



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

**Tuesday, January 23, 2018  
Wednesday, January 24, 2018**

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**MINUTES**

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The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:40 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Subhi Ali, Board Chair.

Board members present: Michael Zanolli, MD  
Subhi Ali, MD  
Neal Beckford, MD  
Melanie Blake, MD  
Deborah Christiansen, MD  
Reeves Johnson, MD  
Julianne Cole, Consumer Member  
Phyllis Miller, MD  
Robert Ellis, Consumer Member  
Jennifer Claxton, Consumer Member  
John Hale, MD

Board member(s) absent: Charles Handorf, MD

Staff present: Mary K. Bratton, JD, Chief Deputy General Counsel  
Maegan Martin, BME Executive Director  
Rene Saunders, MD, Medical Consultant, BME  
Stacy Tarr, Administrative Director  
Candyce Waszmer, Administrative Director  
Courtney Lewis, Board Administrator

**I. CONSIDERATION OF APPLICATIONS**

**Medical Doctor Applicant Interview(s):**

**Jennifer Treece, MD** – appeared before the Board, without legal representation, having not completed a three (3) year U.S. residency program in one (1) discipline. She has completed twenty-eight (28) months of training in an Internal Medicine Residency program as well as twenty-four (24) months of a Family Practice Residency program. The American Board of Internal Medicine has granted credit for twelve (12)

months of training towards the thirty-six (36) month requirement to sit for the certification examination. The applicant was interviewed on her practice intentions in Tennessee. Dr. Michael Zanolli motioned to grant unrestricted licensure and the motion was seconded by Dr. Deborah Christiansen. The motion carried.

**Mary Barnes, MD** – appeared before the Board, without legal representation having been out of clinical practice for the past seven (7) years. Prior to being out of practice, she practiced in Pediatrics for seven (7) years after completing postgraduate medical training. Dr. Barnes discussed her practice intentions and her current efforts to complete live continuing medical education (hereinafter “CME”). The Board reviewed their re-entry policy then discussed re-entry and licensure options for the applicant. Dr. Melanie Blake motioned to appoint Dr. Christiansen to work with the medical consultant, Dr. Rene Saunders, and the applicant to devise a re-entry plan and to table the application until the November 2018 meeting. Dr. Reeves Johnson seconded the motion and the motion carried.

**Andrea Buck, MD** – appeared before the Board, without legal representation, having been out of clinical practice for two (2) years or more. Dr. Buck states she has been out of clinical practice for four (4) years. Dr. Buck is currently practicing Administrative Medicine for the Veteran’s Affairs Office of Inspector General in Washington, DC. At this time, Dr. Buck holds a limited administrative license in Tennessee. The applicant was interviewed regarding her current practice responsibilities, her past clinical activities and maintenance of board certification. After hearing Dr. Buck explaining her current role, Dr. Beckford commented that she may not be performing hands on clinical care but she is working within the practice of medicine. A discussion was held on whether or not Dr. Buck should complete a re-entry process. Dr. Zanolli proposed this applicant currently has met the re-entry pathway guidelines for those who have been out of practice for two (2) to five (5) years. Dr. Zanolli stated she has met this by maintaining certification through the American Board of Internal Medicine and through her day-to-day practice. Dr. Beckford and Dr. Christiansen supported this analysis. Dr. Johnson motioned to grant unrestricted medical licensure and Dr. Beckford seconded the motion. This motion carried.

**Khaja Chisty, MD** – appeared before the Board without legal representation. Dr. Chisty’s Colorado license was summarily suspended in November 2016. The suspension was terminated in December 2016 when a “nonpractice” agreement was negotiated. This order is still in effect and it is unknown when the order will be terminated or succeeded. The orders arise from Dr. Chisty’s practice of telemedicine in Colorado. At this point in time Dr. Chisty does not have an active Colorado license and is under action. The board interviewed the applicant regarding his disciplinary history. Dr. Christiansen proposed that Dr. Chisty work towards clearing the Colorado license action before seeking licensure and before other state boards begin issuing reciprocal action. Ms. Mary Katherine Bratton advised the Board that his Colorado summarily suspension does not meet the standards of disciplinary action. The Board did not entertain a motion. Dr. Chisty opted to withdraw his licensure application.

**Andy Adusei, MD** – appeared before the Board without legal representation. Dr. Adusei appeared before the Board in November 2016 and withdrew his application after the Board identified an inaccurate portrayal of facts. Having submitted another application, the applicant appeared before the Board to discuss the advisability of licensure. Dr. Adusei has previous action before the Oklahoma State Medical Board due to self-prescribing of controlled substances and prescription fraud. His license in Oklahoma is currently inactive. His DEA authorization was voluntarily surrendered in June 2017. Additionally, Dr. Adusei has been named in several malpractice actions, one (1) of which has been settled for a large amount as well as one (1) action that is still pending. Dr. Adusei informed the Board that his last clinical practice was in January 2017. Dr. Beckford commented that Dr. Adusei has paid heavily for the mistake he made and there is no evidence of a pattern of behavior to be concerned about. Dr. Beckford motioned to approve unrestricted licensure and Dr. Blake seconded the motion. The motion carried with six (6) in

agreement, none against, and five (5) abstentions from Ms. Jennifer Claxton, Dr. Christiansen, Dr. Charles Hale, Mr. Robert Ellis and Dr. Ali.

**Mark McCommons, MD** – appeared before the Board without legal representation. Dr. McCommons has a driving while intoxicated conviction, has resigned from two (2) residency programs and is currently being monitored by the Tennessee Medical Foundation (hereinafter “TMF”) physician health program (hereinafter “PHP”). Dr. McCommons addressed the Board by stating he is now board certified in Internal Medicine and outlined his history of alcohol abuse and treatment. Dr. Michael Baron, with TMF, recommended licensure with continued monitoring. Dr. Zanolli questioned the applicant regarding his sobriety date and history of alcohol use patterns. Dr. McCommons stated his sobriety date is July 26, 2017. The applicant indicates he is interested in practicing in primary care medicine and hospital based internal medicine. Dr. Zanolli motioned to grant licensure conditioned on continued compliance with his five (5) year monitoring contract with TMF, which was signed in October 2017. Dr. Beckford seconded the motion. It is understood that this conditional licensure is reportable to the National Practitioner Databank and noncompliance with TMF would warrant a board order violation action. The motion carried.

