Tennessee Department of Health
Bureau of Licensure and Regulation
Division of Emergency medical Services
Board Meeting
November 30-December 1, 2005

APPROVED MARCH 30, 2006

Chairman Darren Ellenburg called the last board meeting of the year to order at 9:00 a.m. on November 30, 2005. The meeting was conducted in the Cumberland Hearing Room at the Cordell Hull Building on Fifth Avenue North, Nashville, Tennessee.

Chairman Ellenburg welcomed the audience which included students from Southwest and Walter State Community Colleges.

The roll call was taken:

Dr. Charles Alderson	present
David Baxter	present
Susan Breeden	present (9:15)
Robert Byrd	present
Dr. Julie Dunn	present (9:25)
Susan Earl	absent
Larry Griffin	present
Mark King	present
Donald Mosby	present
Dr. Steve White	present (9:07)
Jackie Wilkerson	absent
Ken Wilkerson	present
Chairman Ellenburg	present

A quorum was declared to conduct the business of the day.

Chairman Ellenburg called Richard Land to report on rulemaking.

RULEMAKING

1200-12-1- 02; Ambulance Safety Standards (communications)

Mr. Richard Land referred the board members to their manuals for the rulemaking information regarding the recommendations from the EMS Communications Committee in May 2004.

He explained the State Communication Plan changes and the upcoming changes needed (as listed in the hearing notice) such as the repositioning of the telecommunications requirements from “Ambulance Safety Standards” to EMS Telecommunications; 1200-12-1-.08.

The radio operator will have access to the radio control functions for the VHF and dispatch with the medical communications radio (controls) available in the patient compartment, and shall comply with the regional frequency use plan and standards as published in the State EMS Telecommunications Plan. A VHF radio must be place in the driver's compartment, but, if they are using UHF or 800 medical communications within the designated region then, the radio component will be in the rear.

Rule 1200-12-1-.08 will be amended by deleting the existing language in its entirety and **substituting** language in Paragraphs (4) and (5) **so all emergency medical services entities participating in communications systems shall conform to the radio operation techniques approved by the Division of Emergency Medical Services.**

(The chair recognized the presence of board member, Susan Breeden)

Mr. Land pointed out the changes to the emergency dispatching centers, which dispatch many ambulance services out of a consolidated 9-1-1 center, which would utilize approved equipment on the 155.205 frequency with a digital coded squelch of 205.

Services which use mobile operations will have a written frequency use agreement in order to give the frequency a "dedicated" source for all ambulance mutual aid activities.

The change will require upgrade modifications for radios manufactured prior to 1994 in order to link with all public safety radios. These changes should be implemented by 2013 with major changes anticipated with FCC licenses in approximately 2008.

If the board approves to send the amendments to rulemaking, the Telecommunication Committee will meet in early 2006 prior to the rulemaking hearing and be prepared to present the modified and committee approved plan at the March 2006 board meeting.

The change in **Paragraph (b) adds the capability to use 155.295 megahertz, utilizing the digital coded squelch of 155 with approved equipment, for on-scene interoperability. These modifications for this frequency will be required not later than six months following the effective date of this rule.**

The next change in medical frequencies is the ambulance crew shall use this frequency as the primary patient frequency in the absence of ultra high frequency, UHF, or 800 megahertz capability communication between the ambulance and the hospital.

The modification of the rule for hospitals, under the proposed **Paragraph (d), will be for hospitals to identify and approve the regional frequency use plan.**

After discussion of services having the money to implement the proposed plan, it was decided to amend the proposed changes to reflect a regional or district compliance. The interoperability of systems for EMS, fire and law enforcement is a homeland security priority bother federally and by the state.

Ken Wilkerson asked that the record show his 110% favor regarding this change; therefore, Mr. Wilkerson moved to accept the proposed rule changes as amended; second by Larry Griffin. A vote was called.

Dr. Alderson	yes	Larry Griffin	yes
David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	yes	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	yes
Chairman Ellenburg	yes		

The motion passed to send the amended rules to a rulemaking hearing.

