

**TENNESSEE BOARD OF MEDICAL EXAMINERS**  
**May 20-21, 2014**  
**Minutes**

**May 20, 2014**  
**Rulemaking Hearing Continued**

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The meeting was called to order at 8:05 a.m. by Dr. Zanolli. He asked for a roll call of board members present. Dr. Zanolli opened the continuation of the Rule Making Hearing regarding Telemedicine by complimenting the boards' members for their work and demeanor listening to the concerns of those present with public comments yesterday. Dr. Zanolli asked for input from board members regarding how to proceed. Dr. Beckford suggested that the board use the Federation of State Medical Board guidelines as a model to structure Tennessee guidelines with amendments when appropriate. Ms. Otto suggested the board consider developing a waiver provision to address the concerns of some agencies. After discussion it was decided that the board will meet again to clarify or consider modification of specific topics addressed regarding this rule making hearing. A tentative retreat was considered for July 11-12, 2014 with a specific location to be determined (possibly a state park) later.

The Rulemaking Hearing adjourned at 9:07 a.m.

The regular board meeting was called to order at 9:19 a.m. at the Health Related Board's Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by President Dr. Zanolli. Other members present were: Dr. Jeff Lawrence, Dr. Neal Beckford, Dr. Keith Lovelady, Dr. Subhi Ali, Dr. Reeves Johnson, Ms. Pat Eller, Ms. Nina Yeiser, Ms. Barbara Outhier, Dr. Michael Baron, Dr. C. Allen Musil and Dr. Dennis Higdon.

Staff present included: Larry Arnold, MD Medical Director, Rosemarie Otto, Director, Stacy Tarr, Unit Manager, Andrea Huddleston, Deputy General Counsel and Angela Lawrence, Board Administrator.

Dr. Zanolli asked for a 15 second moment of silence for the board members to reflect on the tasked of the board for this May meeting.

**Consideration of Application**

**MD X-Ray Application**

**Patricia Hernandez** – was not present but the board allowed one more invitation to the next meeting in July.

## **Medical Doctors Applications**

**Talat Alvi, MD** – appeared before the board because he is outside the Board’s one point rule relative to the USMLE’s passing scores. After review of the materials contained in his licensure file and interviewing him, Dr. Beckford made a motion to grant an unrestricted license. Dr. Lawrence seconded the motion. Ms. Eller abstained and the motion passed.

**Srikanth Aravapalli, MD** – appeared before the board because he had adverse action taken during his residency training. After review of the material contained in his licensure file and interviewing him, Dr. Lovelady made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion passed unanimously.

**Nohemic Brevil, MD** – appeared before the board because she attended a school that did not meet the requirements of Rule 0880-02-0.4(3). She is not board certified and did not pass all three steps of the USMLE on the initial attempt. After review of the material contained in her licensure file and interviewing her, the board allowed her to withdraw her application.

**Michael Labanowski, MD** – was not present but the board allowed one more invitation to the next board meeting in July.

**Henry Lemly, MD** – appeared before the board because he had adverse action taken during residency training. After review of the materials contained in his licensure file and interviewing him, Dr. Baron requested the he obtain a psychological evaluation by a healthcare provider approved by the Board’s medical director, Larry Arnold MD. Dr. Musil made a motion to table his application until the July 22, 2014 meeting in order to receive the results of that evaluation. Ms. Eller seconded the motion. The motion passed unanimously.

**George Livermore, MD** – appeared before the board because he had a history of malpractice with two (2) pending at the time of the interview. After review of the materials contained in his licensure file and interviewing him, Dr. Musil made a motion to grant an unrestricted license. Dr. Lovelady seconded the motion. Dr. Beckford recused himself and Ms. Outhier abstained. The motion passed.

**Jennifer McHardy, MD** – appeared before the board because she attended a school that did not meet the requirements of Rule 0880-02-.04(3). She is not board certified but has passed all three (3) steps of the USMLE on the initial attempt. She has taken her boards and should receive the scores by June 6, 2014. After review of the material contained in her licensure file and interviewing her, Dr. Ali made a motion to grant an unrestricted license contingent upon receiving proof of passing her boards otherwise to withdraw her application. Ms. Yeiser seconded the motion. The motion passed unanimously.

**Gabrielle Morris, MD** – appeared before the board because she has previous malpractice that resulted in her license being revoked in California. After review of the materials contained in

her licensure file and interviewing her, Dr. Ali made a motion to grant an unrestricted license. Dr. Lovelady seconded the motion. Ms. Eller opposed and the motion passed.