**Rasheed Abassi, MD** – appeared before the Board without legal representation. Dr. Abassis’ Maryland and District of Columbia medical licenses were suspended for unprofessional conduct. His Maryland license is currently on probation. Additionally, his hospital privileges were suspended due to the issue that resulted in the summary suspension of his Maryland license. He was required by the Maryland Medical Board to participate in their PHP but the reason is not clear. Dr. Baron addressed the Board stating that TMF monitoring would be ineffective because he does not have an alcohol or drug related issue and does not have a mental health diagnosis. The Board interviewed the applicant regarding his unprofessional conduct matter(s) and the Maryland Medical Board action(s). Dr. Beckford motioned to deny this licensure application and Dr. Ali seconded the motion. Dr. Abassi opted to withdraw his licensure application before the motion was voted on.

#### **APPROVAL OF MINUTES**

The Board reviewed the November 2017 meeting minutes previously distributed to the Board. Dr. Christiansen motioned to approve the minutes and this was seconded by Dr. Miller. The motion carried.

#### **CONDUCT NEW BUSINESS**

The board reviewed the newly licensed and reinstated individuals. Dr. Blake motioned to ratify the list of new licensees. Dr. Ali seconded the motion and it carried.

#### **TMF REQUEST FOR FUNDING INCREASE UPDATE**

Following the Boards motion, to request an amendment to the current fiscal year TMF funding contract and for the 2019 contract, at their November 2017 meeting, Dr. Zanolli has continued to represent the Board through this process. Dr. Zanolli informed the Board that Ms. Michelle Long, Department of Health Assistant Commissioner, is knowledgeable of the Boards desires and has the information necessary to bring this matter forward. Dr. Ali requested that Dr. Zanolli continue to provide updates at each meeting.

#### **ADMINISTRATIVE OFFICE REPORTS**

Ms. Maegan Martin presented to the Board regarding the administrative office workflow and processing.

Since 2013, our accumulative new applications rate has increased by 20.5%. The growth rate of applications is not reflective in the new licensee growth rate. Dr. Johnson reports an interest in identifying the percentage of applications received and processed versus how many appeared before the board as applicant interviews. Dr. Blake inquired on the steps taken to stream line the administrative process, without an increase in administrative staff, to have seen the approval rate change from 50% to 85% in the last four (4) years. Ms. Martin reported that several staff members assisted in the review of applications, especially during busy season, and there is often tweaks made to processing to increase efficiency. Ms. Martin informed the Board that a new position was created because of the licensure compact legislation and this second administrator will offer relief when the work load can be divided. Dr. Saunders commented that the Board has made several policy changes that have assisted in the licensing process.

Dr. Blake requested to work with Ms. Martin to develop a plan with objectives and goals regarding efficiency. Dr. Ali and the Board supported this plan.

Dr. Zanolli is interested in identifying the information necessary to determine whether or not participating in the uniform application would be beneficial. Ms. Martin does not have the information to make that determination at this time. Ms. Martin presented the Board with statistical data developed by the Federation of State Medical Boards (hereinafter "FSMB). Of interest from this report, seventy-two percent (72%) of licensees in Tennessee are male and twenty-eight percent (28%) are female. Also, the majority of physicians under the age for 50 are female.

Ms. Martin outlined several goals for the year 2018:

- A presentation was given to the Anesthesia residents at Vanderbilt and there will be a goal to continue contacting these programs.
- To publish at least two (2) newsletters this year.
- To approve a majority of applications within five (5) weeks of receiving the application.
- Review outdated Board policies and take on at least two (2) for revision.
- Successfully launch the ACCME pilot project.
- Prepare for the licensure compact effective date.

Dr. Mitchell Mutter, Special Projects Director, presented the following updates to the Board:

- An introduction of Leana MaKee, the new Pain Clinic Administrator
- High Risk Provider information will be reported later in the year
- Morphine equivalents are still decreasing
- Overdose deaths are rising primarily from street participation
- Continued focus on prevention, to include on overprescribing

### **Presentation by Dr. Graham McMahan, President and CEO, ACCME, Update on CME Pilot Project**

Dr. McMahan presented the following update on the CME Pilot Project:

- The pilot project is linking up with Tennessee CME accredited providers.
- Data for the Board will be presented as "activity" data which is the title, type, date, and credits earned.
- Also, there will be "licensee" data which is the name, DOB, NPI or TN board license number.
- This information will be available on the Board interface internet portal.
- It will be up to the physician to decide if they want the ACCME to track their CME records. Therefore, it is voluntary for a physician.
- This is also optional for accredited education provider.
- Eighteen (18) organizations in TN have agreed to participate in this pilot program.

- At this point, physicians will not be entering the data. The ACCME has oversight over the educational accredited providers and the information provided will be completely trustworthy.
- Nationally based CME providers, Medscape and UptoDate, have acknowledged interest in joining this pilot program.
- This project is anticipated to launch in March or April of 2018.
- This pilot project is being funded by the ACCME. There is no cost to the Board. If this system proves as beneficial there is still no intention of charging the Board, physicians or CME providers in the future.

**PRESENTATION FROM DONNA SMITH, WITH LIMITED SCOPE EXAMINATION**

The Board was provided with licensure examination results from the time period of January 2017 through July 2017 for the following x-ray educational programs: Anthem Nashville, Radiology Education Seminars (“RES” hereinafter), Vatterot and X-Ray Instructional Programs. Also, results from the time period of July 2017 through December 2017 for the following x-ray educational programs: X-ray Instructional Programs, RES, and one unknown program. Ms. Smith outlined the examination testing rates for X-Ray Instructional Programs and RES for the time period of July 2017 through December 2017 for the Board.

**Consider re-approval request from Vatterot Educational Center:** Ms. Meagan Wilson appeared on behalf of Vatterot Educational Center. She appeared before the Board at the November 2017 Board meeting on the same matter and was asked to appear in January to further discuss a current 0% pass rate. This 0% pass rate is based on one graduate who took and failed the examination in the time period of January 2017 through June 2017. Ms. Wilson explained that, after further research on the graduates from Vatterot, it has been determined that their graduates are opting to not take the exam but rather move towards a medical assistant career. Ms. Bratton advised the Board of their rules and their limited options which are to either approve or deny the approval of this course. Ms. Bratton reminded the Board that there is a new X-Ray Radiologic Board created which will be drafting their own rules. Ms. Wilson commented that a student cannot apply to take the exam unless their course is approved by the Board. Dr. Johnson spoke against withdrawing the approval of this course because the rules state the course “may” be withdrawn. Also, he states it seems unfair to judge the course based off of one student taking the exam and failing. Dr. Charles Hale motioned to issue provisional approval of this program for up to six (6) months to give time for the new Radiologic Board to develop their input and rules. There was a second and it passed.

