



**Tennessee Board of Medical Examiners
Regular Board Meeting**

**Tuesday, July 20, 2021
Wednesday, July 21, 2021**

MINUTES

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:39 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Melanie Blake, Board President.

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

Board member(s) absent: Jennifer Claxton, Consumer Member
Randall Pearson, MD

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Rene Saunders, MD, Medical Consultant, BME
Angela Lawrence, BME Executive Director
Stacy Tarr, Administrative Director
Candyce Wilson, Administrative Director
Brandi Allocco, Board Administrator

I. CONSIDERATION OF APPLICATIONS

Medical Doctor Applicant Interview(s):

Mahmoud Hassouba, MD – did not appear before the Board, but his legal representative, Mr. James Bradshaw, appeared on his behalf. Dr. Hassouba was unable to appear before the Board because he did not have possession of his Visa to travel. Dr. Hassouba is an International Medical School graduate who has not completed any US ACGME postgraduate training and is not ABMS Board Certified. Additionally, he does not qualify for licensure by reciprocity. Mr. Bradshaw requests to table the

applicant interview and request approval of the Petition for a Declaratory Order. The Board has already been provided with his petition for review. The consensus of the Board is they are lacking specific details about the training he has received and would like to speak with the applicant before considering anything. Dr. Beckford motioned to table this discussion until the September Board meeting. Mr. Ellis seconded the motion and it passed.

Karthik Ramakrishnan, MD – appeared before the Board with his legal representative, Mr. William Haynes. Dr. Ramakrishnan is an International Medical School graduate who has not completed three (3) years of US ACGME accredited postgraduate training and is not ABMS Board Certified. The applicant's intended specialty is pediatric cardiac surgery. Mr. Haynes outlined Dr. Ramakrishnan's education and training background. The applicant does not qualify for licensure by reciprocity because he would still be required to have completed three (3) years of US ACGME postgraduate training. Dr. Ramakrishnan requests to petition the Board for a Declaratory Order. The Board has already been provided with his petition for review. Dr. Christiansen motioned to table the application for up to six (6) months for the applicant to consider the declaratory order process. Dr. Johnson seconded the motion and the motion passed. The Board reviewed the Petition for Declaratory Order. Dr. Beckford motioned to approve the Petition for Declaratory Order. Dr. Christiansen seconded the motion and it passed.

Darshan Gandhi, MD – appeared before the Board without legal representation. Dr. Gandhi is an International Medical School graduate. He required five (5) attempts to complete Step 3 of the USMLE and is not currently ABMS Board Certified. Pursuant to Board Rule 0880-02-08(2)(c), if an applicant fails any step more than three (3) times, then the Board shall require proof of Board Certification by an ABMS recognized specialty. Thus, Dr. Gandhi does not qualify for licensure. Dr. Gandhi provided a statement regarding the personal matters which contributed to his exam failures. He does not qualify for a temporary license because he has already completed his three (3) years of ACGME training. He has an application in process to obtain a full Illinois license and he holds an active full Connecticut license. To sit for ABMS Boards he just needs one active license, and he plans to sit for his Boards in September. The Board discussed the option of him qualifying for licensure by reciprocity. The reciprocity rule does not address a limit to examination attempts. After discussion to determine his licensure eligibility by reciprocity, Dr. Johnson motioned to approve licensure. Dr. Beckford seconded the motion and it passed.

Roshan Gamage, MD – appeared before the Board without legal representation. Dr. Blake recused. Dr. Gamage has been and is currently a participant in the Tennessee Medical Foundation (hereinafter "TMF"). He has no malpractice history, criminal history, or prior board action. Dr. Gamage self-reported for assistance with TMF. Dr. Gamage outlined his path through treatment and in the recovery process for issues concerning substance abuse and sexual compulsive disorders. Dr. Nancy Hooper appeared on behalf of TMF, and she expressed Dr. Gamage is on a good path and in compliance with the contract. TMF recommends a conditional license on maintaining TMF compliance and advocacy for the remainder of his monitoring agreement. The Board and applicant discussed the sexual misconduct patient encounter. Dr. Christiansen motioned to grant licensure conditioned on continued compliance with his TMF contract. Dr. Johnson seconded the motion and it passed with one recusal from Dr. Blake.

James McElmurray, MD – appeared before the Board without legal representation. Dr. McElmurray is an applicant for reinstatement of licensure, he is Board Certified, and has prior board action. Dr. McElmurray is a participant in the Physician's Health Program of South Carolina. He has prior suspension and reinstatement of his South Carolina medical license. Dr. McElmurray provided an overview of the events leading to his substance abuse, relapse, and the treatment he received. Jennifer Rainwater, Executive Director with TMF, was present for any questions. TMF recommends licensure conditional on maintaining compliance and advocacy with TMF. Dr. McElmurray is not currently in a monitoring agreement with TMF. It is recommended the contract be at least five (5) years. Dr. Christiansen motioned to grant a full license conditioned on maintaining advocacy and compliance with a

five (5) year monitoring contract with TMF. Dr. Miller seconded the motion and it passed with Dr. Hale abstained.

Michael Martin, MD – appeared before the Board without legal representation. Dr. Martin’s Tennessee license was revoked in 2016 for prescribing and documentation concerns. He has been out of clinical practice since that time. Dr. Martin appeared before the Board at the May 2021 Board meeting. At the conclusion of that interview, Dr. Martin was given six (6) months to complete a fitness for duty evaluation to include a mental and physical evaluation to be coordinated by TMF. Dr. Martin completed an evaluation with VCAP. Based upon the evaluation it is determined that Dr. Martin is fit to practice at this time. However, it is recommended that Dr. Martin practice with oversight of his practice and record keeping, at least during the outset of his practice. Further, if Dr. Martin and/or colleagues observe a pattern of difficulty with managing detail, poor organizational skills, and forgetfulness persists, then an additional neuropsychological evaluation is indicated to rule out attentional or other cognitive problems. The VCAP evaluation concluded that there is no recommendation for monitoring by TMF. Ms. Tameka Webb, TMF Case Manager, was present and reports Dr. Martin completed several courses that were required, and she provided an overview of the VCAP results. The Board led a discussion on the continued issue with time out of practice and documentation concerns. The applicant expressed he is not opposed to furthering his training in a fellowship program. Dr. Martin also suggested he could work for colleagues that could monitor his practice. The Board discussed using the re-entry policy. Dr. Loyd will work with Dr. Saunders on drafting a re-entry plan for Dr. Martin. The consensus of the Board is that Dr. Martin would need to either complete a fellowship, obtain Board Certification, or complete a formal assessment such as CPEP to determine fitness for competency. Dr. Johnson motioned to table the application for up to six (6) months to develop the re-entry plan. Dr. Christiansen seconded the motion and the motion passed.

