member

Staff Present: LaTonya Shelton, Administrator; Marsha Arnold, Unit Manager; Rosemarie Otto, Executive Director; Mona Jean-Baptiste, Assistant General Counsel and Libby Miller, Director, Health Related Boards

Members Absent: Johnny Presley, PA

Mr. Glen Alexander, Committee Chairman called the meeting to order at 9:10 a.m. The Chairman determined that a sufficient number of members were in attendance to constitute a quorum.

Conflict of Interest

The new conflict of interest policy was reviewed by the Committee and signed by the members that were absent from the October 17, 2008 meeting.

Approval of Minutes

Mr. James Montag made a motion to approve the minutes of the October 17, 2008 meeting. Ms. Johnny Nowlin seconded the motion. The motion passed unanimously.

Financial Report

Ms. Rosemarie Otto, Executive Director of the Board of Medical Examiners, reviewed the Committee’s financial statement and stated that the financial report indicated a surplus of \$28,052.28. This was the total after the Governor’s office

used \$196,602.86 to balance the State's financial budget. The Committee discussed looking at their finances in another year to see if they need to reduce their fees. Mr. Jonathan White made a motion to draft a rule to send to rule making hearing to reduce the renewal fees from \$250.00 to \$225.00 for the meeting in April, 2009. Mr. James Montag seconded the motion. The motion passed unanimously.

Disciplinary Report

The Committee reviewed the written report submitted by Ms. Juanita Stone, Disciplinary Coordinator which informed the Committee three licensees are currently being monitored and in compliance, and four licensees have been revoked for noncompliance. Ms. Stone also informed the Committee that Joel Burnett has been removed from the list and is in compliance but his license remains revoked. Ms. Stone also informed the Committee that licensees have thirty (30) days from the date the Division of Investigations is notified that the licensee has received notice that costs and civil penalties are due to contact her to make payments or the matter is referred to the Attorney General's office for further process.

Investigations Report

Ms. Juanita Stone, Disciplinary Coordinator informed the Committee that there were thirty-two (32) open complaints for physician assistants with seven (7) complaints being investigated and two (2) open complaints for orthopedic physician assistants in the Bureau of Investigations.

Manager's Report

Ms. Marsha Arnold reported on the activities in the administrative office between October 1, 2008 and December 30, 2008 concerning Physician Assistants. The report reads as follows:

26 new applications, 32 new licenses, 126 mailed out renewals and 2 licensure reinstatements. The number of active licensees as of December 31, 2008 is 1,035 and the total number of active licensees with a Tennessee mailing address is 927. The total number of active licensees with a Tennessee practice address is 658.

Ratification of New Licenses, Temporary Permits Reinstatements and Failure to Renew

Mr. Jonathan White made a motion to ratify the new licenses, temporary permits, retirements and failures to renew. Ms. Johnny Nowlin seconded the motion. The motion passed unanimously.

Tennessee Professional Assistant Program (TNPAP)

Mr. Mike Harkreader discussed the TNPAP report with the Committee. For the period of July 1, 2008 through December 16, 2008, TNPAP had a total of eight (8) participants: two (2) are being monitored, two (2) were referred from the Committee, one (1) has been discharged because of relocation and the Department of Health was notified.

OGC Report

Ms. Mona Jean-Baptiste, Assistant General Counsel, informed the Committee that the Office of General Counsel currently has eight (8) open files in the Office of General Counsel. There are two (2) consent orders for consideration by the Committee at today's meeting. No contested cases are on today's agenda.

Rules

Ms. Mona Jean-Baptiste informed the committee that the rules relative to the amendments for Physician Assistants Rule 0880-3-.03, Necessity of License; Rule 0880-3-.07, Application Review, Approval and Denial; Rule 0880-3-.15, Disciplinary Grounds, Actions and Civil Penalties; and also regarding Orthopedic Physician Assistants Rule 0880-10-.03, Necessity of License and Rule 0880-10-.15, Disciplinary Grounds, Actions and Civil Penalties have been redirected back to the Office of General Counsel to cause them to confirm to the new format and then will be sent back to the Attorney General's Office.

General Discussion

Mr. James Montag made a motion to send to rule making hearing a rule that mirrors the Board of Medical Examiners' rule that requires a licensee whose license is revoked to apply for a new license. The rule will prohibit the Committee from entertaining reinstatement applications. Ms. Johnny Nowlin seconded the motion. The motion passed unanimously.

