



TENNESSEE BOARD OF MEDICAL EXAMINERS
Regular Board Meeting

Tuesday, July 22, 2014

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:35 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Michael Zanolli, Board President.

Board members present: Michael Zanolli, MD
Subhi Ali, MD
Dennis Higdon, MD
Michael Baron, MD
Neal Beckford, MD
Pat Eller, Consumer Member
Reeves Johnson, MD
Jeff Lawrence, MD
C. Allen Musil, MD
Barbara Outhier, Consumer Member
Nina Yeiser, Consumer Member

Board member(s) absent: Keith Lovelady, MD

Staff present: Rosemarie Otto, Director, Health Related Boards
Maegan Carr Martin, Executive Director
Andrea Huddleston, Deputy General Counsel
Stacy Tarr, Unit Manager
Angela Lawrence, Board Administrator
Jennifer Shell, Administrator

I. ELECTION OF OFFICERS

The positions of President, Vice President, and Secretary are open for nominations. Dr. Ali moved to nominate Dr. Zanolli for President and Dr. Higdon for Secretary. Ms. Yeiser seconded the motion. Dr. Beckford made a motion to close nominations. Ms. Yeiser seconded the motion. The motion passed unanimously. Dr. Higdon nominated Dr. Ali for Vice President. Dr. Beckford seconded the motion. The motion passed unanimously.

II. CONSIDERATION OF APPLICATIONS

MD X-Ray Applicant Interview(s):

Amy Summerlin – appeared before the Board because of a prior conviction for misdemeanor child abuse and arrest for grand theft of property over \$400. After interviewing Ms. Summerlin, Dr. Beckford made a motion to grant an unrestricted license. Dr. Ali seconded the motion. The motion passed unanimously.

Patricia Hernandez – appeared before the Board because of a criminal background relative to a 2010 arrest for aggravated burglary. After interviewing Ms. Hernandez, Dr. Musil made a motion to deny the application. Dr. Higdon seconded the motion. Discussion ensued. After discussing the matter more fully, Dr. Beckford made a motion to table the application until a TMF evaluation has been obtained. Dr. Ali seconded the motion. Dr. Musil opposed the motion. The motion passed.

Medical Doctor Applicant Interview(s):

Muhammad Ajmal, MD – appeared before the Board because he has not completed a three (3) year residency training program in the United States nor is Dr. Ajmal board certified by a member board of the American Board of Medical Specialties (ABMS). After interviewing Dr. Ajmal, the Board permitted him to withdraw his application, which he elected to do.

Charles Benson, MD – appeared before the Board due to three (3) previous DUI convictions. Dr. Benson entered into a five-year monitoring agreement with the Kansas State Board of Healing Arts following his last arrest. He was placed on a five-year contract in Kansas. After interviewing Dr. Benson, Dr. Baron made a motion to grant a license contingent upon a new 5-year monitoring agreement with TMF. Dr. Ali seconded the motion. The motion passed unanimously.

Maria Carlo, MD – appeared before the Board to discuss her monitoring contract with Alabama which was not originally disclosed on her application for licensure. After Dr. Carlo's interview, Dr. Baron made a motion to grant an unrestricted license. The motion was seconded by Dr. Beckford. The motion passed unanimously. Dr. Carlo's application is to be amended.

Young Chang, MD – appeared before the Board to address his criminal history. Dr. Chang was convicted of speed contest resulting in injury and has had approximately one dozen moving traffic violations. After review of the materials contained in his licensure file and interviewing him, Dr. Ali made a motion to grant an unrestricted license contingent on a TMF evaluation and compliance with the resulting recommendations. The motion was seconded by Ms. Yeiser. Dr. Baron and Ms. Eller opposed. The motion passed.