II. Conduct New Business

- a. **Report from the Office of Investigations on Currently Monitored Practitioner and the Statistical Complaint Report** – Ms. Dorsey Luther outlined the process and the setups in place to alert the disciplinary coordinator when licensees are not in compliance or may need a reminder about what their board order requires. The Board discussed a concern that orders may not be monitored closely enough to where there is an additional violation brought before the Board for noncompliance. The Board inquired about the common pitfalls in compliance and whether adjustments should be made to Board Orders. Ms. Baca-Chavez suggested adding terms to the Board Order for non-compliance limits their ability to consider issues on a case-by-case basis. For awareness, Dr. Blake proposed maybe the addition to the language in the Orders is simply that “further discipline is possible for non-compliance”. Dr. Loyd stated that he would like documentation of who will be supervising the mid-levels the licensee may currently be supervising. There was a suggestion that it should be verified that the LARS database has been updated in removing those mid-levels from the licensee’s supervisory relationship list once they have been disciplined and no longer permitted to supervise mid-levels. The Board reviewed a new report which outlines licensees under reprimand and the terms to be met and their status towards compliance with the order. The Board requested to review this new report at all meetings.
- b. **Development Committee Meeting Update (Dr. Loyd, Dr. Blake, Dr. Johnson, Dr. Beckford, Mr. Ellis and Dr. Christiansen) – Dr. Loyd presented the following update:**
 - i. The Committee met yesterday, July 19, 2021.

- ii. Sexual Misconduct Policy Review – The Boards Sexual Misconduct policy was last revised in 2017. The Committee reviewed the Boards policy and the Federation of State Medical Boards recently released Sexual Misconduct policy. The Committee requests for Dr. David Silvus, with the Department, Dr. Michael Baron, with TMF, and Dr. Loyd, with the Board, to review both policies and draft a revision of the Boards current policy for the Committee to review during its September meeting.
- iii. Discussion on how to provide education on sexual misconduct – the Committee discussed the SVMIC programs available, and to consider CME requirements on the topic. The Committee will discuss this further at their next meeting.
- iv. Minimum Discipline for Improper Prescribing – reviewed the current rules on the minimum discipline for improper prescribing. Dr. Loyd requests for the full Board to review those rules. At the next Committee meeting they will look at aggravating factors in instances where there is more than just improper prescribing to have occurred.
- v. Review Competency Questions for Special Volunteer application – the Committee requests that these questions mirror the Boards current full licensure application competency questions.
- vi. Continuing Medical Education for Voluntary Service – the Committee will seek information from the Tennessee Medical Association on how one claims CME credit for their voluntary services.
- vii. Telehealth Taskforce – discussion on this in the Development Committee was postponed until the September meeting since the Taskforce met early this morning, July 20th.

Prompted by a question from Dr. Miller, more information on the discussion held during the Development Committee regarding the Special Volunteer application was provided. The Committee reviewed the ruled and statutory requirements for this application type and deemed all parts of the application necessary. Applicants who never held a Tennessee license are eligible for this license type. Therefore, the Committee doesn't feel as though revisions can be made to lessen the burden on applicants who already held a Tennessee license.

- c. **Discuss and Consider taking action on the USMLE attempt policy and corresponding Board Rule** – as of July 1, 2021 the USMLE changed their attempt limit policy from six (6) to four (4). The Board currently has rules in the internal review process which mirrored the USMLEs old limit of six (6) attempts. There is a recommendation from Government Operations for Boards to make their rules more specific, so simply adopting the USMLE policy would not be specific enough unless it is to adopt a specific version. Ms. Baca-Chavez recommended the Board to change the exam attempt limit from six (6) to four (4). Dr. Beckford motioned to approve the change to the rules. Dr. Christiansen seconded the motion and it passed. Dr. Hale is abstained.

III. Consider and Approve Consent Agenda

Dr. Christiansen motioned to accept the consent agenda. Dr. McLerran seconded the motion and it passed. The Consent Agenda contained the following:

1. Approval of May 11-12, 2021 Board meeting minutes
2. Approval of May 10, 2021 Development Committee meeting minutes
3. Ratification of new licenses, reinstatement and renewals of Medical Doctors, MD X-Ray Operators, Genetic Counselors, and Polysomnography

4. Review of Administrative Office Statistical Licensing Report
5. Review of the Office of General Counsel Report
6. Review and approve unlicensed practice Agreed Citations – Emily Paige Cooper, AMDX (license # 10378), Lacey Hashimoto, RPSGT (license # 1289) and Tommy Wood, MD (license # 42500)
7. Review and approve continuing education Agreed Citations – Jack Randall Adams, RPSGT (license # 6), Jessica L. Carroll, MDXL (license # 7650), Tara Leigh Horvath, MDXL (license #9578), Marja Elise Fisher, AMDX (license #8721), Melanie Kay Haddon, AMDX (license #7627), Patricia Ann Novak, AMDX (license #9349), Ashley Parsons, AMDX (license #4995), Hansroutie Gopaul, MDXL (license #4665), Melissa Renee Rumble (license #7331), Terri Diane Moore, MXRT (license #9512), and Kenneth Hicks, MD (license #11486).

