



Tennessee Board of Medical Examiners Regular Board Meeting

Wednesday, March 25, 2020

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 9:05 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. W. Reeves Johnson, Board President.

Board members present: W. Reeves Johnson, MD, President
 Melanie Blake, MD, Vice President
 Charles Handorf, MD, Secretary
 Neal Beckford, MD
 John Hale, MD
 Robert Ellis, Consumer Member
 Phyllis Miller, MD
 Deborah Christiansen, MD
 Stephen D. Loyd, MD
 Samantha McLerran, MD
 Jennifer Claxton, Consumer Member

Board member(s) absent: Julianne Cole, Consumer Member

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel
 Rene Saunders, MD, Medical Consultant, BME
 Angela Lawrence, BME Executive Director
 Stacy Tarr, Administrative Director
 Candyce Wilson, Administrative Director

Ms. Lawrence made opening remarks to the Board and provided an overview of the requirements for a special meeting by teleconference. All of the requirements were satisfied. The electronic meeting was scheduled for the purpose of considering time sensitive matters in light of the covid-19 pandemic in which the Center for Disease Control recommends limiting the number of attendees at meetings for the next eight weeks. The Board motioned and voted on approval to conduct the meeting for this purpose. The teleconference was then turned over to the President of the Board, Dr. W. Reeves Johnson.

Dr. Johnson called the meeting to order at 9:05am. A role call was conducted and a quorum of the Board was established with the following members present: Dr. W. Reeves Johnson, Dr. Charles Handorf, Dr.

Stephen Lloyd, Dr. Neal Beckford, Mr. Robert Ellis, Ms. Jennifer Claxton, Dr. Deborah Christiansen and Dr. Phyllis Miller.

Dr. Handorf motioned to extend gratitude to all administrative staff during the recent events. Dr. Beckford seconded the motion and it carried.

Office of General Counsel

Order(s) of Compliance

Charles S. Drummond, III, MD – was not present nor was his legal counsel. Dr. Lloyd recused. Ms. Francine Baca-Chavez presented the Order of Compliance. The Board reviewed the terms of the Consent Order issued on January 27, 2016. The Board reviewed the petition and all documentation supporting compliance with the Consent Order. Dr. Beckford motioned to approve the petition for order of compliance and lifting of the probation effective today, March 25, 2020. Dr. Christiansen seconded the motion. The motion passed by a roll call vote with Dr. Lloyd recused.

Agreed Order(s)

Lawrence J. Valdez, MD – was not present nor was legal representation. Mr. Peyton Smith represented the State. Respondent was licensed on December 16, 2002 and that license expires November 30, 2020. On or about November 25, 2019, Respondent pled guilty to one count of distribution of Schedule II controlled substances without a legitimate medical purpose and outside of the usual course of professional practice. Within the order are several facts admitted by the Respondent. The facts stipulated are grounds for discipline. This order voluntarily surrenders Respondents license effective April 1, 2020. Respondent shall pay four (4) Type B civil penalties in the amount of five hundred dollars (\$500.00) each for a total of two thousand dollars (\$2,000.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to accept the agreed order. Mr. Ellis seconded the motion and it passed by a roll call vote.

Katrina L. Mercer, AMDX – was not present nor was legal representation. Mr. Peyton Smith represented the State. Respondent was licensed April 29, 2019 and the license expires November 30, 2020. On April 4, 2019, Respondent signed a letter of conditional licensure which conditioned her licensure upon continued compliance with several listed requirements. On April 16, 2019, Respondent signed a Lifetime Aftercare Agreement with the Tennessee Medical Foundation (hereinafter “TMF”). Respondent failed to comply with her TMF Aftercare Agreement and stated she no longer wished to continue her Aftercare Agreement. The facts stipulated are grounds for discipline. This order shall revoke Respondents license effective the date of entry of this order. Respondent shall pay all actual and reasonable costs of the case not to exceed five hundred dollars (\$500.00). Dr. Christiansen motioned to strike line 9 under section IV of the order and to approve the order. Dr. Handorf seconded the motion and it passed by a roll call vote.

