



TENNESSEE COMMITTEE OF MEDICAL EXAMINERS'
COMMITTEE ON PHYSICIAN ASSISTANTS
Regular Committee Meeting

July 10, 2020

MINUTES

The regular meeting of the Tennessee Committee of Medical Examiners' Committee on Physician Assistants (hereinafter, "the Committee") was called to order at 9:10 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Iris Room, Nashville, TN 37243 by Marie Patterson.

Committee Members Present: Christina Free, PA-C
 Barbara Thornton, Consumer Member
 Donna Lynch, PA-C
 Marie Patterson, PA-C

Committee Members Absent: Gary L. Tauxe, OPA-C
 Brett Reeves, PA-C
 Gregory Cain, PA-C

Staff Present: Rene Saunders, MD, Medical Consultant
 Angela Lawrence, Executive Director
 Tracy Alcock, Senior Associate General Counsel
 Orlanda Folston, Committee Administrator

Ms. Angela Lawrence made opening remarks and provided an overview of the requirements for a meeting electronically. All of the requirements were satisfied. The electronic meeting was scheduled for the purpose of considering time sensitive matters in light of the covid-19 pandemic. Ms. Marie Patterson motioned for approval to conduct the meeting electronically for this purpose and Ms. Christina Free seconded the motion. A roll call vote was taken and it passed. By roll call confirmation, all members present attested that they received all meeting materials prior to the meeting.

Ms. Patterson agreed to serve as the chair for this meeting in the absence of Mr. Reeves. Ms. Thornton made a motion to accept Ms. Patterson as the Committee chair

for this meeting. Ms. Free seconded the motion. A roll call vote was taken and the motion passed. The electronic meeting was then turned over to Ms. Patterson.

Presentation by Ms. Jennifer Putnam, Deputy Director, DOH

Continuing Education Requirement for Identified High-Prescribers- Ms. Putnam presented this draft policy for consideration and ratification. Ms. Putnam discussed how in 2017, the statute required the Boards to identify high prescribers, notify them and then require them to complete a CME course on opioid addiction. For Physician Assistants, notification of their supervising/collaborating physician is required. The number of hours must also be made available to the licensees. She reports this policy just puts into writing the current process which will make it convenient for high prescribers and it will list the number of required hours. Ms. Free made a motion to discuss the presented policy. Ms. Thornton seconded the motion. A roll call vote was taken. The motion passed. Ms. Free asked for a definition of high-risk prescriber. Ms. Putnam explained that the State analytics team pulls data from the controlled substance monitoring data base. An analysis of the amount of substance prescribed, duration, and frequency of past history is done. The top fifty (50) prescribers in the State are identified from this analysis. The top twenty (20) benzodiazepine prescribers are also identified. The top ten (10) small counties are identified as well. The identified prescribers are notified by mail that there are concerns with the amounts and durations for which they are prescribing and that completion of these courses as remediation in prescribing techniques is required. The courses must be completed within a one year time period. Ms. Putnam added that the identified prescribers are given an opportunity to submit justification for the high prescribing patterns. Ms. Free motioned to ratify the policy as written. Ms. Thornton seconded the motion. A roll call vote was taken. The motion passed.

APPROVAL OF MINUTES

The Committee reviewed the minutes from the April 3, 2020 Committee meeting. Minor corrections were noted. Ms. Lynch made a motion to approve the minutes with those minor corrections. Ms. Thornton seconded the motion. A roll call vote was taken and the motion passed.

CONDUCT NEW BUSINESS

Ratification of New Licenses

Ms. Free motioned to ratify the new and reinstated licenses. Ms. Thornton seconded the motion. A roll call vote was taken. The motion passed.

Discuss and take action regarding rule making hearings, rule amendments and policy statements

Ms. Alcock stated that there is no action currently required regarding rule making hearings, rule amendments, or policy statements.

Discuss new business and take action if needed

Ms. Lawrence and Ms. Alcock stated that there is no new business to be discussed at the present time.

