

**Tennessee Board of Medical Examiners’
Committee on Physician Assistants
October 17, 2008**

Minutes

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

Members Present: Glen Alexander, PA; Johnny Nowlin, PA; James Montag, PA and Johnny Presley, PA

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: Jonathan White, PA; Gary Tauxe, OPA and Anne Arney, Consumer Member

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 and signed by the Committee.

Approval of Minutes

Mr. Johnny Presley made a motion to approve the minutes of the July 18, 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 \$219,672.84. It was agreed that when the Committee’s

financial status is clear, the matter will be brought back to the Committee for future consideration of a reduction of fees.

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which informed the Committee three licensees are currently being monitored and in compliance, and four licensees have been revoked for noncompliance.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 discussed with the Committee that the Office of Investigations has a new system with the Attorney General's Office, where Ms. Stone prepares an affidavit and sends it with the completed file to the Attorney General's Office for civil judgment for the outstanding fees. If the person is revoked or unlicensed she will send verification that she has exhausted all efforts in locating that person and they will be processed to be taken to Chancery Court for a civil judgment against them for the fees no matter the size of the fee. For a trial effort she has submitted fifteen to twenty cases with completed files and affidavits. There is no information available at this time in regards to the cases but once the fees are collected through Chancery Court they will be sent back to Health Related Boards.

Investigations Report

Ms. Juanita Stone, Disciplinary Coordinator informed the Committee that there were twenty-nine open complaints for physician assistants and one open complaint for orthopedic physician assistants in the Bureau of Investigations. Ms. Stone also informed the Committee that with the State's hiring freeze they have lost five investigators.

Manager's Report

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

57 new applications, 44 new licenses, 93 mailed out renewals and 2 licensure reinstatements. The benchmark for processing renewals has been set for 14 days. The actual processing time of renewals in our office is 4.4 days. The benchmark for processing new applications has been set for 100 days. The actual processing time for new applications in our office is 61.6 days. The number of active licensees as of September 30, 2008 is 1,020 and the total number of active licensees with a Tennessee mailing address is 887. The total number of active licensees with a Tennessee practice address is 632.

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

Mr. Johnny Presley 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, 2007 through June 30, 2008, TNPAP had a total of six (6) participants: two (2) are being monitored, five (5) were referred from different sources, one (1) has been discharged with no monitoring necessary and one (1) was 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 three open files in the Office of General Counsel.

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.

General Discussion

There was a discussion regarding enforcement preferences relative to CME deficiencies. In keeping with the Board of Medical Examiners' policy, the Committee agreed to utilize Agreed Citations as the vehicle for enforcing their Continuing Medical Education Policy. Mr. Johnny Presley made a motion to approve the agreed citation and Ms. Johnny Nowlin seconded the motion. The motion passed unanimously.

Continuing Medical Education Audit

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 the 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. The current audit period is 2006 and 2007. Ms. Otto reported on the activities in the administrative office between the months of January through June 2008. The report read as follows:

Physician Assistants- seven (7) physician assistants audited, six (6) physician assistants compliant, one (1) physician assistant was noncompliant

Orthopedic Physician Assistants-four (4) orthopedic physician assistants audited and all are in compliance.

Applicant Interview

Mr. Joel Burnett, PA of Bessemer, AL was present to discuss his reinstatement application with the Committee. Mr. Burnett's license was revoked on July 17, 2007 and costs were assessed for violation of the January 25, 2006 order. Presently Mr. Burnett has the advocacy of the Tennessee Professional Assistance Program (TNPAP) for the second time. Mr. Mike Harkreader, Executive Director for Tennessee Professional Assistance Program was in attendance on his behalf. Mr. Harkreader informed the Committee that Mr. Burnett signed a five year contract with TNPAP on March 3, 2008. After review from both the Committee consultant, Joyce Eyler and the Board consultant, Dr. Larry Arnold the following recommendations were made:

Denial, or in the alternative the following: Reinstatement of licensure with the following restrictions: (a) For five (5) years, his license be placed on probation, (b) No DEA registration for one year, (c) After one year, Mr. Burnett may petition the Committee for permission to apply for a DEA registration, (d) Mr. Burnett must have TNPAP advocacy for five (5) years with a **zero** tolerance. Any violation of the contract with TNPAP must be reported to the Committee and also (e) TNPAP must provide quarterly reports to the Committee through the Department's disciplinary coordinator, (f) Mr. Burnett must report this disciplinary action to his supervising physician who must report quarterly to the Committee, (g) Mr. Burnett must inform any subsequent supervising physician of this disciplinary action and he must agree to assume the obligation to provide the Committee with quarterly reports, (h) Mr. Burnett must report this disciplinary action to any facility contemplating to employing him and (i) After

five years, Mr. Burnett can apply to the Committee for an Order of Compliance. Johnny Presley made a motion to table this issue until Mr. Burnett takes the proper steps in reintroducing himself with the physician assistant profession, which is to attend Trevecca for a six (6) week family medicine clinical rotation and try to reacquire his NCCPA certification or show proof that he is ineligible to retake the exam for certification and also follow the recommendations from both consultants. Mr. James Montag seconded the motion. The motion passed unanimously. Mr. Glen Alexander, Chairperson requested that the administrative office along with TNPAP contact the NCCPA and ask that Mr. Burnett be allowed to sit for the certification exam.

Mr. Robert Laugherty, PA-C of Dalton, GA was present to discuss his initial application. Mr. Laugherty was originally disciplined by the Georgia Medical Board of Medical Examiners on August 15, 2006 via consent order for issues relating to substance abuse. Mr. Laugherty agreed to have his license placed on suspension indefinitely and to not resume practice without an order of the Board. Also he agreed to enter treatment, followed by an aftercare program and obtain professional advocacy. He was also reprimanded. On January 11, 2007, a consent order was entered to lift the August 2006 suspension, however conditions were imposed. The conditions are as follows: (1) License placed on INDEFINITE PROBATION, but may not petition for the lifting of the probation sooner than five (5) years from the effective date of the consent order conditioned upon five (5) years of continuous sobriety; (2) Board must issue prior approval of work location; (3) Must have a workplace supervisor that will monitor any medications he prescribes; (4) Must continue to participate in treatment and any aftercare program under a monitoring physician; (5) Must continue in participating in meetings of support groups (e.g. Caduceus Club, Narcotics Anonymous or Alcoholics Anonymous) a minimum of three (3) times per week; (6) Must continue with individualized psychotherapy; (7) Abstain from mood altering substances; (8) Shall not have possession of a DEA permit or any triplicate of federal order forms and shall not prescribe, administer, dispense, order or possess controlled substances; (9) Must submit quarterly reports from his monitoring physician; (10) Must submit to random drug/ alcohol screens of all types; and (11) Must submit to further evaluations at the Board's discretion. On April 3, 2008, the January 11, 2007 consent order was amended to remove the restriction that he's not permitted to possess a DEA certificate. Mr. Laugherty is now permitted to use triplicate prescription system for all controlled substances prescribed by him. Mr. Laugherty must submit copies to the Board and must number all the prescriptions sequentially. Mr. Laugherty is further required to keep a prescription log and detailed patient records. All other conditions of the January 11, 2007 consent order remain. Mr. Johnny Presley made a motion to mirror the consent order issued by the Georgia Board Medical Examiners and also Mr. Laugherty must have the advocacy of TNPAP for the duration of the Georgia Board consent order. Mr. James Montag seconded the motion. The motion passed unanimously.

This meeting adjourned at 10:50 a.m. The next meeting is January 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 January 19, 2009.