**Ernesto Oddono Jr, MD** – appeared before the board because he had previous discipline in North Carolina relative to inappropriate prescribing. After review of the materials contained in his licensure file and interviewing him, Dr. Musil made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion by show of hands failed. The board then allowed him to withdraw his application.

**Sharidan Parr, MD** – appeared before the board because she had a criminal conviction for reckless driving. She also had history of previous substance abuse and currently has TMF advocacy. After review of the materials contained in the licensure file and interviewing her, Dr. Lovelady made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. Dr. Baron recused himself and the vote passed.

### **Approval of Minutes**

Dr. Ali made a motion to approve the meetings from the March 18-19 meeting with one typo correction under the consent order for Dr. Konofaos. Dr. Johnson seconded the motion. The motion passed unanimously.

### **Ratification of Licenses**

Dr. Musil made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for Medical Doctor. Dr. Lawrence seconded the motion which passed unanimously. Dr. Higdon made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for Acupuncture. Dr. Baron seconded the motion which passed unanimously. Dr. Baron made a motion to ratify and approve the new, reinstate, failed renew and voluntary retired licenses for Genetic Counselors. Dr. Beckford seconded the motion which passed unanimously. Dr. Musil made a motion to ratify and approve the new, reinstated failed renew and voluntary retired licenses for Orthopedic Physicians Assistants. Dr. Lawrence seconded the motion which passed unanimously. Dr. Ali made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for Physician Assistants. Ms. Yeiser seconded the motion which passed unanimously. Dr. Lovelady made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for Polysomnography. Dr. Ali seconded the motion which passed unanimously. Dr. Musil made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for MD Special Training. Dr. Ali seconded the motion which passed unanimously.

### **Reports**

**Legislative Report:** Mr. Jeremy Davis, Department of Health Legislation liaison gave a brief of the following bills: Customer Focused Government (SB1629/Hb1425), Controlled Substance Monitoring Database Update (SB1630/HB1426), Naloxone Rescue Act (SB1631/HB1427),

Professional Privilege Tax (SB1636/HB1432), Anti-Meth Production Bill (SB1751/HB1574), Limitations on Scheduled Prescribing (SB1663/HB1512), Supervising Physician (SB1853/HB2171), Infant CPR (SB1886/HB1788), Prosecution for NAS (SB1391/HB1295), Pain Clinic Update (SB2000/HB1939), Medical Spa Truth in Advertising (SB2033/HB1896), Telehealth as Covered Practice (SB2050/HB1895), Civil Immunity (SB1674/HB1928), Civil Immunity for Quality Improvement Committees (SB2052/HB1955), Samples of Controlled Substances at Pain Clinic (SB2302/HB1657), Cannabidiol Trail (SB2531/2461) and CSMD Reporting Update (SB2547/HB2400).

**Financial Report:** Ms. Lisa Tittle was present and gave an extensive, detailed report of the actual revenue and expenditures for the fiscal year thru December 31, 2014. Ms. Tittle also included the projections for fiscal years of 2014, 2015, 2016 and 2017.

**Report from Administrative Office:** Ms. Stacy Tarr reported on the activities in the administrative office from March 1, 2014 thru April 30, 2014 concerning Medical Doctors. The report reads as follows: 323 new applications, 285 new licenses issued, 79 retired licenses, 17 reinstatements and the average for online renewals is sixty-seven percent (67%). The number of active licenses as of April 30, 2014 is 20,711 and the total number of active licensees with a Tennessee mailing address is 16,112.

**Investigation Report:** Mr. Michael Sobowale was present and introduced the new Disciplinary Coordinator, Tammy Cochnauer who presented the report to the board. There are currently two hundred thirty-eight (238) open complaints in the office of investigations relative to medical doctors as of May 20, 2014. Ms. Cochnauer also gave a disciplinary report as of May 20, 2014 and it reads as follows for Medical Doctors: 31 suspended, 59 on probation, 103 revoked/surrendered and 124 board ordered. A report was also given on Pain Clinics and there are currently 19 open complaints in the office of investigations and 12 random audits have been conducted.

**Vanderbilt Discussion:** Ms. Julia Morris JD was present to discuss Dr. Matthew Danter's application. Dr. Danter is Canadian trained. Dr. Brady was also presented and he addressed the board and asked them to consider options for granting licensure to Canadian trained physicians. Three options to consider are as follows: (1) Count at least three years of Canadian training equivalent to the one year US training. (2) Having a provisional license with a mentor. (3) Having something comparable to the St. Jude's license and not has in-depth as the Distinguished Faculty license (an assistant professor tied to the institution that is hiring them). There was also discussion of a Declaratory Order to consider for Dr. Danter. Consideration may also be given to making Dr. Danter a fellow while working on the Petitioner for a Declaratory Order.