Stephen Greene, MD – appeared before the Board because his USMLE scores do not overcome the Board's one-point. Ms. Yeiser recused herself. After an interview of Dr. Greene and the Board's review of the materials contained in his licensure file, Dr. Ali made a motion to grant an unrestricted license. The motion was seconded by Dr. Musil. Ms. Outhier made a motion to table the application until the Board has heard from the Attorney General about the rule making process for the one point rule and would allow time to obtain a letter of clarification from the Residency director. Ms. Outhier withdrew her motion. Dr. Ali made a motion to amend to table the application to September 2014 in order to

allow Dr. Greene sufficient time to get a letter of clarification from his residency program director regarding the program's policy on dismissal for failure to pass Step 3 of the USMLE. Ms. Eller and Dr. Johnson abstained. Dr. Baron and Dr. Beckford opposed. The motion passed.

Teresa Homan, MD – appeared before the Board because she is requesting a license restricted to administrative practice and to discuss the physical impairment disclosed on her application. After review of the materials contained in Dr. Homan's licensure file and interviewing her, Ms. Yeiser made a motion to grant a license restricted to administrative practice. The motion was seconded by Dr. Beckford. The motion passed unanimously. Dr. Homan was directed to amend her application.

Vernon Johnson, MD – appeared before the Board to discuss the revocation of his hospital privileges and Missouri medical license. Dr. Johnson's hospital privileges were revoked for an incident which occurred in the care setting. His medical license was revoked for failure to pay state taxes or file an income tax return. Dr. Baron recused himself from the deliberations. Dr. Higdon made a motion to grant an unrestricted license. Dr. Ali seconded the motion. The motion was opposed by Drs. Zanolli and Johnson and Ms. Yeiser and Ms. Eller. The motion passed.

Ali Khan, MD – appeared before the Board because of a history of misconduct. He was placed on probation during his residency. In 2006 he was placed on probation by the Ohio Medical Board for petty theft. While on probation, he was disciplined for aiding and abetting the practice of medicine when he directed a nurse to perform a laser treatment. While under investigation for that offense, he falsified documents and made misleading statements to the Board. As a result, his license was permanently revoked by Ohio. After review of the material contained in his licensure file and interviewing him, the Board allowed him to withdraw his application, which he elected to do.

Bruno Kolodziej, MD – appeared before the Board because his USMLE scores do not overcome the Board's one-point rule. After review of the material contained in his licensure file and interviewing him, the Board allowed Dr. Kolodziej to withdraw his application, which he elected to do.

Santiago Lavarias, MD – appeared before the Board because he was disciplined in 2005 for eight counts of misconduct, four of which involved improper prescribing. After review of the materials contained in his licensure file and interviewing him, Ms. Yeiser made a motion to deny the application for licensure which was not seconded. The Board allowed him to withdraw his application. Dr. Lavarias elected to do so.

Adam Mabe, MD – appeared before the Board because his USMLE scores are insufficient to overcome the Board's one-point rule. After review of the materials contained in his licensure file and interviewing him, Dr. Johnson made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion passed unanimously, the Board having determined that denial of Dr. Mabe's application would result in a manifest injustice.

Peter Meadows, MD – appeared before his USMLE scores are insufficient to overcome the Board's one-point rule. After review of the materials contained in his licensure file and interviewing Dr. Meadows, Dr. Ali made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. Ms. Eller, Dr. Baron, and Ms. Outhier abstained. The motion passed, the Board having determined that denial of Dr. Meadows would result in manifest injustice.

Karen Paul, MD – appeared before the Board to address discipline on her Louisiana license. Dr. Paul was disciplined in Louisiana for patient abandonment, unprofessional conduct and refusal to submit to a Board-ordered evaluation. She is currently under probation in Louisiana though she has petitioned to have the restriction lifted. After review of the materials contained in her licensure file and interviewing her, Dr. Ali made a motion to grant a license with the same restrictions as those imposed by the Louisiana Board. Dr. Beckford seconded the motion. Dr. Baron recommended a friendly amendment that advocacy be transferred to TMF from the Louisiana Physicians Health Program. Dr. Ali accepted the friendly amendment. Dr. Beckford also made a friendly amendment, which was accepted, that the probationary and monitoring periods in Tennessee would last at least as long as those periods are in effect in Louisiana. If TMF determines that monitoring is needed beyond the expiration of the Louisiana monitoring contract (August 2015), such monitoring would be required. Ms. Eller, Ms. Outhier, and Dr. Johnson voted in opposition to the motion. The motion passed.