The Board recessed for lunch.

IV. **Summary of 2021 Legislative Session by Mr. Patrick Powell**

- a. **Public Chapter 26** - This act extends the Alzheimer's disease and related dementia advisory council to June 30, 2026. This act took effect March 23, 2021.
- b. **Public Chapter 37** - This act prohibits agencies subject to sunset review from promulgating rules or adopting policies to exempt members solely by virtue of their status as members. This act took effect March 23, 2021.
- c. **Public Chapter 62** - This act was one of the Department of Mental Health and Substance Abuse Services' legislative initiatives, relative to revising requirements on death reporting. Among other requirements, this act requires the mental health facility to notify the office of the medical examiner having jurisdiction upon discovery of a death as soon as reasonably possible, but no longer than 12 hours after the discovery of the death. The act also clarifies that licensed healthcare providers listed under additional titles in Tennessee Code Annotated (such as title 68) can practice telemedicine. This act took effect March 29, 2021.
- d. **Public Chapter 114** - This act requires TDH in collaboration with other public and private healthcare agencies to incorporate Alzheimer's disease and other dementias into existing public health programs. This act took effect April 13, 2021.
- e. **Public Chapter 136** - This act was one of the Department of Health's legislative initiatives, relative to the Controlled Substance Monitoring Database (CSMD). First, the act authorizes the state's chief medical examiner, or county medical examiner, to allow designees to approve death investigations. Next, this act allows deidentified CSMD data, rather than only aggregate, to be shared, with the intent of improving information access. Additionally, this act allows for CSMD data to be shared with additional state, county, or federal agencies outside of Tennessee. Lastly, this act decreases the quorum requirements of the CSMD committee by one member, but still have a majority of members present to conduct regular committee business (6). This act took effect April 13, 2021.
- f. **Public Chapter 150** - This act simply adds FQHC's in Tennessee to the definition of healthcare organizations pursuant to the law around quality improvement committees. This act took effect July 1, 2021.
- g. **Public Chapter 153** - This act creates a new definition of "store-and-forward telemedicine services" to include the use of asynchronous computer-based communications between the healthcare provider and the patient for the purpose of diagnoses, consultation, or treatment of a patient at a distant site where there may be no in-person exchange. This act took effect April 13, 2021.
- h. **Public Chapter 179** - This act authorizes unlicensed graduates of certain medical training programs to provide telehealth services, provided they maintain the same existing standards for telehealth that licensed providers must meet. This act took effect April 20, 2021. The Board asked for more information on this public chapter. Mr. Powell

reports certain Boards have requirements of graduate hours in training, prior to being licensed, during covid in person services weren't permitted, causing a training gap for certain professions, and now telehealth can be used in those training situations.

- i. **Public Chapter 197** - This act requires the Department of Health and other agencies to seek federal, private, or other available funding for the development of substance use disorder recovery programs. It also requires the agencies to report by February 15th of each year to the legislature the amount of funds they've applied for relative to substance use disorder programs, as well as recommendations to statute changes to develop recovery programs. Lastly, the report must include any benefits realized from these programs. This act took effect April 22, 2021.
- j. **Public Chapter 230** - This act revises the definition of marijuana to clarify that it does not include a product approved as a prescription by the Food and Drug Administration (FDA). This act took effect April 22, 2021.
- k. **Public Chapter 242** - This act authorizes records custodians to petition a court for injunctive relief from individuals making frequent public records requests with the intent of disrupting government operations, following a fifth (5th) public records request. A records custodian can only petition a court if they notify the person in writing stating the specific conduct may constitute intent to disrupt government operations, and that the person continues to do so. The individual upon a court enjoinder would not be able to make public requests at the agency for up to one (1) year. This chapter took effect April 28th, 2021 and will sunset July 1, 2025.
- l. **Public Chapter 259** - This act establishes requirements for a healthcare provider to follow when either an inpatient in a health care facility, or someone who is seeking services in an emergency department, expresses to the provider a recent threat or attempt at suicide or infliction of bodily harm to themselves. In this scenario, the healthcare provider shall enter the attempt or threat into the patient's medical record. Upon discharge from the facility, the facility shall provide the patient with contact information to access a qualified mental health professional or counseling resource unless the patient is discharged to another facility. This referral requirement can be satisfied by providing contact information for this state's mobile crisis services or the statewide crisis hotline. Lastly, the act states that a healthcare provider who violates this section is subject to discipline by the licensing authority. This act took effect July 1, 2021.
- m. **Public Chapter 272** - This act is known as the "Safe Stars Act." This bill requires that certain safety standards be implemented, beginning with the 2022-2023 school year for each LEA and public charter school that provides a youth athletic activity. Additionally, this act requires the department of education and the department of health to develop and post on their websites guidelines and other materials to inform and educate students, parents, and coaches about electrocardiogram testing (EKG) be administered in addition to the student's comprehensive initial pre-participation physical examination. This act also requires the department of education, in collaboration with the department of health, to develop a sudden cardiac arrest symptoms and warning signs information sheet that includes information about EKG testing. The information sheet must address the benefits and limitations of EKG testing. This act took effect April 30, 2021.
- n. **Public Chapter 291** - This act requires the attorney general and reporter to not approve an emergency rule if the emergency rule does not meet the statutory criteria for adoption of the rule. This act took effect July 1, 2021.
- o. **Public Chapter 328** - This act requires that starting December 1, 2023, state agencies submit a report of their effective rules to the chairs of the government operations committee every eight (8) years. The report is required to include a brief description of the department's operations that each chapter affects, as well as each rule and its administrative history, which would include the original promulgated date and the dates

the rule was last amended, if applicable. Additionally, the report would include a determination of each rule on whether it adheres to current state or federal law or court rulings, should be amended or repealed, reviewed further, or continue in effect without amendment. Lastly, if there are any intentionally false statements in the report, the government operations committee would have the ability to vote to request the general assembly to remove a rule or suspend the department's rulemaking authority for any reasonable period of time. This act took effect July 1, 2021.