**Polysomnography Position Statement:** Ms. Mary Katherine Bratton presented the statement regarding the scope of practice relative to home studies. Dr. Lovelady made a motion to ratify the statement. Dr. Beckford seconded the motion which passed unanimously.

**Order of Compliance:** Ms. Huddleston presented the Order of Compliance for Dr. David Patzer who was present and represented by Robert Kraemer of the Wilson County Bar. Dr. Musil made a motion to accept the order submitted by Mr. Kraemer. Dr. Lawrence seconded the motion. The motion passed. Dr. Baron recused himself. Mr. Kraemer also informed the board that Brad Blankenship MD withdrew his previously submitted request for an advisory ruling.

**OGC Report:** Ms. Huddleston gave an update on the status of the rules. Ms. Huddleston informed the board that as of May 5, 2014, there were one hundred fifty-six (156) disciplinary complaints against one hundred (100) respondents pending in the Office of General Counsel. There are four (4) pending appeals from board action, involving four (4) physicians. The most recent action filing a Petition for Review by William Wyttenbach in Chancery court filed March 2014. There is one (1) civil suit pending which was filed against the board and/or board members or staff. *Gursheel Dhillon v. State of Tennessee et al*, was filed in the U.S. Middle District of Tennessee. The court granted the Motion to Dismiss filed by the Attorney General's Office. Dr. Dhillon has appealed to the Sixth Circuit Court of Appeals, where this matter is still pending. Ms. Huddleston introduced new attorney Mr. Devan Wells to the board. They have been authorized to fill 5 new positions in the Office of General Counsel.

**Advisory Ruling and Request:** Ms. Huddleston presented the request from Dr. W. David Strayhorn and Ms. Huddleston's response. Dr. Ali made a motion to approve Ms. Huddleston response. Dr. Lovelady seconded the motion. The motion passed unanimously.

**Chronic Pain Guidelines:** Mr. Mutter informed the board that the draft guidelines are completed and they will be receiving a copy in the mail. He asked that they review the proposed guidelines and be ready to discuss them at the next meeting of the Board.

**Report from Delegation Attending Federation of State Medical Board Meeting:**

Dr. Higdon reported on information gained while attending the general session meeting and the numerous breakout sessions of at the Federation of State Medical Boards' annual meeting in April 2014. Dr. Higdon also mentioned there is a draft team working on policies to make the licensure process easier. He was also witness to the process of the federations' telemedicine policy being drafted. In October of this year step three (3) of the USMLE will be transitioning to a revised test module that will have 3 patient models that the physicians must choose the correct course of treatment. Dr. Zanolli reported on the presentation from the director of Public Health from Colorado regarding data given on the use of medical marijuana.

**Adjourn 4:52 pm**

## **May 21, 2014 Poplar Room**

Dr. Zanolli called the meeting to order at 8:35 am opening with Disciplinary Business.

### **OGC/Disciplinary Business**

#### **Consent Orders**

**Dr. Jeffery Ginther:** was not present but represented by attorney Robert Kraemer. Ms. Jennifer Putnam represented the state. Dr. Lovelady made a motion to accept the order. Dr. Musil seconded the motion which passed a voice vote.

**Dr. Alan Whiton:** was not present nor represented by attorney. Ms. Jennifer Putnam represented the state. Dr. Lovelady made a motion to accept the order. Ms. Eller seconded the motion with passed a voice vote.

**Dr. Howard DeHaven:** was not present but was represented by attorney Mr. Scanlon. Mr. Scanlon addressed the board regarding Dr. DeHaven's training and disciplinary action taken with another medical board. He also addressed his plans of practice. Dr. Musil made a motion to deny the order. Ms. Eller seconded the motion which passed a voice vote.

**Donna Edgin, MXRT:** was not present nor represented by attorney. Ms. Kyonzte Hughes-Toombs represented the state. Dr. Lovelady made a motion to accept the order. Dr. Musil seconded the motion which passed a voice vote.

**Dr. Alex Fider:** was not present nor represented by attorney. Ms. Andrea Huddleston represented the state. Dr. Musil made a motion to accept the order with the corrected typo. Dr. Johnson seconded the motion which passed a voice vote. Dr. Lovelady recused himself.

**Dr. Henry Skelton III:** was not present nor represented by attorney. Ms. Jennifer Putnam represented the state. Dr. Lovelady made a motion to accept the order. Ms. Eller seconded the motion which passed a voice vote.