**Consider re-approval request from X-Ray Instructional Programs:** Mr. Owen London appeared on behalf of X-Ray Instructional Programs. Based on the information, provided by the examination center, this program had a 57% pass rate during January 2017 through June 2017. This program had a 67% pass rate during July 2017 through December 2017. Ms. Jennifer Claxton inquired about the program not meeting the required clinical training hours. It was determined that there must be information lacking from the re-approval request to satisfy the rule. Dr. Johnson motioned to grant provisional approval of this program up to the next Board meeting and in the meantime for Mr. London and Dr. Saunders to update the re-approval request as deemed necessary. This motion was seconded by Dr. Hale. The Board had a consensus that the pass rate is no longer an issue. The motion carried with one (1) abstention by Ms. Claxton. It is expected that Mr. London will appear before the Board at their March 2018 meeting.

**TELECONFERENCE PRESENTATION FROM WESLEY GAMET WITH THE DEPARTMENT OF MENTAL HEALTH & SUBSTANCE ABUSE SERVICES**

Public Chapter 112: as enacted, requires the commissioners of health and mental health and substance abuse services to produce guidelines on nonresidential buprenorphine treatment by January 1, 2018, and to annually update those guidelines.

Mr. Gamet presented the following information regarding the progress of these guidelines to the Board:

- A Committee was created of several state agencies and private stakeholders. With three (3) large committee meetings and four (4) small workgroups to draft these guidelines.
- These guidelines have been adopted by the Commissioner of Health and Commissioner of Mental Health.
- Public Chapter 112 requires all Boards review these guidelines and determine how they would best be used by licensees.
- The guidelines include three sections 1) Prior to treatment 2) Initiating Treatment 3) On-going maintenance treatment.
- Dr. Mutter and Dr. Baron addressed the Board on some of the discussions held in the workgroups.
- Dr. Zanolli motioned to acknowledge that the Board has reviewed these guidelines and that the Board adopts this policy. This motion is seconded by Dr. Blake and it carried.

Ms. Bratton advised that the Board has a current policy on Treatment of Opioid Addiction and it may be beneficial to review and possibly revise this policy in light of the Board adopting the nonresidential buprenorphine treatment guidelines. Dr. Ali requested Dr. Mutter, Dr. Baron and Ms. Martin to review the old policy in comparison to the new buprenorphine treatment guidelines and present their findings at the next Board meeting.

#### **REPORT FROM THE DEVELOPMENT COMMITTEE**

Dr. Johnson presented the following to the Board:

1. The Committee proposes the Board create a taskforce to discuss the supervision and collaboration of mid-level practice providers. Dr. Ali asked Dr. Blake to chair a taskforce with Dr. Miller and Dr. Beckford. The Board ratified the appointments of this taskforce.
2. The gap of information sharing between states, by way of the Interstate Medical Licensure Compact, was addressed by the Committee. It has been decided there is not anything the Board can do with this matter at this time.
3. The re-entry issue, as it applies to applicants applying through the Interstate Medical Licensure Compact, was addressed by the Committee. It was decided there is nothing the Board can do at this time and this can be discussed after the Compact is launched.

Dr. Blake requested there be an allocated time on the agenda to add items to the Development Committee. Also, Dr. Blake requested that she and Ms. Martin present their strategic planning at the next Development Committee.

#### **OFFICE OF GENERAL COUNSEL REPORT**

Ms. Bratton gave the report from the Office of General Counsel which included the following updates:

1. The Medical Spa Registration rules are set for a rulemaking hearing on March 20, 2018.
2. The examination and continuing education rule amendments are in the drafting process.
3. The intractable pain repeal rules and the fee increase rules are in the internal review process.
4. There are three (3) pending appeals from board action and zero (0) civil suits.
5. As of January 11th, there were one-hundred and eighteen (118) disciplinary complaints against seventy (70) respondents pending in the Office of General Counsel.

6. There is one (1) civil lawsuit pending that names Dr. Ali, as President of the Board of Medical Examiners, in his official capacity. The suit involves the enforcement of the 48 hour waiting period and includes the Memphis Center for Reproductive Health, Planned Parenthood – Greater Memphis Region, Planned Parenthood – East Tennessee and the Knoxville Center for Reproductive Health.

### **Proposed Rules for Temporary and Limited Licensure**

Ms. Bratton provided the Board with a handout on proposals for future draft rules –

- 1) Per TCA § 63-6-207(g) the Board has the authority to grant temporary licensure to International Medical Graduates. A brief discussion was held between staff and Dr. Zanolli on the frequency potential for this licensure type. It has been noted that this type of license is not a restricted license it is simply limited in duration. The Board deliberated on what should/should not be included in the draft rules and the following discussions took place:
  - a. The applicant will follow the standard full medical licensure application process and upon the medical consultants review it will be determined if the applicant does not meet the qualifications for full licensure but may meet the standards of the Board for temporary licensure.
  - b. To issue the license for only one (1) year in duration unless otherwise stated by the Board but not to exceed two (2) years. The basis of this time frame is because the standard licensure cycle is valid for two (2) years. Also, the Board would be able to issue the license for any term less than one (1) year.
  - c. A discussion was held on whether or not continuing medical education should be required at the time of upgrading and it was not pursued.
  - d. This licensure type will be non-renewable. A discussion was held on whether or not a physician with an expired temporary license should be eligible for another temporary license. The Board did not come to conclusion on this discussion.
  - e. When a physician is qualified to upgrade to a full and unrestricted medical license, they will pay an upgrade fee. The upgrade fee is to be the equivalent of the renewal fee.
  - f. A discussion was led on requiring the physician to answer the application competency questions or renewal application at the time of an upgrade. However, the Board then developed a consensus that the physician, after having met the contingencies stated with the issuance of a temporary license, should apply for full medical licensure through the standard application process to include the full licensure application cost (not the renewal application fee as previously stated above).
  - g. All requirements and regulations of a full medical license apply to a temporary licensee.
- 2) Per TCA § 63-6-207(h) the Board has the authority to grant limited licensure to physicians who have been out of clinical practice for an extended period of time or who have been, or are at the time of their application, engaged exclusively in administrative medicine. Also, the Board previously adopted a policy regarding the issuance of Administrative Licenses. This statute is understood as there are two (2) pathways to licensure 1) administrative licensure for physicians who have been working in administrative medicine and are not looking to clinically practice and 2) licensure to physicians whom have been out of clinical practice and will need to go through the re-entry process. Ms. Bratton presented the following rule suggestions:
  - a. Re-entry Limited Licensure:
    - i. The applicant will follow the standard full medical licensure application process and upon the medical consultants review it will be determined if the applicant does not meet the qualifications for full licensure but may meet the standards of the Board for limited licensure.

