

Tennessee Board of Medical Examiners'
Committee on Physician Assistants
July 31, 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-C; Johnny Nowlin, PA-C; James Montag, PA-C ; Johnny Presley, PA-C ;Jonathan White, PA-C; Gary Tauxe, OPA and Anne Arney, Public 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

Ms. Rosemarie Otto, Executive Director called the meeting to order at 9:00 a.m. for the purpose of the Rule Making Hearing regarding Tamper Resistant Prescription Pads. It was determined that a sufficient number of members were in attendance to constitute a quorum. The matter was then turned over to Ms. Jean-Baptiste to conduct the Rulemaking hearing. Ms Jean-Baptiste explained the purpose of the rulemaking hearing was to consider the proposed Tamper Resistant Prescription Pad Rules. With no comments, either written or oral offered, the Committee voted unanimously to adopt the proposed rules as written, with the following exception: The Committee adopted the amendment to the proposed rules consistent with the prior action of the Board of Medical Examiners. Therefore the proposed rules are amended as follows:

Section (5) (a) (2):

If a prescriber transmits a prescription order to a pharmacy by facsimile transmission, the prescriber or someone designated by the prescriber shall document in the patient's medical record the name of the drug, strength, and quantity prescribed, ~~and the method by which the prescription has been transmitted.~~ The prescriber may, but is not required to, document the means by which the prescription was transmitted.

Section (5) (b) (2):

If a prescriber transmits a prescription order to a pharmacy by electronic transmission, the prescriber shall document ~~that~~ the

prescription was ~~transmitted electronically~~ in the patient's file and in accordance with the applicable laws and rules for each of the prescribers' respective professions as well as applicable federal laws and rules. The prescriber may, but is not required to, document the means by which the prescription was transmitted."

Mr. Presley made a motion to adopt the above amendment which was seconded by Mr. White. A roll call vote was conducted and all members voted in the affirmative.

Conflict of Interest

The conflict of interest policy was reviewed by the Committee.

Election of Officers

Johnny Presley made a motion to nominate Jonathan White for Chairman, Mr. James Montag seconded the motion. The motion passed unanimously. Johnny Presley made a motion to nominate Ms. Johnny Nowlin for Secretary and Mr. Glen Alexander seconded the motion. The motion passed unanimously. The meeting was turned over to Chairman Jonathan White.

Approval of Minutes

Mr. Johnny Presley made a motion to approve the minutes of the April 17, 2009 meeting and Mr. James Montag seconded the motion. Mr. Johnny Presley also made a motion to approve the minutes from the May 26, 2009 Teleconference and Ms. Anne Arney 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. Ms. Otto informed the Committee that they should have a new financial report in October 2009.

Disciplinary Report

The Committee reviewed the disciplinary report submitted by Ms. Juanita Stone, Disciplinary Coordinator which informed the Committee that nine licensees are currently being monitored on probation. One (1) license is currently suspended and five (5) are currently revoked or under some form of board order.

Investigations Report

Ms. Juanita Stone, Disciplinary Coordinator informed the Committee that there were four (4) new open complaints relative to physician assistants. Seven (7) complaints were closed with no action and one (1) closed with a letter of concern.

There are no open complaints against orthopedic physician assistants in the Office of Investigations.

Manager's Report

Ms. Marsha Arnold reported on the activities in the administrative office between April 1, 2009 and June 30, 2009 concerning Physician Assistants. The report reads as follows:

22 new applications, 22 new licenses, 108 mailed out renewals and 6 licensure reinstatements. The number of active licensees as of June 30, 2009 is 1,058 and the total number of active licensees with a Tennessee mailing address is 921. The total number of active licensees with a Tennessee practice address is 660.

Mr. Jonathan White asked the administrative office for a report showing physician assistants with a Tennessee practice addresses over a ten (10) year span at the October meeting.