Daphne Schalau, MD – appeared before the Board because of two significant malpractice events which resulted in a corrective action order in Oregon. After Dr. Schalau’s interview and the Board’s review of the materials contained in her licensure file, Dr. Ali made a motion to grant an unrestricted license. Dr. Lawrence seconded the motion. The motion passed unanimously.

Douglas Sheilds, MD – appeared before the Board because of substance abuse issues which resulted in a criminal history and discipline by the North Carolina Medical Board. Dr. Sheilds was convicted of two DWIs but has documented sobriety since 2010. After review of the materials contained in his licensure file and interviewing him, Dr. Baron made a motion to grant reinstatement for an unrestricted license. Dr. Ali seconded the motion. The motion passed unanimously.

Manuel Suarez, MD – appeared before the Board because he has been out of clinical practice since 1998. His practice has been limited to administrative medicine since 2005. After interviewing Dr. Saurez, Ms. Yeiser made a motion for a license restricted to administrative practice. Dr. Beckford seconded. Dr. Beckford made a motion to table the previous motion since Ms. Yeiser was out of the room. Dr. Higdon seconded the motion. All approved. Ms. Yeiser withdrew her motion. Ms. Yeiser made a motion to grant an unrestricted license. Dr. Beckford seconded the motion. The motion passed unanimously.

Winston Worthington, MD – appeared before the Board to discuss the suspension of his license by the Tennessee Board of Medical Examiners in 1981 and 2003 for separate instances of Medicare fraud. Dr. Worthington is represented by Frank Scanlon, who was present. Dr. Johnson recused himself. The Board considered the substantial amount of CME Dr. Worthington has completed; however, after no motion was made to deny or approve Dr. Worthington’s application, the Board allowed Dr. Worthington to withdraw his application. He elected to do so.

III. 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. 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 **MD Special Training**. Dr. Beckford 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 **MD X-ray Operators**. Dr. Lawrence 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. Ali made a motion to ratify and approve the new, reinstated, failed renew and voluntary retired licenses for **Physician Assistants**. Dr. Baron recused himself. Dr. Beckford seconded the motion which passed.

IV. APPROVAL OF MINUTES

Dr. Zanolli requested that the minutes for the Telemedicine Rulemaking Hearing which occurred on May 19th be separated from the regular board meeting minutes from May 20 and 21, 2014. Dr. Zanolli requested that the name and affiliation of everyone who gave oral testimony at the rulemaking hearing to be added to the minutes. Dr. Ali made a motion to approve the minutes from the May 20 and 21 meeting. Dr. Higdon seconded the motion. Dr. Zanolli requested that the minutes from the one-point rulemaking hearing be amended to include the maintenance of certification discussion. These minutes will be considered by the Board at its next regularly scheduled meeting.

V. DEPARTMENT REPORTS

1. **Presentation by Mr. Jeff Ockerman, JD:** Mr. Jeff Ockerman, Director of Health Planning for the State of Tennessee gave reports on the State Health Plan and the HSDA Certificate of Need Requests.

2. OGC/Disciplinary Business

a) Petition for Declaratory Orders

Dr. Robert Danter was not present but his attorney, Mr. Blake Carter, appeared on his behalf. Ms. Andrea Huddleston represented the State. Dr. Danter does not have the required one-year of US residency training. Consequently, he is requesting a contested case hearing in September in order to request a conditional license. Dr. Beckford made a motion to grant the Petition. Dr. Johnson seconded the motion which passed.

b) Orders of Compliance

Dr. Russell Beis requested that his consideration of his Petition be rescheduled to the September meeting.