- ii. To issue the license for only one (1) year in duration unless otherwise stated by the Board but not to exceed two (2) years. The basis of this time frame is because the standard licensure cycle is valid for two (2) years. Also, the Board would be able to issue the license for any term less than one (1) year.
  - iii. This licensure type will be non-renewable.
  - iv. When a physician is qualified to upgrade to a full and unrestricted medical license, they will pay an upgrade fee. The upgrade fee is to be the equivalent of the renewal fee.
- b. Administrative Limited Licensure:
- i. Create an administrative license application.
  - ii. No upgrade process. If the physician wishes to seek full and unrestricted medical licensure then they must apply through the standard application method.
  - iii. Regular length and renewal process.
  - iv. To define the practice of administrative medicine, to clearly state what restrictions exist with this licensure type.

Dr. Zanolli spoke in favor of defining the administrative license type. The Board members did not have comments or suggested revisions for Ms. Bratton's proposal of the re-entry and administrative limited licensure rule language.

- 3) Per TCA § 63-6-219 the Board shall have the authority to promulgate rules pertaining to the registration of surgical assistants. Ms. Bratton reported the registry is in the process of being created. Ms. Bratton presented the following suggestions on what should likely be included in the draft rules:
- a. The rule shall provide a definition of a surgical assistant.
  - b. The rule shall include the application process which will outline the three (3) pathways for licensure as identified in the statute.
  - c. These individuals do not have the right to a contested case hearing. Therefore, the process would follow the same as the medical doctor process but then would be granted a second interview rather than a contested case.
  - d. The renewal application and cycle shall be the same as it is for medical doctors.
  - e. The continuing medical education requirements shall be the same as it is for medical doctors.
  - f. The rule will reference TCA § 63-6-214 regarding disciplinary parameters.
  - g. The rule shall include a registration fee.

Dr. Johnson questioned the educational qualifications of these potential registrants. Ms. Bratton stated there are three (3) methods listed in the statute which would qualify someone for this registration. Additionally, the only method which requires proof of completed training applies to the applicants who completed training during service as a member of the armed forces of the United States. Another method is by being currently credentialed and perhaps those governing bodies may have verified training during the credentialing process.

The statute states this is a registry, not a license, but it does grant the Board permission to deny, restrict or revoke registration. Ms. Bratton avers the difference between being a license and a registry is to grant their ability to use the registered surgical assistant title rather than granting their ability to practice.

Furthermore, there are surgical assistants working in hospitals that have their own statutes and rules through healthcare facilities that are still in effect. There is a possibility that the Board will have applicant's applying for the title of registered surgical assistant that are also governed through the health



care facilities department. Under the hospital jurisdiction, the hospital is the responsible entity of the surgical assistant. Under the Boards' registry, the registrant would be the responsible party in which their registry for use of the title may be disciplined.

Ms. Bratton desires to communicate with the Healthcare Facilities Board when drafting these rules. Dr. Beckford will be Ms. Bratton's point of contact when communicating with that Board and drafting these rules.

### **FSMB By-Laws Committee**

Dr. Johnson referenced the By-Laws amendment proposal that the Board submitted to the FSMB. This proposal addresses the makeup of the Board of Directors of the FSMB. The proposed change is to have two (2) constituent members on the Board of Directions, currently there is only one (1). Dr. Zanolli spoke in favor of there being another consumer member on the FSMB Board. There has been an issue raised that having two (2) consumer members would make it more difficult for physician assistants to hold a spot on that Board. Dr. Johnson is bringing this matter before the Board to see if they would like to leave the resolution submitted as is, revise it or withdraw it. Dr. Ali encouraged Dr. Johnson to leave the proposal as is and Dr. Blake concurred.

The Board of Medical Examiners day 1 meeting recessed, at 4:21pm CT, until tomorrow morning.



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

### **Day Two of the Regular Meeting of the Tennessee Board of Medical Examiners Wednesday, January 24, 2018**

The regular board meeting of the Tennessee Board of Medical Examiners was called to order at 8:42 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Dr. Subhi Ali, Board Chair.

Board members present:

- Subhi Ali, MD
- Neal Beckford, MD
- Melanie Blake, MD
- Phyllis Miller, MD
- Deborah Christiansen, MD
- Reeves Johnson, MD
- John Hale, MD
- Robert Ellis, Consumer Member
- Charles Handorf, MD
- Jennifer Claxton, Consumer Member
- Michael Zanolli, MD

Julianne Cole, Consumer Member

Board member(s) absent: None

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

**PRESENTATION BY DR. DAVID RAEGAN AND DR. MELISSA MCPHEETER'S ON INFORMATICS AND ANALYTICS**

Dr. Melissa McPheeter's presented the following information:

- Drug overdose deaths continue to rise in Tennessee.
- The majority of overdose deaths in 2016 did not have a Controlled Substance Monitoring Database (hereinafter "CSMD") indication in the sixty (60) days prior to their death. Therefore, using the CSMD only would miss many of the people who are at a very high risk of immediate death.
- Over half of those deaths, in 2016, did have a presence of a pain reliever.
- The data collected through informatics and analytics allows the Department to provide this information to constituents about their community and prescribers.
- The analytical team has been working with the Department of Health's Office of General Counsel to identify outliers.
- This database system allows our processes to move from a, relative, complaint driven system to a data driven effort.
- This database system allows for an efficient regulatory process.
- Within the system there are high risk prescriber indicators being developed.

**The future of this analytical database:**

- There is a need to expand technology, to ensure data is generated quickly and on a regular basis.
- Current funding is partially through Federal grants and investors.
- Other states have requested assistance in teaching them how to develop a similar program.
- Dr. Mutter spoke in support of the concept that this system will allow the investigative team to have better information on the front end.
- The data will help the Department identify patterns of prescribing.

The Board was requested to financially support this informatics and analytical database with five hundred thousand dollars (\$500,000.00) from the Boards' financial reserve account.

- Dr. Ali, Dr. Beckford and Dr. Zanolli spoke in favor of supporting this project financially.
- Dr. McPheeter's suggested the motion needed from the Board would be permission to ask the Commissioner of Health to use \$500,000 of the Board reserve funds to support these analytical capabilities and tools.

*Dr. Christiansen, Mr. Ellis and Dr. Miller left this meeting to begin a contested case hearing in the poplar room.*

Dr. Ali motioned to grant Dr. Raegan the support of the Board to request, from the Commissioner of Health, support of this analytical database through the use of \$500,000.00 Board reserve funds. Dr. Blake seconded the motion.

Dr. Handorf questioned why there is a onetime ask for funding and what the projected expenditures of the budget is to entail. Dr. Raegan reported it is a onetime request because you cannot permit reoccurring payments from the reserve funds.