- p. **Public Chapter 348** - This act requires fetal remains from a surgical abortion to be disposed of solely by burial or cremation. Under this act, an abortion facility is defined as any ASTC, private office, or other facility as defined by TCA 68-11-201 in which abortions are induced or performed. The act does not include hospitals licensed under Title 68 as long as the hospital policies and regulations concerning disposal of fetal remains substantially complies with the requirements of this act. A pregnant woman who has a surgical abortion has the right to choose burial or cremation of the fetal remains as well as the location for the final disposition. The woman is to be provided with forms created by the Department of Health informing her of that right and selecting the means and location. If the woman does not wish to exercise this right, the abortion facility shall determine whether disposition is by cremation or interment. The act also establishes a variety of record keeping requirements on the facility. This act took effect on May 6, 2021 for rulemaking purposes. The rest of the public chapter takes effect July 1, 2021.
- q. **Public Chapter 357** - This act authorizes an exception to existing telehealth requirements governing healthcare providers in Tennessee. In doing so, it allows individuals licensed in another state to practice telehealth in Tennessee while providing healthcare services on a volunteer basis through a free clinic. This act took effect May 11, 2021. The Board discussed that these individuals would not have a Tennessee license to take any disciplinary action on if needed.
- r. **Public Chapter 362** - This act is known as the "Jim Coley Protection for Rape Survivors Act," and revises existing provisions relative to the protocol for forensic medical examinations of victims of sexually oriented crimes. It requires healthcare providers to notify law enforcement that an evidence collection kit is ready for release within 24 hours of concluding the examination. It also requires law enforcement to pick up the kit for storage or transmission within 48 hours of being notified and revises the storage requirements for maintaining records of the kits. Lastly, in the event that a victim elects not to report the alleged offense to police at the time of examination, the collection kit becomes a hold kit and the healthcare provider is required to assign a number to identify the kit rather than using the victim's name. This act partly took effect May 11, 2021, but not for TDH concerns. The rest of the act took effect July 1, 2021.
- s. **Public Chapter 396** - This act establishes provisions governing the practice of certified medical assistants in Tennessee. The act specifically authorizes licensed hospitals to employ certified medical assistants under a set of work requirements, specifically around administering approved medications to admitted patients in an ambulatory outpatient hospital clinic. Ambulatory outpatient hospital clinic is defined as a clinic or physician office that is owned and operated by a hospital licensed under Title 68 and provides treatments to patients who are not admitted as inpatients to the hospital. Individuals employed in such a role are required to wear a visible nametag designating them as a certified medical assistant while working. Lastly, this act clarifies that this new section of code does not apply to personnel employed by physicians performing duties in settings other than an ambulatory outpatient hospital clinic. This act took effect May 11, 2021.
- t. **Public Chapter 441** - This act prohibits certain healthcare entities and insurers from discriminating based on disability regarding organ transplant services or coverage. In doing so, this act authorizes an individual who reasonably believes that a covered entity

has violated this act to bring a civil action for injunctive or other equitable relief against the covered entity for the purpose of enforcing compliance. Lastly, this act states that it does not create a right to compensatory or punitive damages against a covered entity. This act took effect July 1, 2021.

- u. **Public Chapter 453** - This act requires public or private entities or businesses that operate a building open to the general public to post signage regarding public restroom access in certain situations. Specifically, this applies to entities or businesses that have restroom policies allowing either biological sex to use any public restroom within their building. The act includes requirements for language, size, location, and even color for the signage. The act excludes unisex, single occupant restrooms or family restrooms intended for use by either sex. This act took effect July 1, 2021.
- v. **Public Chapter 460** - This act specifies that standard medical practice does not involve prescribing hormone treatment for gender dysphoric or gender incongruent prepubertal minors. Additionally, this act prohibits a healthcare prescriber from prescribing a course of treatment that involves hormone treatment therapy for gender dysphoric or gender incongruent prepubertal minors, except when prescribing a course of treatment for diagnoses of growth deficiencies or other diagnoses unrelated to gender dysphoria or gender incongruency. This act took effect May 18, 2021.
- w. **Public Chapter 461** - This act requires TDH licensing authorities, upon learning a healthcare prescriber was indicted of certain criminal offenses (controlled substance violations or sexual offenses), to automatically restrict the prescriber's ability to prescribe Schedule II controlled substances until the case reaches a final disposition. The restriction shall be removed upon sufficient proof of acquittal or dismissal/nolle prosequi. The act further requires licensing authorities to automatically revoke the license of a practitioner that is convicted of those same criminal offenses. A new license shall be granted if the conviction is overturned or reversed (but shall be restricted related to prescribing if the case has not reached final disposition). In addition, the act requires the licensing authority to suspend the license of midlevel practitioner (APRN/PA) upon finding the healthcare professional failed to comply with physician collaboration requirements. Finally, this act requires facility administrators to report certain disciplinary actions concerning licensed personnel to the professionals' respective boards. This act took effect May 18, 2021. It was stated that the process by which this public chapter can be implemented is in the works.
- x. **Public Chapter 464** - This act recreates the elder abuse task force, which was originally created in 2019 and was terminated January 15, 2021. The task force will consist of ten (10) members, including the Commissioner of Health or their designee. The task force will hold public meetings and utilize technological means to gather feedback on the recommendations from the general public and from persons and families affected by poverty. The commission on aging and disability will provide necessary administrative support for the task force. Lastly, this act requires the task force to submit its findings and recommendations to the governor and the general assembly to combat the abuse of elder persons and other vulnerable adults no later than January 15, 2022, at which time the task force will terminate. This act took effect May 18, 2021.
- y. **Public Chapter 513** - This act prohibits the Governor from issuing an executive order and a state agency, department or political subdivision from promulgating, adopting, or enforcing an ordinance or resolution that requires a person to receive an immunization, vaccination, or injection for the SARS-CoV-2 virus or any variant of the SARS-CoV-2 virus. It also deletes the previous override during an epidemic or immediate threat of an epidemic of an objection against vaccination that was made on the basis of religious tenets. The law prohibits requiring the COVID-19 vaccine to attend k-12 schools. The prohibition against requiring vaccines does not apply to governmental entities subject to