Dr. Saunders added that on June 26, 2020, she and Dr. Baron visited Lipscomb University and gave a presentation to the PA students regarding the licensure process, professionalism, burnout, and avoiding disciplinary actions. She has also reached out to all other programs in the State and offered to give this presentation to their students. Dr. Baron offered that he also is available and has given presentations to these groups. He and Dr. Saunders are happy to coordinate their efforts moving forward.

UPDATE FROM MICHAEL BARON, MD, MEDICAL DIRECTOR, TENNESSEE MEDICAL FOUNDATION

Dr. Baron informed the Committee that Mike Todd recently retired after seventeen (17) years. In addition, Julie Renard plans to retire in November. Ms. Renard has been with TMF for approximately twenty-eight (28) years. Mr. Todd has been replaced by Ms. Kathleen Haas.

DEPARTMENTAL REPORTS

Receive reports and/or requests from the Office of Investigations

Ms. Lori Leonard, Disciplinary Coordinator, reviewed both the currently monitored practitioner report and the complaint report. Currently, she is monitoring one licensee under reprimand, five licensees under probation, four licensees under suspension, and seven licensees under revocation/surrendered licenses.

Ms. Leonard introduced Jamie Byerly. Ms. Byerly is the new Director for the Office of Investigations. Ms. Byerly has been in this role since mid-April. Ms. Byerly greeted the Committee and looks forward to meeting everyone in person.

Ms. Leonard moved to the review of the Investigative Report. To date in 2020, seventeen (17) new complaints have been opened: one (1) for falsification of records, one (1) for substance abuse, one (1) for disciplinary action in another state, two (2) for malpractice/negligence, nine (9) for unprofessional conduct, one (1) for medical record request, one (1) for overprescribing, and one (1) outside the investigative scope. Thus far in 2020, thirteen (13) complaints have been closed: one (1) for insufficient evidence, two (2) were formally disciplined, five (5) were forwarded to the Office of General Counsel for formal discipline, one (1) with a letter of concern, and one (1) with a letter of warning. Five (5) complaints were closed with no action. Ms. Leonard reminded the Committee that both letters of concern and letters of warning are not considered formal

discipline and are not reportable to the National Practitioner Databank. Currently, there are twenty-one (21) complaints open that are being investigated/reviewed.

Regarding Orthopedic Physician Assistants, there have been no complaints opened in 2020. One (1) complaint has been closed with a letter of warning. No open complaints are being investigated at this time.

Receive financial reports/or requests from Division of Health Licensure and Regulation

Ms. Maria McCormick addressed the Committee. She stated that a financial report is not currently available. The year end report was presented to the Committee at the April meeting. The year end totals will be reported at the next meeting. The Committee is anticipated to close the year in the red by approximately \$17k. One possible cause for the deficit is the Governor's Executive Order providing an extension on licensee renewals which negatively impacted fee collection. Ms. McCormick said that, should the Committee want to discuss an increase in fees, it is in the best interest of the Committee to wait until the year-end report is presented. Should a fee increase be implemented, it will take 18-24 months to see the full impact of the increase.

Receive reports from the Administrative Office

Ms. Lawrence reported that the following activity regarding Physician Assistants transpired in the administrative office between January 1, 20-20 and June 30, 2020:

New Applications Received:	161
Total New Licenses Issued	131
Total Number of Renewals	565
Total Number of Online Renewals	481
Average Renewals Online	85%
Total Number of Reinstatements	11

As of June 30, 2020, the total number of active Physician Assistant licenses is 2,647. Of those licensees, 2,253 have a Tennessee address. The total number of Orthopedic licensees as of June 30, 2020 is 11.

Discuss legislation and take action if needed

Patrick Powell from Legislative Affairs brought the following legislation currently being considered to the Committee:

Public Chapter 573 – This act amends the Tennessee Together statutes. It expands the definition of “alternative treatments” by adding “nonopioid medicinal drugs or drug products, occupational therapy, and interventional procedures or treatments.” This is primarily relevant to the treatments that must be disclosed and explained by a healthcare practitioner to a patient or the patient's legal representative as a prerequisite

to obtaining informed consent to treatment with an opioid. This act took effect on March 19, 2020.