Consent Order(s)

Randolph Richards, MD – was not present and his legal counsel, Mr. David Steed, was present by phone. Ms. Jennifer Putnam represented the State. Respondent was licensed on September 18, 1990 and the license expires January 31, 2022. Respondent is board certified in otolaryngology with his practice focusing primarily in that specialty. Respondent admits to prescribing controlled substances on infrequent occasions to his physician assistant while he was the supervising physician from the physician assistant. Respondent admits that the physician assistant wrote him several prescriptions for controlled substances. The order outlined the prescribing patterns. The facts stipulated are grounds for discipline. This order

shall reprimand Respondents license effective the date of entry of this order. Respondent must complete specific continuing education requirements, is restricted from prescribing opioids for six (6) months and is restricted from collaborating with any advanced practice registered nurses or physician assistants for prescribing opioids during the six (6) months period. Also, Respondent shall have another surgeon serve as supervisor for any mid-level provider he collaborates with and to provide prescriptions for opioids for any patient Respondent or such mid-level provider whose case requires such opioid prescription. Respondent must submit proof within 90 days that he has notified all individuals of the professions listed whom he collaborates with about this consent order. Respondent must pay two (2) Type A civil penalties for a total of two thousand dollars (\$2,000.00). Respondent must pay all actual and reasonable costs of this case not to exceed five thousand dollars (\$5,000.00). Dr. Christiansen motioned to accept the order. Dr. Handorf seconded the motion and it passed by a roll call vote.

Terrence S. Dunn, MD – was not present nor was legal representation. Ms. Jennifer Putnam represented the State. Respondent was licensed on September 17, 2009 and it expires July 31, 2020. On or about December 11, 2008, Respondent agreed and entered into a conditional licensure letter with the Tennessee Board of Medical Examiners that granted him a medical license on probation for five (5) years and was conditioned on several listed factors. Due to multiple missed tests and failed attempts to reach the Respondent, TMF sent a certified letter which was signed for by Respondent on December 6, 2019. On or about December 17, 2019, TMF notified the Board that the Respondent was non-compliant with his drug testing requirement and had failed to communicate with TMF resulting in their withdrawal of advocacy for the Respondent. Respondent has failed to comply with the conditions required by his November 2008 conditional licensure letter. The facts stipulated are grounds for discipline. This order shall voluntarily surrender Respondents license, which has the same effect as a revocation. Should Respondent submit an application for a new license, Respondent agrees to comply with any all recommendations of TMF as a condition of new licensure. If the recommendations of TMF include a monitoring contract, treatment, continuing education, practice restrictions or prescribing restrictions that Respondent agrees to complete such conditions within thirty (30) days and obtain and maintain a monitoring agreement with TMF. Respondent must pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. Christiansen motioned to approve this order. Dr. Miller seconded the motion and it passed by a roll call vote.

Gregory Lewis, MD – was not present nor was legal representation. Ms. Jennifer Putnam represented the State. Respondent was licensed on May 9, 2018 and it expires February 28, 2022. On or about September 30, 2019, Respondent appeared with his attorney and entered into a Consent Order with the Arkansas Medical Board agreeing not to practice medicine or use his medical license in any way until he appears before the Arkansas State Medical Board. The Consent Order issued by the Arkansas State Medical Board did not include any other information other than Respondent's agreement not to practice medicine or use his medical license in any way until he appears before that Board. The facts stipulated are grounds for discipline. This order shall indefinitely suspend Respondents license effective the date of entry of this Order. Respondent's license shall remain suspended until the Tennessee Board of Medical Examiners receives notification from the Arkansas Medical Board that his Arkansas medical license has been returned to active status. If any restrictions are placed on his medical license by the Arkansas State Medical Board, those same restrictions and their duration will also be placed on his Tennessee medical license. If Respondent is required by the Arkansas Medical Board to complete an evaluation or obtain treatment he must notify the TMF of those requirements and if deemed necessary by TMF enter into a monitoring agreement. Respondent must comply with all conditions of any order and or agreement entered into with the Arkansas Medial Board. Upon successful completion of the requirements, Respondent may request an Order of Compliance to have the suspension of Respondents license to

practice lifted. Respondent shall pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Handorf motioned to approve this order. Dr. Beckford seconded the motion and it passed by a roll call vote.

Albert Bystritskii, MD – was not present nor was legal representation. Ms. Jennifer Putnam represented the State. Respondent was licensed on April 2, 2003 and it expires February 28, 2022. The order outlined several facts pertaining to the care provided by the Respondent and his physician assistant for a specific patient. The patient was discharged twice from the emergency department and died the next day due to intestinal volvulus. A medical malpractice settlement for three hundred and fifteen thousand dollars (\$315,000.00) was issued with one hundred and fifty-seven thousand dollars (\$157,000.00) being assigned to the Respondent for failure to diagnose intestinal volvulus. The facts stipulated are grounds for discipline. This order shall reprimand the Respondents license. The Respondent must pay one (1) Type B civil penalty in the amount of five hundred dollars (\$500.00). Respondent must pay all actual and reasonable costs of the case not to exceed three thousand dollars (\$3,000.00). Dr. Handorf motioned to approve the order. Dr. Christiansen seconded the motion and it passed by a roll call vote.