- federal or state statute or rule that prohibits the entity from requiring medical treatment for those who object on religious grounds or right of conscience. The law also does not apply to students of a public institution of higher education delivering healthcare services when the student is participating in/fulfilling requirements of a program in medicine, dentistry, pharmacy, or another healthcare profession. This act took effect May 25, 2021.
- z. **Public Chapter 531** - This act limits an agency's authority to promulgate rules without a public hearing. There are exceptions to the public hearing requirement. These exceptions include emergency rules, rules that are nonsubstantive modifications to existing rules (like clerical updates), rules that repeal existing rule, or rules that eliminate or reduce a fee described by an existing rule. This act took effect July 1, 2021.
- aa. **Public Chapter 532** - This act authorizes the joint government operations committee to stay an agency's rule from going into effect for a period of time not to exceed ninety (90) days. If the government operations committee determines that subsequent stays are necessary, then the joint committee may issue consecutive stays, each for an additional ninety (90) day period, so long as such stays do not extend beyond the fifth legislative day of the year following the year in which the rule is filed with the secretary of state. The initial stay may be done by either the house or senate government operations committee, but subsequent stays must be by agreement by the committees of both chambers. A stay is effective when the respective committee files written notice with the secretary of state, and the respective committee shall specify the length of effectiveness of the stay. This act took effect May 25, 2021.
- bb. **Public Chapter 550** - This act restricts county health boards to an advisory role to their respective county mayors. The bill also establishes a definition of quarantine in code rather than only in rule. Finally, the bill prohibits governmental entities from requiring vaccine passports. This act took effect May 26, 2021.
- cc. **Public Chapter 565** - This act transitions the Committee on Physician Assistants under the Board of Medical Examiners to an independent Board of Physician Assistants. The board will receive its transferred rules from the Secretary of State's office from its original committee and those will have full force and effect while new rules are drafted and adopted. The new board will consist of nine members appointed by the Governor. The board will have a sunset date of June 30, 2024. This act took effect May 26, 2021.
- dd. **Public Chapter 577** - This public chapter establishes the medical cannabis commission which is administratively attached to the department of health for purposes of budgeting, audit, use of IT systems, HR support, clerical assistance and administrative support. The commission is composed of 9 members. The Governor appoints 3 members (1 from each grand division), the Lt. Governor appoints 3 members (1 must be a physician and 1 a pharmacist), and the Speaker of the House appoints 3 members (1 must be a physician and 1 a pharmacist). The commission must be impaneled and hold its first meeting by October 1, 2021. The commission is required to meet at least once every two months prior to March 2023. The commission shall appoint an executive director. The commission is to examine federal laws and other states' laws regarding medical use of cannabis, including issues relating to patient qualification, patient registration, role of practitioners in recommending/prescribing, establishing guidelines for acceptable medical uses, development of a standard of care, etc. This act took effect May 27, 2021.
- ee. **Public Chapter 587** - This act creates additional resident training spots for universities in Tennessee. A portion of these focus on family medicine, general pediatrics, primary care medicine-pediatrics, and psychiatry, which is administered by the University of Tennessee (UT) and East Tennessee State University (ETSU) in cooperation with the Department of Health and the Tennessee Higher Education Commission. UT and ETSU may contract with accredited medical schools and sponsoring institutions. Another portion focuses on family medicine and general internal medicine provide medical and

behavioral health services and is administered by Lincoln Memorial University (LMU) in cooperation with TDH and THEC. LMU may contract with other accredited medical schools and sponsoring institutions or residency programs. This act takes effect July 1, 2021.

V. **Discuss and Consider taking action on the Training License Exemption Policy Statement** – Ms. Baca-Chavez presented the materials and provided the members with a copy of the Commissioner of Health’s statement of opinion regarding the statutory interpretation. The Board reviewed the statute on training license exemptions. Ms. Baca-Chavez reports a residency program in Virginia has a relationship with a program in Tennessee that allows residents to complete a residency rotation in Tennessee. The Board reviewed the statement of opinion which indicates the Commissioner is in support of approving these residents for exemption. The Board reviewed the policy statement drafted by Ms. Baca-Chavez which helps interpret this applicable statute to limit confusion in the future. Dr. Beckford motioned to adopt the interpretation and its policy. Dr. Christiansen seconded the motion and it passed.

VI. **Updates from Taskforces & Committees**

a. **Telehealth Taskforce (Dr. Christiansen, Mr. Ellis, and Dr. McLerran) – Dr. Christiansen presented the following update:**

- i. Discussion on a “site” definition – at this time the taskforce is not sure this definition can be developed.
- ii. Reviewed a summary of all different states and their collaborator requirements – the taskforce liked the language provided by Montana and Dr. Christiansen read the language allowed which addressed the monthly face-to-face visit for purposes of collaborating between the practitioner and mid-level.

Dr. McLerran addressed how there is a need for collaboration to improve and the documentation on the collaboration that occurs to improve. Dr. Beckford spoke in favor of site visits to still occur as they are important but not necessarily once a month. The Board led a lengthy discussion on the need to revise the collaboration rules. It was determined that, during the September 2021 Development Committee Meeting, members will be appointed to create the Collaborative Rules Taskforce which will be looking over and suggesting changes to these rules.

VII. **Disciplinary Order(s) – Order(s) of Compliance**

Gary Murray, MD – is required to appear before the Board when petitioning for an order of compliance. Since he is not present at the meeting, the Board will not hear to the petition.

