



**Tennessee Board of Medical Examiners
Development Committee**

Tuesday, July 25, 2023

MINUTES

The Development Committee meeting of the Tennessee Board of Medical Examiners was called to order at 7:30 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Stephen Loyd, Committee Chair.

Committee members present: Stephen Loyd, MD Committee Chair
Melanie Blake, MD
Robert Ellis, Consumer Member
John McGraw, MD

Staff present: Francine Baca-Chavez, JD, Office of General Counsel
Stacy Tarr, BME Executive Director
Brandi Allocco, Administrative Director
W. Reeves Johnson, MD, Interim Medical Consultant

The meeting was called to order by Dr. Loyd with a roll call of members and staff present. Having determined a quorum with three members present, Dr. Loyd opened the meeting with a brief moment of silence.

I. DISCUSS AND TAKE ACTION AS NEEDED REGARDING T.C.A. § 68-3-502

Dr. Keith Anderson had asked the Development Committee to take up this topic concerning the processing of death certificates. Mr. Gary Bishop from the Department of Vital records was not in attendance to field questions from the Committee. Ms. Francine Baca-Chavez presented questions that have been raised by physicians regarding T.C.A. § 68-3-502. Dr. Melanie Blake proposed Dr. Anderson should meet with Mr. Bishop to discuss concerns and bring the information to the Development Committee Meeting in September. Dr. Blake asked Ms. Baca Chavez if a letter of warning could be issued rather than immediate discipline for a physician who may not be in compliance. Ms. Baca Chavez went over the current process of issuance of discipline after investigation. The Development Committee proposes two letters of warning be issued prior to discipline until more information can be gathered regarding the processing of death certificates by Dr. Anderson.

II. DISCUSS AND TAKE ACTION AS NEEDED REGARDING REQUIRING FCVS PROFILE FOR APPLICANTS

The initial FCVS profile is three-hundred ninety-five dollars (\$395) and after the initial profile it is ninety-nine (\$99) for each additional state. There are sixteen (16) states that already require FCVS profiles for licensure. The FCVS profile will help streamline the licensure process as most of the required documentation for licensure is included in the profile. The Committee recommends the initiation of rulemaking to require FCVS profiles for new applicants. Mr. Ellis motions to bring the recommendation forth to the full Board for consideration. Dr. Blake seconds the motion, and it passes.

III. DISCUSS AND TAKE ACTION AS NEEDED REGARDING TELEHEALTH

This is a standing Development Committee item as information is still forthcoming regarding the future of telehealth. It is of the opinion of Dr. Loyd that the future of telehealth will be determined by third-party payers. There is uncertainty in how these third-party payers will reimburse providers and healthcare facilities for telehealth visits going forward. Dr. Loyd will continue to monitor the situation; however, this item will be removed from the agenda until more information develops.

IV. ADVISORY RULING

Steven Austin, MD – Dr. Austin asks if a physician who is duly licensed in the State of Tennessee, be employed by an out-of-state hospital or an affiliate of such a hospital to practice medicine in Tennessee. It is the Committee’s understanding from the information provided in writing that Dr. Austin seeks employment by a hospital not licensed under Title 68, Chapter 11, or Title 33, Chapter 2 of Tennessee Code. Statutory and common law principles of the “corporate practice doctrine” prohibit the employment of physicians, who retain their right to exercise independent medical judgment, absent legislation specifically permitting it. T.C.A. §§ 63-6-204 and 68-11-205 permit employment of physicians by hospitals licensed in Tennessee under Title 68, Chapter 11, or Title 33, Chapter 2, or an affiliate of a hospital with certain restrictions. There is no similar statute which permits employment by a hospital, or an affiliate of a hospital not licensed in this state and subject to the jurisdiction of Tennessee’s Office of Health Care Facilities, responsible for licensing hospitals in Tennessee. Notwithstanding, based on Dr. Austin’s representations neither Hamilton Physician Group, Inc. (“HPG”) nor Hamilton Medical Center, Inc. (“HMC”) will not restrict or interfere with Dr. Austin’s medically appropriate diagnostic or treatment decisions and otherwise comply with all applicable requirements of similarly situated entities employing physicians who are providing services in Tennessee, the Board’s position is that it will not pursue disciplinary action for the employment arrangement Dr. Austin proposes. The Board does not rule with regard to Dr. Austin’s practice within the state of Georgia, as Dr. Austin must be separately licensed in that state to practice on patients physically located there, regardless of their state of residence. With regard to Dr. Austin’s practice on patients located in Tennessee, Dr. Austin is advised to ensure that he is aware of the conditions of hospital employment found in T.C.A. § 63-6-204 and ensure his employment contract with HPG and HMC complies with these requirements to protect his exercise of independent medical judgement to provide medical care to his patients. The Committee motions to approve the advisory letter ruling as written and it passes with Dr. Blake recused.