Public Chapter 594 - This act was the Department of Health's Licensure Accountability Act. The bill allows all health related boards to take action against a licensee that has been disciplined by another state for any acts or omissions that would constitute grounds for discipline in Tennessee. The law also expands available emergency actions, allowing actions beyond simply a summary suspension. Finally, the act establishes that the notification of law changes to health practitioners can be satisfied by the online posting of law changes by the respective boards. Notice must be maintained online for at least 2 years following the change. This act took effect March 20, 2020.

Public Chapter 738 - This act amends prohibits a governmental entity from authorizing destruction of public records if the governmental entity knows the records are subject to a pending public record request. Prior to authorizing destruction of public records an entity must contact the public record request coordinator to ensure the records are not subject to any pending public record requests. Records may still be disposed of in accordance with an established records retention schedule/policy as part of an ordinary course of business as long as the records custodian is without knowledge the records are subject to a pending request. This act took effect on June 22, 2020.

Public Chapter 791 - This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a community mental health center (CMHC) or a federally qualified health center (FQHC). To be eligible under this law, the practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or Physician Assistant. They also must have a DATA waiver issued by SAMHSA/DEA. There can be no limitations or conditions imposed on the provider's license within the previous three (3) years. Prescriptions by the practitioner must not exceed a sixteen (16) milligram daily equivalent. The practitioner also must not prescribe mono product or buprenorphine without naloxone. The provider may only prescribe buprenorphine products to patients treated through the organization that employs the provider. Prescriptions can only be dispensed by a licensed pharmacy to ensure entry into the CSMD. The provider has a cap of fifty (50) patients at any given time. The law also requires the provider to initiate and lead a discussion regarding patient readiness to taper off medications in their treatment at any time upon the patient's request, but no later than one (1) year after initiating treatment, and then every six (6) months thereafter.

The facility must employ one or more physicians and have adopted clinical protocols for medication assisted treatment. The midlevel's collaborating physician must hold an active DATA waiver and be treating patients with buprenorphine at the same facility. The facility must employ providers that accept TennCare and are accepting new TennCare patients. The facility must verify identification of patients. The collaborating physician must review 100% of the charts of patients being prescribed a buprenorphine

product and can only collaborate/supervise four (4) nurse practitioners or Physician Assistants. This act took effect July 1, 2020.

Public Chapter 771 (this was formerly Senate Bill 1938/House Bill 1980) - This act allows certain midlevel practitioners to prescribe buprenorphine when employed in a non-residential office-based opiate treatment facility (OBOT) licensed by the Department of Mental Health and Substance Abuse Services (MHSAS). To be eligible under this law, the practitioner must be licensed, and practice as, a family, adult, or psychiatric nurse practitioner or Physician Assistant. They also must have a DATA waiver issued by SAMHSA/DEA. Prescriptions by midlevel providers under this statute are capped at a sixteen (16) milligram daily dose and must not be for a mono-product or buprenorphine without naloxone, except when utilizing injectable or implantable buprenorphine products. Midlevel providers under this statute are capped at 100 patients. The OBOT in these situations must employ the midlevel's collaborating physician (who also must hold an active DATA waiver and be treating patients with buprenorphine at the same OBOT) and the OBOT must not have the authority to dispense buprenorphine products. The collaborating/supervising physician under this statute cannot supervise more than two (2) midlevel practitioners. The OBOT also must employ providers that are credentialed and contracted to accept TennCare patients and bill TennCare for services for treatment of opioid use disorder with buprenorphine. Finally the OBOT must be accepting new TennCare patients. This act took effect August 1, 2020.