Nirav Patel, MD – was not present nor was legal representation. Ms. Jennifer Putnam represented the State. Respondent was licensed on May 25, 2012 and it expires November 30, 2020. Respondent has been practicing as in Interventional Cardiologist at Heart and Vascular Center of West Tennessee Cardiology Group since July 2012. Respondent entered into a consensual relationship with an employee who was also a patient of this practice. The order outlines an event where the employee experienced poor health while working and the Respondent provided treatment, despite the individual not being his patient. After the encounter and while engaging in a consensual relationship, the employee began to see Respondent as her medical provider. The order outlines prescribing patterns to three individuals without establishing a proper doctor-patient relationship. The facts stipulated are grounds for discipline. This order shall place the Respondents license on probation for six (6) months effective the date of entry of this order. Respondent must complete specific continuing education as outlined in the order. Respondent is restricted from prescribing opioids for six (6) months and until successful completion of the required continuing education. Respondent is restricted from collaborating with any advanced nurse practitioners or physician assistants for prescribing opioids during the six (6) months. Respondent must submit proof within ninety (90) days that he has notified all individuals of professions listed whom he collaborates with about this consent order. Respondent must pay two (2) Type A civil penalties for a total of two thousand dollars (\$2,000.00). Respondent must pay all actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000.00). Mr. Ellis motioned to approve the order. Ms. Claxton seconded the motion. The motion passed by a roll call vote with Dr. Beckford opposed.

Dr. Melanie Blake joined the meeting at 10:20am.

Steven R. Mynatt, MD – was not present nor was legal representation. Mr. David Silvas represented the State. From October 8, 2015 until at least April 7, 2019, Respondent owned and operated a certified or licensed pain management clinic. Respondent's license was devoted almost exclusively to treating chronic pain. On April 16, 2019, he was indicted for allegedly conspiring to distribute controlled substances. On February 18, 2020, Respondent entered into a Plea Agreement whereby he agreed to plead guilty to all of the counts of the indictment. The facts stipulated are grounds for discipline. This order hereby surrenders the Respondents license, which is the same as permanently revoked, effective the date of entry of this consent order. Respondent is permanently prohibited from applying for a new medical license or for reinstatement of his revoked medical license. Respondent must pay all actual and reasonable costs of the case not to exceed ten thousand dollars (\$10,000.00). Dr. Christiansen motioned to approve this order. Dr. Lloyd seconded the motion and it passed by a roll call vote.

Richard Farmer, MD – was not present nor was legal representation. Mr. David Silvus represented the State. From at least January 1, 2012 until at least April 11, 2019, Respondent owned and operated a medical practice in Memphis, Tennessee. Respondent represented the primary focus of his clinic was to provide psychiatric services to patients in general and specifically to provide medication-assisted treatment services to patients for opioid addiction. At no time, however, was Respondent’s clinic a licensed nonresidential office-based opiate treatment facility (hereinafter “OBOT”). Respondent provided chronic pain management to multiple patients. Respondent provided addiction treatment for multiple patients and some patients were receiving both addiction treatment and chronic pain management. A review of twenty-one (21) of Respondents charts concluded that the Respondent fell below the applicable standard of care. Respondent was indicted on April 11, 2019 in the United States District Court for the Western District of Tennessee. Attached to the order is the Superseding Indictment and jury’s Verdict Form, which are disputed by the Respondent. The Respondent disputes the Departments allegations of paragraph 4 and 5 of the order. For the purpose of resolving the matter, Respondent acknowledges that evidence exists that, if proven, could enable the trier of fact to conclude that the allegations set-forth in paragraph 4 and 5 are true. The facts stipulated are grounds for discipline. This order shall surrender Respondents license, which is the same as if revoked, effective the date of entry of this order. Respondent is permanently prohibited from applying for a new medical license or for reinstatement of his revoked medical license. Respondent must pay all actual and reasonable costs of the case not to exceed forty thousand dollars (\$40,000.00). Dr. Beckford motioned to approve the order. Dr. Christiansen seconded the motion and it passed by a roll call vote.

Dr. Blake left the meeting.