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

Mr. Glen Alexander made a motion to ratify the new licenses, temporary permits, retirements and failures to renew. Mr. Johnny Presley 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 March 16, 2009, TNPAP had a total of eight (8) participants: two (2) are being monitored, three (3) were referred from different sources, one (1) has been discharged with no monitoring necessary and two (2) have been reported to the Committee for refusal of services.

OGC Report

Ms. Mona Jean-Baptiste, Assistant General Counsel, informed the Committee that the Office of General Counsel currently has six (6) open files of which one (1) contested case will be heard today.

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 are currently at the Attorney General's Office.

Ms. Mona Jean-Baptiste also informed the Committee of a Notice for Rule Making Hearing relative to amendments to Rule 0880-3-.06, Fees; Rule 0880-3-.15, Disciplinary Grounds, Actions, and Civil Penalties; Rule 0880-10-.06 requires the Committee 's review and approval.

CME Audit Office

Ms. Rosemarie Otto reviewed the Physician Assistant Practice Act which authorizes the Committee to develop rules to require continuing medical education as a condition for renewal of a physician assistant license. The rules require all physician assistants to, within a two (2) year period prior to renewal to complete one hundred (100) hours of continuing medical education satisfactory to the Committee. The Health Related Boards Audit Office conducts random audits of five percent (5%) of renewals each month. Ms. Otto informed the Committee that Physician Assistants have a one hundred percent (100%) compliance rate. Ms. Otto also prepared a graph comparing compliance rates of various Health Related Borads.

Consent Order

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 statues 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. Johnny Presley made a motion to accept the consent order and Mr. James Montag seconded the motion. The motion passed unanimously.

Applicant Interview

Ms. Mickie Wilkerson, PA- will be rescheduled for the October 9, 2009 meeting.

General Discussion

The Committee held a discussion regarding support for legislation relative to registration of pain management clinics. Ms. Rosemarie Otto informed the Committee that they will need to nominate one member for a one time meeting to examine the level of interest stakeholders may have in registration of pain management clinics. Mr. Glen Alexander made a motion to nominate Mr. Johnny Presley and Ms. Johnny Nowlin seconded the motion. The motion carried unanimously.

The Committee discussed and voted on utilization of Committee members as Consultants for the purpose of application file review. All Committee members agreed that the Committee members could review applications files.

Morris Bucker, PA- Ms. Otto discussed the contested case (by default) heard on April 17, 2009 by the Committee regarding Mr. Butcher practicing without a physician assistant license which was referred to the Board of Medical Examiners on May 19, 2009 for ratification. The Medical Board also directed the staff to refer this matter to the appropriate prosecutor's office in Memphis for consideration for prosecution and to also inform the Committee of this action.

A discussion was held considering recommendations from TAPA regarding clinical re-entry training. The recommendations consist of five (5) steps: step 1, applicant appears before the Committee to evaluate the circumstances that led to being out of clinical practice and to determine if any criminal charges or professional misconduct are related to the case; step 2, COPA evaluates and determines if the candidate to be qualified for training under the re-entry training pathway; step 3, COPA directs the applicant to choose an institution that is accredited by the Accreditation and Review Commission of Physician Assistant Programs to provide re-entry training under contract between the applicant and the institution, based upon the following guidelines as determined by the number of years out of clinical practice; step 4, Upon successful completion of the contractual training, the institution shall issue an official document indicating a passing grade to the applicant and step 5, The applicant presents the official document to COPA indicating successful completion of the required re-entry training in consideration of obtaining a license to re-enter clinical practice. TAPA indicated that this is a suggestion of course actions as required by COPA. All Committee members agreed to turn the recommendations into a policy for the October 9, 2009 meeting so that it can be voted on properly.

This meeting adjourned at 10:16 a.m. The next meeting is October 9, 2009 at 9:00 a.m. at 227 French Landing, Heritage Place Metro Center, Nashville, Tennessee

These minutes were ratified by the Committee on Physician Assistants October 9, 2009.