Receive reports and/or requests from the Office of General Counsel

Ms. Tracey Alcock reminded the Committee of the Conflict of Interest policy. If any Committee Member has a personal or financial interest in the outcome of any issue or matter before this Committee which may suggest a bias on the part of the Committee member, that member is asked to state that interest on the record so that a determination can be made as to whether there exists a need for recusal. This is true whether the matter relates to a contested case, a rulemaking decision, an application or any other matter before the Committee. The members were reminded that it is the duty of this Committee to protect, promote and improve the health and prosperity of people in Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Ms. Alcock stated that there are several pending rule amendments in the review process. The Committee is seeking to amend Rule 0880-03-.04 titled "Qualifications for Licensure", to add a new paragraph outlining requirements for applicants who are reentering the workforce after being out of practice for several years; Rule 0880-03-.09 titled "Licensure Renewal and Reinstatement of an Expired License," by removing the requirement that a reinstatement applicant must pay all past due renewal fees along with a late renewal fee; and Rule 0880-03-.13 titled "Professional Ethics" by removing TAPA's code of ethics and replacing this with the American Academy's Guidelines for

Ethical Conduct for the PA Profession. Additionally, the Committee seeks to amend its rules to substitute the phrase “collaborating physician” each time that its rules mention the phrase “supervising physician,” and seeks to amend its rules to ensure that both the male and female pronouns are being used through the rules when referring to a Physician Assistant applicant or licensee. The Office of General Counsel prepared the rulemaking documents which are currently in the review process, with a rulemaking hearing date to be set in the future once the review process is complete.

Regarding pending litigation, as of June 2020, the Office of General Counsel has ten open cases pertaining to Physician Assistants. Two consent orders will be presented to the Committee today. Three contested cases are currently scheduled for the October meeting. Ms. Alcock asked that the Committee provide October dates that they could be available for a special setting for a trial, in addition to the regularly scheduled October 2, 2020 Committee meeting.

Regarding appeals, there has been a resolution in the Norma Sparks case. On January 15, 2020, the Tennessee Supreme Court denied the State’s application for permission to appeal, so the Tennessee Court of Appeals decision, decided on September 6, 2019, is the decision that stands. That decision upheld the original Chancery decision. A large amount of money has been spent on this case which most likely will be a factor in the outcome of the Committee finances when they are available at the next meeting.

The Tennessee Legislature, 111th General Assembly, reconvened on January 14, 2020 and adjourned sine die - without any future date being designated.

Due to the coronavirus pandemic, there have been several Executive Orders passed over the past two months that relate to the Physician Assistant profession. Ms. Alcock is reviewing those and working with Dr. Saunders to implement and abide by those orders. Specifically, Executive Order No. 51 which allows this type of hearing was implemented on August 29, 2020.

Consent Orders

Lindsey Brooke Nix, PA – did not appear before the Committee nor did a legal representative appear on her behalf. Ms. Nix has been licensed since 2004. She expired in July 2018. Prior to seeking reinstatement, she practiced for several years as a PA at Knoxville Plastic and Craniofacial Surgery in Knoxville, Tennessee. She admitted that her PA license expired on July 18, 2018 and that she continued to practice on an expired, or lapsed, license until on or about April 16, 2019, for a total of at least eight (8) months beyond the thirty (30) day grace period. She submitted her license reinstatement application in April 2019 after learning that her license was expired. Respondent’s PA license was reinstated in or around April 2019. According to the Committee’s Lapsed License Policy, if a PA practiced on a lapsed license for six (6) months or longer, the licensee shall be referred to the Office of General Counsel for formal disciplinary action. She practiced in violation of the practice act. Her license is reprimanded. She must pay eight (8) Type “B” Civil Penalties, for the eight (8) months she practiced on an expired license beyond the thirty (30) day grace period, in the amount of three hundred and fifty dollars (\$350.00) each, for a total Civil Penalty of Two Thousand Eight Hundred Dollars ((\$2,800.00)).

She must also pay the actual and reasonable costs of prosecuting this case to the extent allowed by law. The maximum amount for the assessment of costs will not exceed One Thousand Dollars (\$1,000.00). This action is considered formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB).

A motion was made by Ms. Thornton to approve this Consent Order. Ms. Lynch seconded the motion. A roll call vote was taken. The motion passed.