Venkatachalam Ayyagari, MD – appeared before the board without a legal representative. Ms. Baca-Chavez presented the order of compliance. It is the position of the Disciplinary Coordinator and the Office of General Counsel that he is compliant with the terms of his previous order, from May 2016. Dr. Ayyagari reports he plans to continue practicing internal medicine and endocrinology. He reports he was previously misinformed as to whether he needed to have a pain management clinic and the requirements of such. He does not intend to be involved in a pain management clinic and reports he discourages patients from use of pain management but occasionally will prescribe for such as needed. Dr. Christiansen motioned to accept the order of compliance. Dr. Miller seconded the motion and it passed with Dr. Hale and Dr. Loyd opposed.

Consent Order(s)

Todd Ussery, MD – did not appear before the Board nor did his legal representative appear on his behalf. Ms. Tracy Alcock represented the State. Dr. Blake recused. Respondent was licensed on April 29, 2003 and the license expires on December 31, 2021. Respondent is an anesthesiologist and was employed at Tennessee Valley Pain Management in Cleveland, Tennessee, where Respondent served as Interim Medical Director from May 2019 to October 2019, and Medical Director starting in October 2019. The Department’s investigation into the complaint included a review of the Tennessee Controlled Substance Monitoring Database (“CSMD”), which shows that Respondent prescribed controlled substances to patients with a federal drug enforcement administration (DEA) registration from at least September 2017 to the present. From at least September 2017 to September 18, 2019, through his administrative error, Respondent failed to be registered in the CSMD despite being required by law to be registered. The facts stipulated are grounds for discipline. This order shall reprimand Respondent’s license. The parties agree this discipline shall not be considered an encumbrance or restriction on Respondents medical license and shall not preclude him from owning, serving as medical director, or being employed at a Tennessee pain management clinic, now or in the future. Respondent shall pay twenty-five (25) Type B Civil penalties for a total of two thousand five hundred dollars (\$2,500.00). Respondent shall pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. Beckford motioned to approve the order. Dr. Christiansen seconded the motion and it passed with Dr. Blake recused.

Beryl Yancey MD – did not appear before the Board nor did a legal representative appear on her behalf. Mr. Gerard Dolan represented the State. Dr. Hale recused. Respondent was licensed on August 23, 1989 and that license expires on December 31, 2021. At all relevant times, Respondent operated Yancey Medical Center, and she was the only physician practicing. On or about January 1, 2020, Respondent closed and/or abandoned her practice at Yancey Medical Center. Respondent did not make provision for the security, or transfer, or otherwise establish a secure method of patient access to their medical records following the closure of Yancey Medical Center. On or about September 3, 2021, a Division investigator appeared for an unannounced visit at Yancey Medical Center and found the office to be closed. On or about September 9, 2020, the Division investigator interviewed Respondent by telephone. During the interview, Respondent stated that she was retired, and her office was closed. Respondent declined to provide the Division investigator information about how to obtain patient medical records from her medical practice. The facts stipulated are grounds for discipline. This order shall voluntarily surrender the Respondents medical license effective the date of entry of this order. Respondent understands that this action has the same effect as a revocation of her medical license. No new application from Respondent for a Tennessee medical license will be entertained until at least three (3) years have passed from the effective date of this order. Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Beckford motioned to approve the order. Dr. Christiansen seconded the motion and it passed with Dr. Hale recused.

Daniel Kalb, MD – did not appear before the Board nor did his legal representative, Mr. Justin Adams, appear on his behalf. Mr. Marc Guilford represented the State. Respondent was licensed on August 10, 2005 and the license expires on June 30, 2022. Respondent practices family medicine at Cool Springs Family Medicine. In his practice, Respondent sometimes recommends that patients take certain supplements and vitamins. The website for Respondent’s practice refers visitors to online retailers to purchase supplements. Respondent’s practice website includes referral/registration codes for four of the listed vendors. Respondent refers patients to third-party vendors and receives payments from those vendors when patients make purchases from them. Respondent states he informs patients that they do not have to buy the supplements and vitamins he has suggested from the websites he refers them to, and that he informs patients of his financial relationship with Doctors Supplement and Researched Nutritionals. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license effective the date of entry of this order. Respondent will never again directly or indirectly offer, give, receive, or agree to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services. Respondent shall pay two (2) Type C civil

penalties for a total of two hundred dollars (\$200.00). Respondent shall pay all actual and reasonable costs of the case not to exceed five thousand dollars (\$5,000.00). Dr. McLerran motioned to approve the order. Mr. Ellis seconded the motion and it passed.

Teresa Wright, MD – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Baca-Chavez presented the order on behalf of Mr. Peyton Smith, who represented the State. Respondent was licensed on December 11, 2012 and the license expires on January 31, 2023. From February 2019 until January 2021, Respondent worked as a medical x-ray operator for twenty-four (24) months while her medical x-ray operator certificate was expired. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license effective the date of entry of this order. Respondent shall pay twenty-two (22) Type C civil penalties for a total of two thousand two hundred dollars (\$2,200.00). Respondent must pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to approve the order. Dr. McLerran seconded the motion and it passed.

Taylor Briggs, AMDX – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Baca-Chavez presented the order on behalf of Mr. Peyton Smith, who represented the State. Respondent was licensed on September 3, 2015 and the license expires on August 31, 2021. From September 2019 until May 2020, Respondent worked as a medical x-ray operator for nine (9) months while her medical x-ray operator certificate was expired. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license effective the date of entry of this order. Respondent shall pay seven (7) Type C civil penalties for a total of seven hundred dollars (\$700.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Christiansen motioned to approve the order. Mr. Ellis seconded the motion and it passed.