Dr. Beckford asked for a friendly amendment to the motion to change the funding amount to seven hundred and fifty thousand dollars (\$750,000.00). Dr. McPheeter's reports there is a project that would create a system for prescribers to be updated and with this increase, from \$500,000.00 to \$750,000.00, this project would then be possible. After a discussion was led about whether or not to request \$500,000.00, \$750,000.00 or any range in between the two the Board settled on requesting the full seven hundred and fifty thousand dollars (\$750,000.00). Dr. Ali's motion was amended to grant Dr. Raegan the support of the Board to request, from the Commissioner of Health, support of this analytical database through the use of seven hundred and fifty thousand dollars (\$750,000.00) Board reserve funds. Dr. Blake seconded the amended motion. The motion passed with a unanimous approval of nine (9) yay's.

#### **NORANDA FRENCH, FINANCIAL REPORT FROM THE BUREAU OFFICE**

Ms. French presented the Boards 2017 year-end fiscal report. This report shows that the Board closed with a deficit for the year of 2017. Dr. Ali addressed the Board regarding his efforts to gain a greater understanding of why the Board closed with a deficit. Dr. Ali explained that he and Ms. Martin had two conference calls with a member from the financial office in a question and answer forum. A discussion was held on the fact that the legal expenditures caused the Board to face a deficit on the 2017 fiscal year-end report. It was reported that the complexities that caused this matter have been addressed and remedied to avoid such an increase in legal expenditures again.

Dr. Zanolli requested the projected fiscal year 2018 anticipated budget and for this information to be shared with Ms. Martin and Dr. Ali. Ms. French stated that this is a self-sustaining Board and all of the revenue earned determines the Boards budget. Also, that moving forward she and Ms. Martin will meet quarterly to go over direct expenditures.

Dr. Handorf inquired as to what the legal office expenditure budget was in 2017 compared to the amount of money charged. It was reported that there was an error in charging the Board appropriately in the year 2016 which had to be made up for in 2017, in regards to legal fees. It is estimated that the legal fees projected budget was about one hundred and thirty-one thousand dollars (\$131,000.00) less than the amount charged for the 2017 fiscal year.

Dr. Handorf questioned why the LARS projected total will be less in fiscal year 2018 and it was reported that the remaining portion of the contract is less than the total amount spent last year and that total is spread amongst all of the boards.

Ms. Bratton spoke on behalf of there being more cases before the Board over the past year and more to come; which will result in higher legal fees. As we are in the middle of an opioid epidemic, there is a concentration on diversion cases, prescribing cases, opioid cases and pain management cases. There is a hope that the analytical system will help decrease investigative fees.

Dr. Johnson asked for an asterisk to be added next to the legal expenditures in 2017 that directs to a brief explanation that the excess amount was actually incurred in 2016. Ms. French reported she can make this change to the report. Ms. French advised the Board that with the new compact licensure position to be

filled this year, they can anticipate that their salary wages and benefits will increase for fiscal year 2018. Dr. Ali requested a financial report be presented to the Board every meeting or at least every other meeting.

### **ANTOINETTE WELCH, REPORT FROM THE OFFICE OF INVESTIGATIONS**

Ms. Welch, Director of the Office of Investigations, presented the following information to the Board in regards to licensed medical doctors and trends from the years 2015, 2016 and 2017:

- The complaints received have remained around an average of eight hundred and seventy-five (875) per year.
- The numbers of cases that are sent to the Office of General Counsel for discipline have remained consistent.
- There is an increase in fraud and false billing complaints. In 2016, there were four (4) complaints and in 2017 there were twenty-one (21) complaints. Ms. Welch reports that this increase is likely due to the Office of Investigations working more closely with law enforcement agencies over the last eighteen (18) months.
- Sexual Misconduct complaints rose from four (4) in 2015, three (3) in 2016 and twenty-one (21) in 2017.
- Unprofessional conduct complaints gave decreased.
- Over prescribing complaints show about a twenty-five percent (25%) decrease.
- The total out-of-state complaints received in 2017 were one hundred and one (101) and this has remained steady over the last three (3) years.

Ms. Martin inquired on which type of complaint typically resulted in the most expensive complaint to investigate. Ms. Welch reported if she had to guess it would be the over prescribing cases come out to be the most expensive.

- Two-step process for pain clinic licensure: 1) administrative application that must be completed and then approved and 2) the information moves to the Office of Investigations for inspection.
- The office experiences difficulty in completing the pain management clinic inspection before the clinics certificate expires. The office aims to complete inspections within sixty (60) days of receiving the application information.

**At this time the Board members divided into three additional panels.**

***Iris Room Panel – Dr. Ali, Dr. Beckford and Dr. Handorf***

### **Consent Order**

**Scott Davis, MD** – appeared before the board with legal representation by Ms. Rachael McCord. Ms. Mary Katherine Bratton represented the State. Dr. Davis was licensed in Tennessee in 1993. A review of eighteen (18) patient records prepared and kept by Respondent, reflecting treatment from 2010 to present with controlled substances in amounts and/or for durations not medically necessary, advisable, or justified. The Respondent prescribed controlled substances to these patients in quantities and durations not in the usual course of professional practice. This consent order orders the Respondent's license be reprimanded, he shall not practice pain management more than ninety (90) days in a twelve-month period to any of his patients, agrees to decrease the volume of opioids he prescribes, agrees to permanently limit the number of controlled substances he prescribes to one (1) controlled substance per patient, complete

course instruction on medical documentation and prescribing controlled substances. The Respondent will be responsible for paying all reasonable costs of this case not to exceed five thousand dollars (\$5,000.00). Dr. Beckford motioned to approve this order. Dr. Handorf seconded the motion and the motion passed.

### **Order(s) of Compliance**

**Thomas Gorman, MD** – was not present but was represented by legal counsel by Mr. Robert Kraemer. Ms. Bratton represented the State. The Board was presented with an affidavit of compliance from the disciplinary coordinator, a letter of advocacy from TMF, the original order, cost payment tracking form and a petition for compliance. Dr. Gorman was previously disciplined for writing controlled substances to friends and acquaintances outside of the doctor-patient relationship with the intent to split the medication for his personal use, he admitted to manufacturing fake patient names to write the prescriptions, he admitted to being addicted to oxycodone, and in May of 2012 he pled guilty to four (4) counts of prescription drug fraud. This Board suspended his license on September 10, 2012 for no less than sixty (60) days to be followed by a five (5) year probationary period with a surrendered D.E.A. for the first two (2) years of probation, to maintain TMF advocacy during suspension and probation and pay the costs of this matter. Dr. Gorman reappeared before the Board on November 28, 2012, to petition for an order of compliance to move his licensure status from suspended to probation status which the Board granted. Ms. Bratton reports the State is not in opposition of the lifting of his probation. Dr. Handorf motioned to approve this order. Dr. Beckford seconded and the motion passed.