Amber Marie Barnard, PA – did not appear before the Committee nor did a legal representative appear on her behalf. Ms. Barnard has been licensed since October 2014. Her license has a current expiration date of September 30, 2021. From on or about January 13, 2020 to February 10, 2020, Ms. Barnard provided treatment as a Physician Assistant to patients at Medstar Health Solution in Knoxville, Tennessee. In or around January 2020, she took pills from a patient's prescription bottle of Xtampza from a co-worker's desk. Subsequently, a urine drug screen was performed on Ms. Barnard and the results was positive for oxycodone. Ms. Barnard was only being prescribed hydrocodone. On or about February 5, 2020, Ms. Barnard took approximately five (5) tables of Oxycodone 15mg, from a pill bottle that a patient brought into the office for the patient's pill count. That same day, Ms. Barnard was again asked and submitted to a urine drug screen. That drug screen was positive for antidepressants, opiates, oxycodone, and TCA. She did not have a valid prescription for these positive results. Her employment at Medstar Health Solutions was terminated on February 10, 2020 due to the positive results. The Respondent has agreed to this Consent Order and has acknowledged these facts. Ms. Barnard has committed the following actions for which disciplinary action is authorized: unprofessional, dishonorable, or unethical conduct, violation of the Physician Assistant Practice Act, gross malpractice or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice as a Physician Assistant, and habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such a manner as to adversely affect the person's ability to practice as a Physician Assistant. Her license is suspended, effective June 30, 2020 and shall remain suspended until Respondent has completed the requirements of this order. She must petition for an Order of Compliance and appear personally before the Committee for the suspension of her license to be lifted. She must surrender her DEA registration to prescribe Schedule II, III, and IV controlled substances and agrees not to seek reinstatement or reapply for such DEA privileges for a minimum of two years. She shall not prescribe any State or Federal Schedule II, III, and IV controlled substance for any purpose for a minimum of two years. Prescribing these substances will be a violation of this order and may result in additional discipline by the Committee. She must submit proof that she has surrendered her DEA registration for these scheduled substances within thirty (30) days to the Disciplinary Coordinator. Once two years has passed since Ms. Barnard has surrendered her DEA registration, she may petition the Committee for permission to reapply for such DEA privileges to prescribe or dispense Schedule II, III, and IV controlled substances. She must not reapply for these DEA privileges unless and until the Committee determines that two years has passed since the surrender of the privileges. She must undergo an evaluation approved by the Tennessee Medical Foundation (TMF) within ninety (90) days of entry of this order and comply with the recommendation(s) of the evaluation. Should the evaluation recommend monitoring, she must sign a TMF monitoring agreement and maintain 100% compliance with its terms for the duration of the agreement and any amendments thereto. She must obtain and maintain TMF advocacy until the TMF submits a report that she is safe to practice as a Physician

Assistant in Tennessee without continued monitoring. During the period of time that Respondent is required to maintain TMF advocacy, she must cause TMF to issue quarterly reports to the Committee detailing her compliance with the terms of the monitoring agreement, comply with all TMF recommendations, and cause TMF to submit a report when and if she is able to safely practice as a PA in Tennessee. Upon reinstatement of her license in addition to whatever other restriction placed upon her by the Committee, her license will be immediately placed on probation for a minimum of five (5) years. If monitoring is not recommended, her license shall be placed on probation for a period of five (5) years commencing on the effective date of reactivation of her license. During the period of suspension and probation, she must maintain good and lawful conduct. Any violation of law during the period will be a violation of this agreement and will be grounds for further discipline. She must pay five (5) Type "B" Civil Penalties in the amount of one hundred and fifty (\$150.00) each, for a total Civil Penalty of nine hundred dollars (\$900.00). She must also pay the actual and reasonable costs of prosecuting this case to the extent allowed by law not to exceed five thousand dollars (\$5,000.00). This action is considered formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB).

A motion was made by Ms. Thornton to approve this order. Ms. Free seconded the motion. A roll call vote was taken. The motion passed.

Agreed Orders

There were no Agreed Orders for presentation at today's meeting.