Lyle C. Harvey, LAc – was not present nor was legal representation. Ms. Megan Gotchall represented the State in this matter but Mr. Nathaniel Flinchbaugh presented the order. Respondent was licensed on April 27, 2010 and it expires on April 30, 2021. From in or about June 2015 until April 2017, Respondent’s license was lapsed. During this time period, Respondent practiced acupuncture on a lapsed license. Respondent stated that she inadvertently forgot to renew her license due to personal circumstances. The facts stipulated are grounds for discipline. This order shall reprimand the Respondents license. Respondent shall pay twenty-one (21) Type C civil penalties for a total of two thousand one hundred dollars (\$2,100.00). Respondent shall pay all actual and reasonable costs of the case not to exceed five hundred (\$500.00). Dr. Handorf motioned to approve the order. Dr. Miller seconded the motion and it passed by a roll call vote.

David Chunn, MD – was not present nor was legal representation. Ms. Francine Baca-Chavez represented the State. Respondent was licensed November 20, 2013 and it expires on March 31, 2021. Respondent failed to submit documented proof of properly maintaining sufficient continuing education credits upon request by the Department. Respondent failed to obtain thirty-five (35) of the required continuing education credits including the two (2) hours related to controlled substance prescribing. The facts stipulated are grounds for discipline. This order shall reprimand the Respondents license effective the date of entry of this order. Respondent shall complete thirty-five (35) hours of continuing education, to include two (2) hours related to controlled substance prescribing which must include instruction in the Departments treatment guidelines. Respondent shall provide proof of completion of these hours within one hundred and eighty (180) days. These hours are in addition to completing the continuing education hour requirement for the current year. Respondent shall complete ten (10) additional continuing education hours in which proof shall be provided within one (1) year. Respondent shall pay thirty-five (35) Type B civil penalties for a total of seven thousand dollars (\$7,000.00). Respondent shall pay all actual and

reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to accept the order. Dr. Handorf seconded the motion and it passed by a roll call vote.

Aftab A. Shaikh, MD – was not present nor was legal representation. Ms. Francine Baca-Chavez represented the State. Respondent was licensed on March 1, 1998 and it expires on June 30, 2021. Respondent failed to submit documented proof of properly maintaining sufficient continuing education credits upon request by the Department. Respondent failed to obtain twenty-four and three quarter (24.75) of the required continuing education credits including the two (2) hours related to controlled substance prescribing. The facts stipulated are grounds for discipline. This order shall reprimand the Respondents license effective the date of entry of this order. Respondent shall complete twenty-four and three quarter (24.75) hours of continuing education, to include two (2) hours related to controlled substance prescribing which must include instruction in the Departments treatment guidelines. Respondent shall provide proof of completion of these hours within one hundred and eighty (180) days. These hours are in addition to completing the continuing education hour requirement for the current year. Respondent shall complete ten (10) additional continuing education hours in which proof shall be provided within one (1) year. Respondent shall pay twenty-four and three quarter (24.75) Type B civil penalties for a total of four thousand nine hundred and fifty dollars (\$4,950.00). Respondent shall pay all actual and reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Dr. Miller motioned to accept this order. Dr. Christiansen seconded the motion and it passed by a roll call vote.

Approval of Meeting Minutes

The Board reviewed the following meeting minutes:

- January 13 – 14, 2020 Board meeting
- January 13, 2020 Development Committee meeting
- January 14, 2020 Safe Haven Task Force meeting
- January 14, 2020 Office Based Surgery meeting

Dr. Christiansen motioned to approve all of the minutes listed above. Dr. Handorf seconded the motion and it passed by a roll call vote.

Agreed Citation(s)

The Board reviewed the following continuing education related agreed citations:

- Emily Patterson, MXRT
- Brandy Lynn, LAc
- Shane Sluder, AMDX
- David Bomgaars, MD

The Board reviewed the following unlicensed practice related agreed citations:

- Ashley Morgan, AMDX
- Rhonda Elrod, MDXL
- Melissa Maso, AMDX
- Jan Woodard, AMDX

Dr. Miller motioned to approve all of the above agreed citations. Dr. Beckford seconded the motion and it passed by a roll call vote.

Ratification of New Licenses

The Board reviewed the list of newly licensed Medical Doctors, X-Ray Operators, Genetic Counselors, Polysomnography and Acupuncture. Dr. Handorf motioned to ratify these lists. Dr. Christiansen seconded the motion and it passed by a roll call vote.

The Board led a discussion regarding the current Executive Orders passed by the Governor of Tennessee and discussed the executive order application form.

Dr. Beckford motioned to adjourn the meeting. Dr. Lloyd seconded the motion and it passed by a roll call vote.

The Board of Medical Examiners meeting concluded at 11:10am.