**Stephen Becker, MD** – was present but was not represented by legal counsel. The Board was presented with the compliance packet for review. Dr. Becker was licensed in August of 2006. On November 28, 2012 the Board placed Dr. Becker's license on probation for a period of not less than five (5) years and restricted him from performing any cosmetic procedure(s) unless he appeared before the Board and presented proof that he has completed appropriate training and/or education to perform the procedure(s). The State is not in opposition of the lifting of his probation. However, the State does think the restriction on performing any cosmetic procedures should not be removed unless he has submitted satisfactory evidence of completing appropriate training and/or education to perform the procedure(s). The medical director, Dr. Rene Saunders, stated the order did not stipulate how much education and/or training would constitute compliance. Therefore, she questioned the Board members on whether or not eighteen (18) hours of live continuing medical education (hereinafter "CME") instruction fulfills his requirement of needing appropriate training and/or education.

Dr. Ali reported he will not recuse himself as he is unfamiliar with the petitioner, despite having a practice about twenty miles away from where Dr. Becker practices. Dr. Beckford spoke in opposition of eighteen (18) hours of CME fulfilling the need for appropriate training and/or education. Dr. Ali questioned Dr. Becker on if he has completed a formal residency or fellowship in plastic surgery and Dr. Becker denied having completed such training. Dr. Ali spoke in favor of lifting the probation but is in opposition of lifting the restriction due to insufficient proof of training and/or education. Dr. Handorf questioned the petitioner on his intentions of practice in Tennessee if his probation is lifted. Dr. Becker reports he is interested in working with veterans and presented psychiatric illnesses. Dr. Handorf concurred with the same thoughts as Dr. Beckford and Dr. Ali.

Dr. Beckford motioned to lift Dr. Becker's probation but to keep his license on restricted licensure status to prevent him from performing cosmetic procedures. Dr. Handorf seconded the motion and it passed.

Dr. Becker inquired for more information on how he can achieve proof of training and/or education in order to ultimately have an unrestricted license. Dr. Ali referred this matter to the Office Based Surgery Committee to develop a proposal for Dr. Becker. The motion passed.

### **Contested Case**

*Brian Waggoner, MD v. State of Tennessee Board of Medical Examiners*

#### **Iris Room**

**Administrative Law Judge: Rachel Waterhouse**

**Panelists: Charles Handorf, MD; Neal Beckford, MD; Subhi Ali, MD**

**Counsel for State: Andrew Coffman, Esq.**

**Counsel for Respondent: Todd Wiseman, Esq.**

This is the fourth hearing on this matter whereas the previous dates were July 19, 2017, September 27, 2017 and November 29, 2017. The State continued their case with a video tape deposition that had approximately one hour and forty minutes left. Mr. Coffman then introduced one additional exhibit, the licensure file of Dr. Brain Waggoner, at no objection of the Respondent's counsel. The State rested its case. Mr. Wiseman made a motion to dismiss this case and presented why this is plausible. Mr. Coffman presented before the panel as to why the State has provided proof to justify disciplining the Respondent's medical license. The panel deliberated and Dr. Ali motioned to reject the motion to dismiss the case. Dr. Handorf seconded this motion to reject and the motion passed. The hearing will move forward at the next setting with the Respondent's proof. The next hearing date is March 21, 2018.

*Attorney's Room Panel – Dr. Blake, Dr. Johnson and Ms. Claxton*

### **Agreed Order**

**Abdelrahman H. Mohamed, MD**– was not present nor did a legal representative appear on his behalf. Samuel Moore represented the state. From about January 2, 2012 to about September 26, 2016, Dr. Mohamed (hereinafter Respondent), treated multiple patients at Hamblen Neuroscience Center (hereinafter “HNC”) in Morristown, TN. Dr. Mohamed plead guilty in the United States District Court to one (1) count of committing an offense under Chapter 68 of Title 18, in violation of 18 U.S.C. 1349, *Conspiracy to Commit Health Care Fraud*, and ten (10) counts of violating 18 U.S.C. 1347,2 *Aiding or Abetting the Commission of Health Care Fraud*, all felonies under federal law. The stipulations of facts are sufficient to establish grounds for discipline of the Respondent's medical license. The Respondent agrees to voluntarily and permanently surrender license number 31933. Respondent understands that the voluntarily surrendering of the license has the same effect as a Permanent Revocation. Respondent agrees to not apply for any further medical licenses in the State of Tennessee. Respondent agrees to surrender his Drug Enforcement Administration (“DEA”) registration for all schedules of controlled substances and agrees to not seek reinstatement of such DEA registration. Should Respondent ever apply for and be granted a new medical license in Tennessee, the Respondent shall be permanently barred from practicing in a pain management clinic and also permanently barred from prescribing controlled substances. Respondent is assessed and must pay, ten (10) Type “A” Civil Penalties in the amount of one thousand dollars (\$1,000.00) each for a total Civil Penalty of ten thousand dollars (\$10,000.00). Respondent must pay, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed

by counsel for the Division. The maximum amount for the assessment of costs shall be ten thousand dollars (\$10,000.00). Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B) and/or similar agency. Any costs shall be paid in full within one-hundred eighty (180) days from the issuance of the Assessment of Costs. Payment shall be made payable to the State of Tennessee, Department of Health and forwarded to the Disciplinary Coordinator. Dr. Blake made a motion to accept. Ms. Claxton seconded. The motion carried.