Dr. William Bowers was present and was not represented by counsel. Ms. Andrea Huddleston represented the State. Dr. Bowers was disciplined in 2007 for violations relating to prescribing irregularities. He is in compliance with the requirements of his order and is entitled to have his Petition granted. Dr. Musil made a motion to accept the Order. Dr. Beckford seconded the motion which passed.

Dr. Cary Finn was present and was not represented by attorney. Ms. Andrea Huddleston represented the State. Dr. Beckford recused himself. Dr. Finn was disciplined in 2010 for violations relating to prescribing irregularities. He is in compliance with the requirements of his order and is entitled to have his Petition granted. Dr. Ali made a motion to accept the order. Dr. Musil seconded the motion which passed.

Dr. Daniel Miller was present and was represented by attorney Mr. Edward Hadley. Ms. Andrea Huddleston represented the State. Dr. Miller was disciplined related to prescribing issues related to Telemedicine. He is in compliance with the requirements of his order and is entitled to have his Petition granted. Dr. Baron made a motion to accept the order. Dr. Beckford seconded the motion which passed.

Dr. Angela Moss was present and was represented by attorney Mr. Garrett Ashler. Ms. Andrea Huddleston represented the State. Dr. Moss was disciplined in 2009 for violations relating to prescribing irregularities. She is in compliance with the terms of her order and is entitled to have her Petition granted. Dr. Lawrence made a motion to accept the order. Dr. Musil seconded the motion which passed.

Dr. Charles White withdrew his petition.

3. **Chronic Pain Guidelines:** Dr. Mitchell Mutter presented the Chronic Pain Guidelines for a vote. Dr. Baron made a motion to accept the Chronic Pain Guidelines. Dr. Musil seconded the motion, which passed unanimously.

4. **Investigative Report:** Ms. Denise Moran presented the report to the Board. There are currently two hundred and twenty-seven (227) open complaints in the Office of Investigations relative to medical doctors. Ms. Moran also gave a disciplinary report as of July 2014 and it reads as follows:

33 MDs suspended

59 MDs on probation

104 MDs revoked/surrendered and 120 board-ordered.

There are currently 15 open complaints against registered Pain Clinics in the office of Investigations.

Ms. Moran introduced Ms. Rachel Talley, the newest member of the investigative staff, who will be working as a disciplinary coordinator.

5. **Additional OGC Business**

The Board was asked to approve funding to send OGC staff to upcoming attorney conferences. Specifically, OGC requested sponsorship of 2 attorneys to the FSMB Board Attorney Workshop, 1 attorney to the upcoming FARB conference, and 1 attorney to the upcoming CLEAR conference. Dr. Ali made a motion to approve funding. Dr. Beckford seconded the motion which passed unanimously.

Adjourn 6:31 pm

**Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners
Wednesday, July 23, 2014**

The second day of the regular board meeting was called to order at 8:37 a.m. at the Health Related Board's Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee, by Board of Medical Examiners' Vice President, Dr. Subhi Ali. Members present included: Dr. Subhi Ali, Dr. Jeff Lawrence, Dr. Michael Baron, Dr. Reeves Johnson, Dr. Dennis Higdon, and Dr. C. Allen Musil.