#### **Agreed Orders**

**Dr. Michael Jackson:** was not present nor represented by attorney. Mr. Marc Guilford represented the state. Dr. Johnson made a motion to accept the motion. Dr. Musil seconded the motion which passed a voice vote.

#### **Contested Case**

**Petros Konofaos, MD:** Petition for Declaratory Order was called to order by Dr. Lovelady who was chair of the panel. Other panel members were Dr. Musil and Ms. Eller. Judge M. Collier was presiding and the state being represented by Attorney Andrea Huddleston. Dr. Konofaos was

present and represented by Attorney Jimmy Bradshaw, as well as, representatives from UT Medical Group. After hearing the opening statements and testimony, Judge Collier read into the record the charge of the panel. Ms. Eller made a motion to accept finding of fact Number 1. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept finding of fact Number 2 with the corrected typo. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept finding of fact Number 3. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept finding of fact Number 4. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept finding of fact Number 5 with amendments. Dr. Musil seconded the motion which passed a voice vote. Ms. Eller made a motion to add finding of fact Number 6. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the conclusion of law with amendments. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the policy statement. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept the Order granting an unrestricted Tennessee medical license as amended. Dr. Musil seconded the motion which passed a voice vote.

**Mark Cooper, MD:** The hearing was called to order by Judge Mary Collier with introducing the panel members for the record. The panel members are Dr. Musil, Ms. Eller and Dr. Lovelady served as chair. Dr. Cooper was represented by himself after evidence was submitted that his attorney Mr. Quinn had withdrawn as counsel. Mary Katherine Bratton represented the state. After hearing opening statements and testimony, Judge Collier read into record the charge of the panel. Ms. Eller made a motion to accept the finding of fact Number 1. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the finding of fact Number 2. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept finding of fact Number 3. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept the finding of fact Number 4. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the finding of fact Number 5. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept the finding of fact Number 6 as amended. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the conclusion of law Number 7. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the conclusion of law Number 8. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the conclusion of law Number 9. Ms. Eller seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the conclusion of law Number 10. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept the policy statement as amended. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the order to suspend Dr. Cooper's license Number 11 and Number 12. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept the order Number 13 as amended. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the order Number 14 as amended. Ms. Eller seconded the motion which passed a voice vote. Ms. Eller made a motion to accept the order Number 15 as amended. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the order Number 16. Ms. Eller seconded the motion which passed a voice vote. Ms.

Eller made a motion to accept the order Number 17 as amended. Dr. Musil seconded the motion which passed a voice vote. Dr. Musil made a motion to accept the order Number 18 as amended. Ms. Eller seconded the motion which passed a voice vote.

**May 21, 2014 Poplar room Disciplinary adjourned by Judge Mary Collier**

**May 21, 2014 Iris room**

**OGC/Disciplinary Business**

**Contest Case**

The Contested Case Hearing is a continuance from the last meeting and was called to order by Judge Summers at 9:43 am. Dr. Evans was reminded that he was already sworn in and his Attorney began with continuing Dr. Evan's testimony. After closing statements, Judge Summers read into record the charge of the board. Board members were given the opportunity to review and discuss the proposed orders from both the state of Tennessee and Dr. Evans attorney, Mr. Kraemer. Dr. Baron made a motion to accept the finding of fact numbers 1-8 as modified. Dr. Higdon seconded the motion which passed a roll call vote. Dr. Higdon made motion to accept the conclusions of law numbers 9- paragraph 2-8-14 as read, discussed and modified. Dr. Baron seconded the motion which passed a roll call vote. Dr. Higdon made a motion to accept the order Number 17 for revocation of Dr. Evans license. Dr. Baron seconded the motion which passed a roll call vote. Dr. Higdon made a motion to accept order Number 18. Dr. Baron seconded the motion which passed a roll call vote. Dr. Higdon made a motion to accept order Number 19. Dr. Baron seconded the motion which passed a roll call vote. Dr. Higdon made a motion to accept order Number 20. Dr. Baron seconded the motion which passed a roll call vote. Dr. Ali made a motion to accept the order as approved. Dr. Higdon seconded the motion which passed a roll call vote. Dr. Baron made a motion to accept the reason for decision number 16. Dr. Higdon seconded the motion which passed a roll call vote. Dr. Baron made a motion to accept the order in its entirety as modified. Dr. Higdon seconded the motion which passed a roll call vote.

**Adjourn by Judge Summers at 6:32 pm**