### **Consent Oder(s)**

**Ken Berry, MD** – was not present. Ms. Alex Fisher was present as legal representative on his behalf. Jennifer Putnam represented the state. Dr. Berry’s license is currently on probation pursuant to a May 18, 2016 board order which disciplined Respondent for prescribing controlled substances and other medications without following the prerequisites to issuing prescriptions outlined in the Board’s rules. Dr. Berry (hereinafter Respondent) was also disciplined for prescribing to family members. Respondent owns and operates The Berry Clinic located in Camden, TN where he performs procedures such as punch biopsies, cryotherapy, simple fractures, joint and trigger point injections, electrocardiograms, pulmonary function testing and testosterone and estrogen pellet injections. Respondent also maintains a second clinic inside The Berry Clinic called “The Upstairs”, where the Respondent performs Botox injections, collagen induction therapy and dermal fillers. Respondent injected testosterone and estradiol pellets into patients by using stainless steel injection devices (trocars) that are manufactured and sold for single use per the Food and Drug Administration. Respondent avers that the representative for the trocar manufacturer advised reuse of the trocar devices. Respondent reused trocars from approximately 2011 to 2017. During an inspection in May 2017, it was discovered that the cleaning, disinfection and sterilization practices at the clinic were inadequate according to CDC guidelines to properly prevent the transmission of infectious agents during insertion procedures. Following the investigation by the Department of Health, Respondent implemented a new policy for the insertion of testosterone and estradiol pellet injections using single use trocars only one time, and then disposing of the trocar following the procedure. Respondent posted a video to The Upstairs Clinic’s Facebook page demonstrating “vampire facial” procedures that shows minimal adherence to routine infection prevention precautions. The Berry Clinic no longer offers “vampire facials” as part of the services provided at The Upstairs of the Berry Clinic. Immunizations and a urine sample that did not contain a patient name were stored in a small refrigerator inside the onsite laboratory facility that also contained food items. A prescription bottle of Clonidine HCL 0.1 mg with an expiration date of February 26, 2014 was found in a lab within the clinic. The expired medication had been self-prescribed by the Respondent and was used as a stock bottle maintained at the office to address immediate blood pressure needs for patients. The Respondent avers the prescription was ordered for office use, and that he did not prescribe this medication for his personal use, nor did he take this medication himself. The facts stipulated in the Stipulations of Facts are sufficient to establish that grounds for discipline of Respondent’s medical license exist. This order shall extend his probationary period for a period of two (2) years following the expiration of the initial period of probation the probationary status placed on the Tennessee medical license 35476 pursuant to the May 2016 Order. Respondent must petition the Board for an Order of Compliance and personally appear before the Board, he must obtain a certified infection preventionist to develop and maintain a comprehensive infection control plan, the Respondent must submit the outlined plan to the Board’s medical director within thirty (30) days of the effective date of this Order. Respondent must have an annual on-site inspection completed by a certified infection preventionist annually during the probationary period. Respondent must submit a quarterly report to the Boards’ medical director detailing the adherence to the infection control plan during the probationary period. Within three (3) months of the effective date of this Order the Respondent must enroll in and successfully complete ten (10) continuing medical education hours in the area of infection

control, and all continuing medical education courses must be pre-approved by the Boards' medical director prior to Respondent enrolling in the course. Respondent shall mail or deliver proof of compliance with this course requirement within thirty (30) days after completion to the Disciplinary Coordinator. Respondent is required to pay one (1) Type A civil penalty in the amount of one thousand dollars (\$1,000.00) for reusing a single-use stainless steel injection device, he must pay one (1) Type A civil penalty in the amount of one thousand dollars (\$1,000.00) for failing to properly clean, disinfect and sterilize medical instruments, he must pay one (1) Type A civil penalty in the amount of one thousand dollars (\$1,000.00) for failing to utilize infection prevention precautions. Any and all civil penalties shall be paid within sixty (60) days of the effective date of this Order. Dr. Berry must also pay all reasonable costs of this case within one (1) year from the issuance of the Assessment of Costs. Dr. Blake motioned to approve this Order. Ms. Claxton seconded and the motion carried.

**Mohammad Ahmad-Sabry, MD** – was not present nor did a legal representative appear on his behalf. Jennifer Putnam represented the state. Dr. Ahmad-Sabry failed to notify the Board within a thirty (30) day time period of out of state disciplinary action in the State of Mississippi. On or about April 19, 2017 the Respondent entered into a Consent Order with the Mississippi State Board of Medical Licensure. This order shall reprimand his license; he shall immediately cease prescribing controlled substances and take immediate action to identify and transfer care of any Tennessee patients receiving prescription for controlled substances to another health care provider, shall not return to the practice of pain management until such time as the Mississippi State Board receives the evaluation of practice of pain management and approves the recommendations from said facility or program for the return to practice of pain management, must comply with all recommendations and conditions placed on his Mississippi conditions placed on his Mississippi medical license, shall cause a quarterly report to be submitted to the Tennessee Board of Medical Examiners showing compliance with the recommendations and conditions, prescribing restrictions imposed on Respondent's Tennessee medical license shall remain in effect until the prescribing restrictions of his Mississippi medical license is lifted, upon successful completion of the conditions placed on the Mississippi license the Respondent must petition the Board for an Order of Compliance and personally appear before the Board, Respondent is required to pay all reasonable costs on this case. Dr. Blake motioned to approve the order. Ms. Claxton seconded the motion and it carried.

**Cecilia Lloyd, MD** - was not present nor did a legal representative appear on her behalf. Jennifer Putnam represented the state. Dr. Lloyd was disciplined by the State of Alabama on or about September 25, 2017 after admitting to excessively prescribing controlled substances to ten (10) patients. The Respondent's Alabama Controlled Substances Certificate was ordered to be restricted for two (2) years. This order shall reprimand his license; Respondent shall not order, manufacture, distribute, possess, dispense, administer or prescribe controlled substances under her Tennessee medical license except under the terms and conditions listed in the September 25, 2017 Alabama Consent Order, must comply with all recommendations and conditions placed on her Alabama Controlled Substance Certificate by the Alabama Board of Medical Examiners, prescription restrictions shall remain in effect until the restrictions on her Alabama Controlled Substance Certificate are lifted, Respondent must petition the Board for an Order of Compliance and personally appear upon successful completion of the restriction period. Dr. Lloyd must pay all reasonable costs of this case. Dr. Johnson motioned to approve this order. Ms. Claxton seconded this motion and it carried.



*Dogwood Room Panel – Dr. Zanolli, Dr. Hale and Ms. Cole*

**Contested Case**

*Thomas D. Murray, MD v. State of Tennessee Board of Medical Examiners*

**Dogwood Room**

**Administrative Law Judge: Elizabeth Cambron**

**Panelists: Michael Zanolli, MD; John Hale, MD; Julianne Cole, Consumer Member**

**Counsel for State: Peyton Smith, Esq.**

**Counsel for Respondent: None**

Peyton Smith, counsel for the State, distributed the panel with the notice of hearing for Dr. Murray. Mr. Smith expressed proof of service and presented four (4) exhibits. Furthermore, Mr. Smith explained that a Clear Search had been completed and the Respondent also could not be reached from the address provided in the results of that search. Judge Cambron agreed that proof of service was legally sufficient as it was not practicable to contact the Respondent by phone, mail, e-mail and there is no other knowledge that he should be contacted by another address. Mr. Smith requested to proceed in default. Dr. Zanolli motioned to continue in default, this was seconded and it passed. Mr. Smith added that there is no evidence that the Respondent is in federal prison.