Agreed Citations

Jarrod Dillon Roussel, PA – did not appear before the Committee nor did a legal representative appear on his behalf. Ms. Alcock presented the Agreed Citation. Respondent acknowledged failure to obtain two (2) hours of required continuing education credits which include specific prescribing practices. He must pay a civil penalty in the amount of forty dollars (\$40) and complete the continuing education he is lacking within one hundred eight (180) days of the ratification of this order. In addition, he must complete an additional ten (10) hours of penalty continuing education within two (2) years of receipt of this order.

Ms. Thornton made a motion to approve this Agreed Citation. Ms. Lynch seconded the motion. A roll call vote was taken. The motion passed.

Michael Anthony Bryant, PA - did not appear before the Committee nor did a legal representative appear on his behalf. Ms. Alcock presented the Agreed Citation. Respondent acknowledged failure to obtain two (2) hours of required continuing education credits which include specific prescribing practices. He must pay a civil penalty in the amount of forty dollars (\$40) and complete the continuing education he is lacking within one hundred eight (180) days of the ratification of this order. In addition, he must complete an additional ten (10) hours of penalty continuing education within two (2) years of receipt of this order.

A motion was made by Ms. Thornton to approve this Agreed Citation. Ms. Free seconded the motion. A roll call vote was taken. The motion passed.

Shishir Batajoo, PA - did not appear before the Committee nor did a legal representative appear on his behalf. Ms. Alcock presented the Agreed Citation. Respondent acknowledged failure to obtain two (2) hours of required continuing education credits which include specific

prescribing practices. He must pay a civil penalty in the amount of forty dollars (\$40) and complete the continuing education he is lacking within one hundred eight (180) days of the ratification of this order. In addition, he must complete an additional ten (10 hours of penalty continuing education within two (2) years of receipt of this order.

Ms. Thornton motioned to approve this Agreed Citation. Ms. Free seconded the motion. A roll call vote was taken. The motion passed.

Jeffrey Alan Jones, PA - did not appear before the Committee nor did a legal representative appear on his behalf. Ms. Alcock presented the Agreed Citation. Respondent acknowledged failure to obtain two (2) hours of required continuing education credits which include specific prescribing practices. He must pay a civil penalty in the amount of forty dollars (\$40) and complete the continuing education he is lacking within one hundred eight (180) days of the ratification of this order. In addition, he must complete an additional ten (10 hours of penalty continuing education within two (2) years of receipt of this order.

A motion was made by Ms. Thornton to accept this Agreed Citation. Ms. Free seconded the motion. A roll call vote was taken. The motion passed.

Public Comment

Ms. Catherine Moffet addressed the Committee regarding considering hiring a consultant to handle reentry applicants. In April 2019, a policy was adopted requiring applicants who have been out of practice for a specified amount of time to complete the PLAS assessment. This assessment can be extremely lengthy and can cost anywhere from nine thousand dollars (\$9,000) to fifteen thousand dollars (\$15,000) in addition to travel expense. After completion, there is a lag time of up to sixteen (16) weeks before getting the assessment back. It then must be presented to COPA for approval. Ms. Moffet proposed having a consultant to be the point person authorized by the Committee to review the application, meet with the applicant to discuss the reentry policy, assess the applicant's clinical knowledge in a variety of ways, and recommend a remediation plan. They would be authorized by COPA to approve the remediation plan and work with the applicant to identify and approve a preceptorship. Once the applicant has completed the recommended remediation/preceptorship, the consultant would bring the application to COPA for licensure approval. Ms. Moffet acknowledged that the Committee cannot vote on this request today as it must be Sunshined, She can submit the proposal to Ms. Lawrence for addition to the next meeting agenda. Ms. Moffet believes that this proposal will help streamline the process and the consultant will provide the applicant with support and resources to assist in completion of the process quickly and get them back into practice. She then asked if any Committee members had comments. Dr. Saunders stated that it is not appropriate to comment or begin discussion until it has been Sunshined and without having more information. Ms. Moffet will send the document to Ms. Lawrence for addition to the next meeting agenda.

There were no additional public comment.

Adjournment

There being no further Committee business, the meeting was adjourned.