Consent Orders

Curtis C. Jones, PA-C of Smithville, TN. Mr. Jones was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. The Consent Order stipulated that Mr. Jones was employed and supervised by William Leone, MD of the Pain Management Group in Antioch, Tennessee from October 2007 until he was terminated in the early part of June 2008. At no time during his employment did Mr. Jones submit a formulary to the Committee indicating what classifications of drugs Dr. Leone had authorized him to prescribe. On June 19, 2008, Mr. Jones called in a prescription for ninety Lortab 10mg tablets for his son to the Wal-Mart Pharmacy in Algood, Tennessee. Mr. Jones did not have a supervising physician at the time this prescription was written. Additionally, Mr. Jones prescribed medication to his son at a time when he admits to not thinking clearly as he was recovering from a surgical procedure the prior day. Mr. Jones engaged in unprofessional conduct by prescribing Lortab to his son while failing to: enter into a physician assistant/patient relationship; documenting medical histories; conducting physical examinations making diagnoses based upon the examination of the patient; formulating a written treatment plan tailored to the individual needs of the patient; documenting periodic review at reasonable intervals; and maintaining complete and accurate records. Mr. Jones violated rules 0880-3-.15(1)(a)(m) and (t) Unprofessional, dishonorable, or unethical conduct; dispensing, prescribing, or otherwise distributing any controlled substance to any person in violation of any law of the state or of the United States of America or any rule of the Board or Committee; violation of prescribing statutes T.C.A 63-19-107(2), and rules 0880-3-.10 and 0880-3-.21 to include improper or abusive practices inconsistent with normal prescribing guidelines. Mr. Jones agreed that his Physician Assistant license be placed on PROBATION for a period not less than one (1) year, effective on the date that the Consent Order is ratified by the Board. Within six (6) months of the effective date of the Probation Mr. Jones must complete the following: Vanderbilt University Center "Prescribing Controlled Drugs" course and five (5) hours of continuing medical education specifically relating to "Medical Ethics". This requirement is an addition to establish continuing medical education requirements imposed by the Committee on Physician Assistants and shall not serve to fulfill those requirements. Mr. Jones is hereby also ordered to pay one (1) Type "A" civil penalty in the amount of One Thousand Dollars (\$1000.00) for his indiscretions in prescribing Lortab to his son. Any and all civil penalties shall be paid in full within thirty (30) days of the effective date of this Consent Order. Mr. Jones must petition the Committee for an Order of Compliance modifying the probationary status of his license to practice as a physician assistant in the State of Tennessee and present evidence to the Committee that he has complied with all of the terms and conditions of the Consent Order. Mr. Jones must also notify his supervising physician of this discipline and the limitations placed on his license. This PROBATION is a formal disciplinary action and will be reported to

the Health Integrity and Protection Data Bank (HIPDB). Mr. Jones shall pay all reasonable and actual costs of this action, which shall not exceed \$4500.00. This fee is to be paid within thirty (30) days from the filing of the Affidavit of Cost and to the extent allowed by law, execution may issue for payment of these costs for all or any portion thereof that remain unpaid for one (1) year after the Order becomes final. Jonathan White made the motion to accept the Consent Order as written and Anne Arney seconded the motion. The motion passed unanimously.