Selwin Abraham, MD – Dr. Abraham asks if a physician who is duly licensed in the State of Tennessee, be employed by an out-of-state hospital or an affiliate of such a hospital to practice medicine in Tennessee. It is the Committee’s understanding from the information provided in writing that Dr. Abraham seeks employment by a hospital not licensed under Title 68, Chapter

11, or Title 33, Chapter 2 of Tennessee Code. Statutory and common law principles of the “corporate practice doctrine” prohibit the employment of physicians, who retain their right to exercise independent medical judgment, absent legislation specifically permitting it. T.C.A. §§ 63-6-204 and 68-11-205 permit employment of physicians by hospitals licensed in Tennessee under Title 68, Chapter 11, or Title 33, Chapter 2, or an affiliate of a hospital with certain restrictions. There is no similar statute which permits employment by a hospital, or an affiliate of a hospital not licensed in this state and subject to the jurisdiction of Tennessee’s Office of Health Care Facilities, responsible for licensing hospitals in Tennessee. Notwithstanding, based on Dr. Abraham’s representations neither Hamilton Physician Group, Inc. (“HPG”) nor Hamilton Medical Center, Inc. (“HMC”) will not restrict or interfere with his medically appropriate diagnostic or treatment decisions and otherwise comply with all applicable requirements of similarly situated entities employing physicians who are providing services in Tennessee, the Board’s position is that it will not pursue disciplinary action for the employment arrangement Dr. Abraham proposes. The Board does not rule with regard to Dr. Abraham’s practice within the state of Georgia, as Dr. Abraham must be separately licensed in that state to practice on patients physically located there, regardless of their state of residence. With regard to Dr. Abraham’s practice on patients located in Tennessee, Dr. Abraham is advised to ensure that he is aware of the conditions of hospital employment found in T.C.A. § 63-6-204 and ensure his employment contract with HPG and HMC complies with these requirements to protect his exercise of independent medical judgement to provide medical care to his patients. The Committee motions to approve the advisory letter ruling as written and it passes with Dr. Blake recused.

Alan Simeone, MD – Dr. Simeone asks if a physician who is duly licensed in the State of Tennessee, be employed by an out-of-state hospital or an affiliate of such a hospital to practice medicine in Tennessee. It is the Committee’s understanding from the information provided in writing that Dr. Simeone seeks employment by a hospital not licensed under Title 68, Chapter 11, or Title 33, Chapter 2 of Tennessee Code. Statutory and common law principles of the “corporate practice doctrine” prohibit the employment of physicians, who retain their right to exercise independent medical judgment, absent legislation specifically permitting it. T.C.A. §§ 63-6-204 and 68-11-205 permit employment of physicians by hospitals licensed in Tennessee under Title 68, Chapter 11, or Title 33, Chapter 2, or an affiliate of a hospital with certain restrictions. There is no similar statute which permits employment by a hospital, or an affiliate of a hospital not licensed in this state and subject to the jurisdiction of Tennessee’s Office of Health Care Facilities, responsible for licensing hospitals in Tennessee. Notwithstanding, based on Dr. Simeone’s representations neither Hamilton Physician Group, Inc. (“HPG”) nor Hamilton Medical Center, Inc. (“HMC”) will not restrict or interfere with his medically appropriate diagnostic or treatment decisions and otherwise comply with all applicable requirements of similarly situated entities employing physicians who are providing services in Tennessee, the Board’s position is that it will not pursue disciplinary action for the employment arrangement Dr. Simeone proposes. The Board does not rule with regard to Dr. Simeone’s practice within the state of Georgia, as Dr. Simeone must be separately licensed in that state to practice on patients physically located there, regardless of their state of residence. With regard to Dr. Simeone’s practice on patients located in Tennessee, Dr. Simeone is advised to ensure that he is aware of the conditions of hospital employment found in T.C.A. § 63-6-204 and ensure his employment contract with HPG and HMC complies with these requirements to

protect his exercise of independent medical judgement to provide medical care to his patients. The Committee motions to approve the advisory letter ruling as written and it passes with Dr. Blake recused.

V. **PUBLIC CHAPTERS 211 AND 470**

Both statutes were just passed during the last legislative session. The statutes will require new rules to be promulgated. Ms. Baca-Chavez is requesting a Board member be assigned for each Public Chapter to work directly with her in drafting rules to be presented to the full Board. Public Chapter 211 authorizes the Board to issue temporary licenses for a period of up to two (2) years to International Medical School graduates that meet the requirements as outlined in the statute. They may only provide medical services at a health care facility that has a postgraduate training program accredited by ACGME. If after two-years the temporary licensee is in good standing, the Board must grant a full and unrestricted medical license. Public Chapter 470 creates the Graduate Physicians Act allowing medical students who have graduated from medical school and have passed Step 1 and Step 2 of the USMLE or equivalent, but have not completed an approved postgraduate residency, to practice under a collaborative practice agreement with a licensed physician under certain parameters. The Board of Medical Examiners will need to collaborate with the Board of Osteopathic Examiners to promulgate rules for Public Chapter 470. Dr. Loyd will bring forth recommendations for Board members to work with Ms. Baca-Chavez during the full Board meeting.

VI. **APPLICATION REQUIREMENTS**

This will be brought before the full Board due to time constraints.

VII. **PUBLIC COMMENT** - No public comment

The meeting adjourned at 8:30 am.