I. DEPARTMENT REPORTS, CONTINUED

1. **OGC Report:** Ms. Huddleston gave an update on the status of pending Board rules. Ms. Huddleston informed the Board that the rule amendments regarding interventional pain practice went into effect on July 3, 2014. Rule amendments regarding mammography records went into effect July 9, 2014. The rule amendments regarding continuing education are at the Attorney General's office pending review, as well as the rule amendments for the one-point rule. There has been no movement on the appeals that are pending in Chancery court or the Court of Appeals. There is one (1) civil suit still pending which was filed against the Board and/or board members or staff. Ms. Huddleston informed the Board that as of July 19, 2014, there were one hundred thirty-six (136) disciplinary complaints against ninety (90) respondents pending in the Office of General Counsel.
2. **Top 50 Prescriber List:** Dr. Mitchell Mutter presented information on the top 50 prescribers of pain medication for this year and how the Department is addressing those prescribers.
3. **CSMD Committee Update:** Dr. Baron, Chair of the Controlled Substance Monitoring Databank Committee, provided the Board with updates related to the CSMD Committee's activities.
4. **Report from BME's Administrative Office:** Ms. Stacy Tarr reported on the Administrative Office's licensing activities from May 1, 2014 through June 30, 2014. The statistics are as follows: 284 new applications were received, 328 new licenses were issued, 99 licensees failed to renew, 171 licensees retired their license, and there were 19 reinstatements.

The number of active licenses as of June 30, 2014 is 20,788. The total number of active licensees with a Tennessee mailing address is 16,116.

II. DISCIPLINARY MATTERS

1. Consent Orders

Dr. Ihsaan Al-Amin was not present nor was he represented by counsel. Ms. Andrea Huddleston represented the State. Dr. Ihsaan Al-Amin was charged on a 105 count criminal indictment related to his prescribing practice. Dr. Musil made a motion to accept the order. Dr. Lawrence seconded the motion which passed unanimously.

Dr. Daniel Hamaty was not present nor was he represented by counsel. Mr. Chris Smith represented the State. This matter involved two complaints – one against Dr. Hamaty, and one against the facility in which Dr. Hamaty practiced. Dr. Baron made a motion to accept the order. Dr. Musil seconded the motion which passed.

Dr. Charles Harris was not present nor was he represented by his attorney. Mr. Devin Wells represented the State. Dr. Harris was disciplined for failure to properly supervise advance practice nurses under his supervision. Dr. Higdon made a motion to accept the order. Dr. Lawrence seconded the motion which passed.

2. Agreed Orders

Dr. Michael Reed was not present nor was he represented by counsel. Ms. Jennifer Putnam represented the State. Dr. Baron recused himself. The Order was first presented to the Board for its review at the March meeting; however, the Board requested certain amendments at that time. All suggested amendments have been addressed. Dr. Johnson made a motion to accept the order. Dr. Higdon seconded the motion which passed with none opposed.

Dr. Douglas Kane was not present nor was he represented by his attorney. Mr. Marc Guilford represented the State. Dr. Kane entered into a consent order with the Board in 2009 which included a five-year contract with TMF. He was discharged from TMF before his contract expired due to allegations of tampering with drug screens. Dr. Kane has agreed to voluntarily surrender his license. His license expired in April 2014. Dr. Baron made a motion to accept the Order. Dr. Johnson seconded the motion which passed with no members opposed.

Dr. Carl Lindblad was not present but was represented by his attorney, Mr. Darren McBride. Mr. Marc Guilford represented the State. Dr. Lindblad improperly distributed prescription medications to neighbors and friends. Dr. Lawrence made a motion to accept the order. Dr. Baron seconded the motion which passed unanimously.

3. Petitions for Order of Compliance

Stanley King, P.A. was not present nor was his attorney present. Ms. Kyonzte Hughes-Toombs represented the State. Dr. King's Petition for Order of Compliance was ratified by the Committee on Physician Assistants in July. In 2011, Mr. King appeared before the PA Committee due to inappropriate prescribing practices. A Consent Order resulted. Dr. King's probationary period has expired and his Petition is consistent with his Consent Order. Dr. Musil made a motion to accept the order. Dr. Baron seconded the motion which passed.

III. OTHER BOARD BUSINESS

Dr. Ali requested that the lack of security be addressed and remedied before the next Board meeting.

There being no other Board business, the meeting **adjourned at 10:52 am.**