Kristin Colby, PA Nashville, TN was neither present nor represented by legal counsel. Ms. Mona Jean-Baptiste represented the State. The Consent Order stipulated that on or about June 20, 2006, Ms. Colby wrote a prescription for one hundred and twenty # (120) 10mg Lortab for a patient and submitted the prescription to Kroger Pharmacy. Ms. Colby freely admitted to the pharmacy that she intended to pick up the prescription as if she was the patient. Ms. Colby was subsequently indicted under T.C.A. 53-11-402 "Attempted Obtaining Schedule Drug by Fraud." On or about January 24, 2008, Ms. Colby was allowed to plead guilty, pursuant to T.C.A. 40-35-313, to one (1) count of "Destruction/Tampering with Government Records", a Class A misdemeanor, in the Criminal Court of Davidson County, Tennessee. Ms. Colby was sentenced to eleven months and twenty-nine days of probation. Ms. Colby violated rules 0880-3-.15(1) (a) and (t) Unprofessional, dishonorable, or unethical conduct and violation of prescribing statutes T.C.A 63-19-107(2), and rules 0880-3-.10 and 0880-3-.21 to include improper or abusive practices inconsistent with normal prescribing guidelines. Ms. Colby agreed that her Physician Assistant license be placed on PROBATION and shall remain in place for at least two (2) years. During the probationary period Ms. Colby must complete the following: submit to an evaluation by the Tennessee Professional Assistance Program within forty-five (45) days of the effective date of this Consent Order; should a contract be required, Ms. Colby must follow all recommendations proffered by the TNPAP and must comply fully with any required aftercare program; and within twelve (12) months of the effective date of this PROBATION and Order, Ms. Colby is hereby ordered to complete the Vanderbilt University Center "Prescribing Controlled Drugs" course and submit proof of completion to the Board's Disciplinary Coordinator. This PROBATION is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB). Mr. Jones shall pay all reasonable and actual costs of this action, which shall not exceed \$4500.00. This fee is to be paid within thirty (30) days from the filing of the Affidavit of Cost and to the extent allowed by law, execution may issue for payment of these costs for all or any portion thereof that remain unpaid for one (1) year after the Order becomes final. Mr. Jonathan White made a motion to accept the consent order but there was no second and the motion failed to carry. Ms. Anne Arney then made a motion to have Ms. Colby's probationary period be the same length as her TNPAP contract and she must surrender her DEA and not reapply until her probation has been lifted. Mr. James Montag seconded the motion. The motion passed

unanimously. The consent order will be renegotiated with terms consisted with the Committee's direction.

Continuing Medical Education Audit

Ms. Rosemarie Otto informed the Committee that their profession has a remarkably high compliance rate. Currently, only one (1) Orthopedic Physician Assistant is under review and two (2) were referred to OGC.

Applicant Interview

Mr. Joel Burnett, PA of Bessemer, AL was present with legal counsel, Mr. Terry Adams, Knoxville Bar Association. Ms. Mona Jean- Baptiste represented the State of Tennessee. At the October 17, 2008 meeting Mr. Burnett appeared before the Committee to reinstate his license. The Committee asked him to take the proper steps to reintroduce himself to the physician assistant profession. To that end, the Committee directed him to attend one clinical rotation in family medicine or internal medicine. On November 11, 2008 Mr. Burnett met with representative of Trevecca following the meeting, Trevecca asked Mr. Burnett to do two (2) rotations. Subsequently, and following additional discussions, Trevecca Nazarene University's subcommittee for the clinical competency program withdrew their recommendation because Mr. Burnett was not a suitable candidate for enrollment. Mr. James Montag made a motion that Mr. Burnett attend a six (6) week rotation from an accredited physician assistant program equivalent to Trevecca's clinical rotation program in family medicine and internal medicine in Tennessee. Ms. Anne Arney seconded the motion. Ms. Johnny Nowlin made a motion that it would be Mr. Burnett's responsibility to make contact with the other physician assistant schools in Tennessee to see if they will be willing to accept him in a clinical competency program and to have the program director contact Ms. Otto to discuss Mr. Burnett's participation and Mr. Burnett's successful completion of the clinical competency program. Mr. Jonathan White seconded the motion. All motions passed unanimously.

Ms. Anita Kline-Connor, PA, Nashville, TN was present to discuss her reinstatement application and achievements at Trevecca Nazarene University during her clinical rotations. Ms. Kline-Connor successfully completed her clinical competency program at Trevecca Nazarene University. The clinical competency subcommittee strongly recommended that the Committee grant Ms. Kline-Connor privileges to practice as a physician assistant in the state of Tennessee. Ms. Rosemarie Otto asked the Committee to give the administrative office permission to approve her reinstatement application once Ms. Kline-Connor has successfully passed the NCCPA certification examination. Mr. Jonathan White made a motion to accept Ms. Otto's request to have the

administrative office approve the reinstatement of licensure and Ms. Johnny Nowlin seconded the motion. The motion carried unanimously.

Mr. Steven Noakes, PA, San Diego, CA was not present. He will be placed back on the agenda for the April 17, 2009 meeting.

This meeting adjourned at 11:55 a.m. The next meeting is April 17, 2009 at 9:00 a.m. at 227 French Landing, Heritage Place Metro Center, Nashville, Tennessee

Approved this 17th day of April, 2009 by the Committee on Physician Assistants.