Michael Mena, MD – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Baca-Chavez presented the order on behalf of Mr. Peyton Smith, who represented the State. Dr. Miller and Dr. Blake recused. Respondent was licensed on July 8, 1987 and the license expires on November 30, 2022. Respondent is a general surgeon in solo practice. On or about January 23, 2019, Respondent submitted an order form to Henry Schein, Inc., for Ambien for his own personal use. Henry Schein declined to send the order. Respondent admitted he had prescribed Ambien for himself, his daughter, and his son-in-law. This order lists several prescriptions written to himself, his daughter, and son-in-law, without creating and maintaining a medical record. On or about April 26, 2019, Respondent entered into Memorandum of Agreement with the DEA which restricted Respondents prescribing of controlled substances and required Respondent to maintain a controlled substance prescribing log. As part of the Memorandum of Agreement, Respondent also signed DEA Form 104, “Surrender for Cause of DEA Certificate of Registration”, which was not executed and enforced at that time, but would only be executed and enforced if Respondent was found to have violated the conditions of the Memorandum of Agreement. The facts stipulated are grounds for discipline. This order shall place Respondent’s license on probation for a period of not less than five (5) years. Respondent shall immediately notify the DEA Knoxville Resident Office of this order. Within ninety (90) days he must provide proof he has notified any medical health professional whom he collaborated with about this order. Respondent shall not prescribe opioids for at least six (6) months, and until successful completion of the continuing education outlined in this order. Respondent shall pay eighty-five (85) Type B civil penalties for a total of nine thousand five-hundred dollars (\$9,500.00). Respondent shall pay all actual and reasonable costs of this case not to exceed two thousand five hundred dollars (\$2,500.00). Dr. Christiansen motioned to approve the order. Dr. Beckford seconded the order and it passed with two (2) recusals by Dr. Miller and Dr. Blake.

Brittany Cook, MD – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Baca-Chavez presented the order on behalf of Mr. Peyton Smith, who represented the State.

Respondent was licensed on June 12, 2012 and the license expires on April 30, 2022. Respondent was an ophthalmologic surgeon working at Murfreesboro Medical and Surgicenter. In January 2020, Respondent had her clinical privileges at Murfreesboro and Surgicenter suspended because a high complication rate of Vitrectomies during cataract cases. Respondent no longer works as an ophthalmologic surgeon and currently practices phlebology at East Tennessee vein Clinic. The facts stipulated are grounds for discipline. This order shall reprimand the Respondents license effective the date of entry of this order. Respondent is indefinitely restricted from practicing ophthalmologic surgery. In order to lift the restriction from practicing ophthalmologic surgery, Respondent agrees to complete a 1-year fellowship of advanced ophthalmologic surgery and provide proof of completion to the Board's Medical Director, undergo a competence assessment from the Center for Personalized Education for Physicians ("CPEP"), and respondent shall comply with any and all recommendations from CPEP. 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 the other. Dr. McLerran seconded the motion and it passed.

Stacey Parker, AMDX – did not appear before the Board nor did a legal representative appear on her behalf. Ms. Baca-Chavez presented the order on behalf of Mr. Peyton Smith, who represented the State. Respondent was licensed on June 12, 2015 and the license expires on December 31, 2021. From approximately October 2018 until August 2020, Respondent worked as a medical x-ray operator at Solutions Integrated Medicine, a chiropractic office, without being supervised by a medical doctor and without a chiropractic x-ray technologist certification. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license effective the date of entry of this order. Respondent shall pay twenty-six (26) Type C civil penalties for a total of two thousand six hundred dollars (\$2,600.00). Respondent shall pay all actual and reasonable costs of the case not to exceed two thousand dollars (\$2,000.00). Dr. Blake requested this matter be provided to the Chiropractic Board. Mr. Ellis motioned to approve the order. Dr. Christiansen seconded the motion and it passed.

Ghazali Khan, MD – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Francine Baca-Chavez represented the State. Respondent was licensed on July 14, 1994 and the license expires on June 30, 2023. Respondent was first certified by the American Board of Internal Medicine ("ABIM") in the subspecialty of internal medicine in 1992 and he is currently participating in maintenance of certification. Respondent was certified by the ABIM in the subspecialty of nephrology in 1996 and remained certified until about 2004. The Respondent has not obtained recertification. At least until April 19, 2019, the Respondent's practitioner profile continued to indicate that he was certified by the ABIM in both internal medicine and nephrology subspecialties. At least until April 19, 2019, Respondent's practitioner profile continued to indicate that he had medical staff privileges at Woods Memorial Hospital. On or about 2012, Woods Memorial Hospital ceased to exist. Respondent failed to timely notify the department and update his practitioner profile when these changes occurred. The facts stipulated are grounds for discipline. This order shall reprimand Respondents license effective the date of entry of this order. Respondent must pay fifteen (15) Type B civil penalties for a total three thousand seven hundred and fifty dollars (\$3,750.00). Respondent shall pay seven (7) Type B civil penalties for a total of one thousand seven hundred and fifty dollars (\$1,750.00). Respondent shall pay all actual and reasonable costs of this case not to exceed five thousand dollars (\$5,000.00). Dr. Christiansen motioned to approve the order. Dr. McLerran seconded the motion and it passed with Dr. Johnson abstained.

Michael Seals, MD – did not appear before the Board nor did a legal representative appear on his behalf. Ms. Francine Baca-Chavez represented the State. Dr. Christiansen, Mr. Ellis, and Dr. Loyd recused. Respondent was licensed on June 23, 1988 and that license expires on June 30, 2023. Respondent is an Otolaryngologist practicing at Ear, Nose, and Throat Consultants of East Tennessee. On or about October 25, 2019, Respondent wrote a prescription for Adderall to his daughter. Respondent did not document a physical or psychological examination on his daughter prior to writing the prescription. The prescription was not written pursuant to an emergency. Respondent was aware that it was improper to write his

daughter a prescription for Adderall, so he began writing his housekeeper Adderall prescriptions and asking her to return the prescription tablets to him so that he could provide them to his daughter. On or about November 8, 2019, Respondent also provided his niece with a prescription for Adderall without documenting a physical or psychological examination. Respondent admits that prescribing Adderall is out of his field of practice and he further admits that he had never prescribed Adderall in his medical practice. At the time Respondent wrote the prescriptions he was aware that Adderall was a Schedule II medication but asserts that he did not know that Adderall was an addictive or harmful medication. The facts stipulated are grounds for discipline. This order shall place Respondent's license on probation for a period of two (2) years effective the date of entry of this order. Respondent shall complete the course entitled "Medical Ethics, Boundaries and Professionalism" and "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls". Respondent shall pay a total of five (5) Type A Civil penalties for a total of seven hundred and fifty dollars (\$750.00). Respondent shall pay all actual and reasonable costs of this case not to exceed four thousand dollars (\$4,000.00). Dr. McLerran motioned to approve this order. Ms. Cole seconded the motion. The motion passed with recusals from Dr. Christiansen, Mr. Ellis, and Dr. Loyd.