Mr. Smith presented his opening statement and the findings of facts. The Respondent was licensed in Tennessee as a medical doctor in 1997 and he voluntarily retired his medical license in 1999. In June 2017, the Ohio Medical Board revoked the Respondent's license based on a conviction, in October of 2016 to the United States District Court for the District of New Mexico, for one (1) felony count of Possession of a Matter Containing Visual Depictions of Minors Engaging in Sexually Explicit Conduct. The Respondent was sentenced to a twenty-four (24) month term of incarceration, a seven-year term of supervised release, with conditions, and was ordered to pay a one hundred dollar (\$100.00) assessment fee. The final order finds the Respondent guilty of violating the Tennessee Medical Practice Act. This order orders the permanent revocation of the Respondent's medical license effective the date of entry of this order. Dr. Zanolli motioned to accept the "Findings of Fact". Dr. Hale seconded and it passed. Dr. Hale motioned to accept the "Conclusions of Law". Ms. Cole seconded and it passed. Dr. Hale motioned to accept the "Order" of permanently revoking the Respondent's license. Ms. Cole seconded and it passed. Dr. Zanolli motioned for an alteration to the "Policy Statement" to include the following "...especially in cases of child pornography, to protect the health..." Dr. Hale seconded this motion and it passed.

**Consent Order(s)**

**Jason Mullenix, MD** – was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. The Respondent was licensed in 2005. In 2013, the Respondent mistakenly performed a procedure on a patient to which authorization had not been received within an office based setting. Based on the facts stipulated the state believes there to be grounds for discipline. This consent order would reprimand the Respondent's license; require him to pay one (1) "Type A" civil penalty in the amount of one thousand dollars (\$1,000.00) and all reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Dr. Hale motioned to approve this order. Ms. Cole seconded and the motion passed.

**Lisa Costello, ADMX** – was not present nor did a legal representative appear on her behalf. Mr. Peyton Smith represented the state. The Respondent was licensed in 2007. The Respondent failed to obtain two (2) hours of approved continuing medical education in a course designed to address statutes, rules,

regulations and A.R.R.T's Standards of Ethics, in the 2014 and 2015 calendar years. Based on the facts stipulated the state believes there to be grounds for discipline. This consent order would reprimand the Respondent's license. It would require her to obtain two (2) hours of approved continuing medical education pertaining to the statutes, rules, regulations and A.R.R.T's Standards of Ethics and agree to obtain ten (10) additional hours of Board approved continuing education. Also, the order would require her to pay two (2) "Type C" civil penalties for a total of one hundred dollars (\$100.00) and all reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Ms. Cole motioned to approve this order. Dr. Hale seconded and the motion passed.

**Dhiraj Jeyanandarajan, MD** - was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. The Respondent was licensed in 2008. On September 6, 2017, the Pennsylvania State Board of Medicine issued an Order reprimanding Respondent's Pennsylvania medical license and requiring him to pay a civil penalty of one thousand dollars (\$1,000.00). The Pennsylvania Order stemmed from Respondent's failure to obtain the requisite number of continuing education hours for the January 1, 2013 – December 31, 2014 biennial reporting period. Respondent failed to report his Pennsylvania discipline to the Tennessee Board of Medical Examiners within thirty (30) days of the discipline. Based on the facts stipulated the state believes there to be grounds for discipline. This consent order would reprimand the Respondent's license; require him to pay one (1) "Type A" civil penalty in the amount of five hundred dollars (\$500.00) and all reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Dr. Hale motioned to approve this order. Ms. Cole seconded and the motion passed.

**Anthony C. Carter, MD** – was not present nor did a legal representative appear on his behalf. Mr. Peyton Smith represented the state. The Respondent was licensed in 2001. On September 30, 2014, Respondent entered into an Agreed Order with the Kentucky Board of Medical Licensure, which stemmed from inappropriate prescribing. The Kentucky Order restricted Respondent's license for an indefinite period of time, prohibiting him from prescribing controlled substances unless approved by the Kentucky Board's Inquiry Panel. The Kentucky Order required the Respondent to complete certain continuing education courses and complete the Center for Personalized Education for Physicians evaluation. After completing what was required, the Kentucky Medical Board entered into an Amended Agreed Order with the Respondent's ability to prescribe controlled substances, but required Respondent to keep a "controlled substances log" which must produce two (2) favorable reviews from the consultant. Based on the facts stipulated the state believes there to be grounds for discipline. This order shall reprimand the Respondent's license, the respondent must agree to comply with all conditions of the Kentucky Amended Agreed Order, within thirty (30) days of entry of this order the Respondent shall either retire his license or obtain practice monitoring and the requirements of monitoring have been outlined in the order. The Respondent must pay one (1) "Type A" civil penalty in the amount of one thousand dollars (\$1000.00) and all reasonable costs of this case not to exceed two thousand dollars (\$2,000.00). Dr. Hale motioned to approve this order. Ms. Cole seconded and the motion passed.

**Gladys Gregory, MD** – was not present nor did a legal representative appear on her behalf. Mr. Peyton Smith presented this order for the state on the behalf of Ms. Paetria Morgan. The Respondent was licensed in 2001. The Respondent, a psychiatrist, repeatedly met patients at the local library and Zaxby's restaurant to provide therapy and prescribe Suboxone. Based on the facts stipulated the state believes there to be grounds for discipline. This order shall reprimand the Respondent's license; require her to pay one (1) "Type B" civil penalty in the amount of five hundred dollars (\$500.00) and all reasonable costs of this case not to exceed three thousand dollars (\$3,000.00). Dr. Hale commented that this Respondent may need more than a reprimand if in fact she "repeatedly" took these actions. Dr. Hale motioned to deny this order. Dr. Zanolli seconded and the motion passed.

*Poplar Room Panel – Dr. Christiansen, Dr. Miller and Mr. Ellis*

**Contested Case**

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

**Poplar Room**

**Administrative Law Judge: Thomas Stovall**

**Panelists: Phyllis Miller, MD; Deborah Christiansen, MD; Robert Ellis, Consumer Member**

**Counsel for State: Paetria Morgan, Esq.**

**Counsel for Respondent: Mr. Darrel Baker, Esq. and Ms. Deborah Witt, Esq.**

This hearing is reconvening from their first hearing which occurred on January 22, 2018. Ms. Paetria Morgan called Dr. James Gregory Kiser and questioned him as her second witness. Mr. Baker questioned Dr. Kiser as well. The panel questioned the witness. Mr. Baker presented an estimated one-hour video deposition.

This hearing recessed and will reconvene on March 19, 2018 at 9am CT and again on March 21, 2018.

This concludes the Board of Medical Examiners day 2 meeting.