VIII. Development Committee Agenda Items –

- a. Sexual Misconduct Policy
- b. Appoint members to new taskforce to review rules on collaboration of mid-levels
- c. Public Chapter 328 discussion
- d. Minimum disciplinary measures for improper prescribing
- e. Update on Telehealth taskforce

IX. Public Comment – None.

The Board recessed at 4:17pm CT.



**Tennessee Board of Medical Examiners
Regular Board Meeting**

Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners

Wednesday, July 21, 2021

A panel of the Tennessee Board of Medical Examiners was called to order at 9:49 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Melanie Blake, Board President.

Board members present: Melanie Blake, MD, President
 Robert Ellis, Consumer Member, Secretary
 W. Reeves Johnson, MD
 Neal Beckford, MD
 Deborah Christiansen, MD

Julianne Cole, Consumer Member
Samantha McLerran, MD
Jennifer Claxton, Consumer Member
Phyllis Miller, MD

Board member(s) absent: Randall Pearson, MD
John Hale, MD
Stephen D. Loyd, MD, Vice President

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Rene Saunders, MD, Medical Consultant, BME
Angela Lawrence, BME Executive Director

Disciplinary Order(s)

Agreed Order(s)

Michael LaPaglia, MD – was present to appear before the Board with his legal representative. Dr. Miller and Dr. Blake recused. Mr. Marc Guilford represented the State. Mr. Guilford presented all aspects of the agreed order, which will revoke the Respondents license. The order provides a minimum guideline to be considered if the Respondent should ever seek licensure again, but it does not restrict the future Board from developing their own requirements. Dr. Beckford motioned to approve the order. Dr. Christiansen seconded the motion and it passed by roll call vote with Dr. Miller and Dr. Blake recused.

The regular Board business concluded.

Hearing for Declaratory Order – Iris Room

Alia Ali, MD v. State of Tennessee Board of Medical Examiners

Iris Room

Administrative Law Judge: J. Shannon Barnhill

Panelists: Melanie Blake, MD, Phyllis Miller, MD, Robert Ellis, Consumer Member

Counsel for State: Francine Baca-Chavez, Deputy General Counsel

Counsel for Respondent: None

A panel of the Board heard the position of the Petitioner and the State and reviewed any evidence presented. After discussion and consideration, the panel motioned and seconded, which was followed by an approval of the following Final Order with all findings of fact and conclusions of law considered and agreed upon.

Petitioner, Alia Ali, MD, attended Wayne State University School of Medicine and graduated with a medical degree in 2013. Thereafter, Petitioner completed a postgraduate two-year residency in family medicine at the University of Toronto, from July 1, 2013 through June 30, 2015. This postgraduate training was accredited by the College of Family Physicians of Canada. Petitioner also completed a fellowship in family medicine/supplemental emergency medicine experience at the University of Toronto from January 2016 through April 2016 that was accredited by the College of Family Physicians of Canada. Petitioner has not submitted evidence of the satisfactory completion of any U.S. ACGME

accredited postgraduate training as all her training was done outside of the U.S. The Petitioner has satisfied by preponderance of evidence that she has sufficient medical training, clinical competence, and professional experience to hold an unrestricted medical license. The petition for Declaratory Order, for this Petitioner, was approved.

Contested Case – Poplar Room

Valerie L. Augustus, MD v. State of Tennessee Board of Medical Examiners

Poplar Room

Administrative Law Judge: Elizabeth Cambron

Panelists: Neal Beckford, MD, Dr. W. Reeves Johnson, MD, Jennifer Claxton, Consumer Member

Counsel for State: Paetria P. Morgan, Senior Associate General Counsel

Counsel for Respondent: None

A panel of the Board heard both parties and reviewed all evidence presented. Respondent was licensed by the Board on June 14, 1996 and this license is set to expire on February 28, 2022. On May 2, 2018, the Board entered an Amended Final Order mostly stemming from the Respondent violating the standard of care by using a riding crop, whip, or other object to make contact with mental health patients. The May 2018 Order required the Respondent to undergo an assessment with Vanderbilt Comprehensive Assessment Program (VCAP) and follow all recommendations from the VCAP. The VCAP recommended the Respondent engage in a course of monthly individual psychotherapy supervision with a therapist during her probationary period. Respondent violated the May 2018 Order by failing to engage in monthly individual psychotherapy supervision with a therapist. The May 2018 Order also required Respondent to pay the actual and reasonable costs of prosecuting the case. The costs assessed against the Respondent are \$50,000.00. Respondent violated the Amended Final Order by failing to pay the \$50,000.00 cost assessment. On November 4, 2018, the Board entered an Order of Compliance lifting the suspension restriction from the Respondents license and immediately placing the license on probation for three (3) years. Like the May 2018 Order, the Order of Compliance required Respondent to follow the recommendations of the VCAP evaluation. Also, the Order of Compliance required the Respondent cause the TMF to issue quarterly reports regarding the Respondents psychotherapy supervision progress. Respondent violated the Order of Compliance by failing to participate in individual psychotherapy supervision and failing to enter a contract with the TMF, which prevented the TMF from issuing quarterly reports regarding her psychotherapy supervision progress. This Final Order shall suspend Respondent's license and outlines several requirements of the Respondent to include how she may petition for an order of compliance to revert to probationary status and so forth. After discussion and questions, the panel motioned and seconded, which was followed by an approval of the Final Order with all findings of fact and conclusions of law considered and agreed upon.

This concludes the Board of Medical Examiners day 2 meeting.