EMS RULES TRACKING REPORT

The tracking report had been distributed, therefore, Mr. Land referenced the two (2) new rules that were (or will be) effective;

Rule 1200-12-3; Response Agencies Cardiac Emergencies was effective November 23, 2005.

Amended rules for 1200-12-1-.16; Emergency Medical First Responders will be effective January 31, 2006.

Amended rule 1200-12-1-.03; EMS Equipment and Supplies will become effective January 30, 2006.

CONFLICT OF INTEREST POLICY

Ms. Juanita Presley, advisory counsel, reminded the board members of the conflict of interest policies and procedures.

DISCIPLINARY GUIDELINES

Ms. Presley reviewed the disciplinary guidelines for the board and emphasized the board's ability to address cases on an individual basis. She stated the cases were to be taken on the facts presented to the board. However, on certain violations the proposed guidelines could be very helpful. The Office of General Counsel wants to see consistency in the ruling of violations but, she stated, the case will still be considered on its own merits.

Ms. Presley said the guidelines would also pertain to the screening panel.

Mark King moved to adopt the disciplinary guidelines; seconded by Ken Wilkerson. The board wanted the clarification from Ms. Presley as they understood it—the guidelines were to be used to conduct the case, but not to influence how a board member would decide to vote. Ms. Presley said, yes, that was correct. Chairman Ellenburg called for the roll call vote.

Dr. Alderson	yes	Larry Griffin	yes
David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	yes	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	yes
Chairman Ellenburg	yes		

The motion passed unanimously.

A ten (10) break was called by Chairman Ellenburg.

After the break, Chairman Ellenburg called the meeting back to order and introduced The Honorable Lynn England, Administrative Law Judge, for the day's proceedings.

Air-Evac Lifeteam Inc.

Board member, Robert Byrd, recused himself from the proceedings.

A petition for a declaratory order was presented by William H. West, attorney for the Petitioner.

The Findings of Fact were not in question; therefore, Mark King moved to accept the Conclusion of Law as presented by State's counsel; David Baxter seconded the motion. Upon a roll call vote of:

Dr. Alderson	yes	Larry Griffin	yes
David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	recused	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	yes
Chairman Ellenburg	yes		

The motion carried.

The Conclusions of Law had been presented in the record. Ms. Juanita Presley, upon the Judge's request, read the Conclusions of Law to the board members as follows:

Whether the EMS statute was subject to preemption by the FAA was decided in Witt vs.Hanger One, Inc., in the United States District Court, Eastern District of Tennessee, Civil Action File No. 1-81-29 in 1982; in this action the constitutionality of the EMS statute was challenged as well as the authority of EMS to license and regulate safety in air emergency medical services under its police powers; the Attorney General intervened in the case and filed a Motion for Summary Judgment contending that the preemption issue was, "purely" one of law. The court decided that neither the FAA laws, regulations, 49USC Section 1421, et seq., nor the Civil Aeronautics Board laws, 28 USC Section 1321, et seq., conflicted with the state's exercise of police power in the EMS statue. The court pointed out that the FAA is given the responsibility over air carrier economic regulations, registration of aircraft and nationality, safety regulation and accident investigation; that there was no conflict with the entirely separate goal of the State to regulate the safety and quality of emergency medical service, whether by ambulance or aircraft; that the State of Tennessee has a significant safety interest in the regulation of emergency ambulance services."

Chairman Ellenburg called for the policy statement. Mark King made the following statement:

"It is the duty and responsibility of the Tennessee Board of Emergency Medical Services to enforce the Emergency Medical Services Act in such a manner as to ensure that those services, which are subject to the license under the Act, use their license to promote and protect the public health, safety and welfare.

The state license requirement for the specialized business of emergency medical services does not create a conflict between federal and state regulations, and the general federal requirement of certificates does not reflect intent to preempt state regulations of the transport of patients by air. Clearly, there is no shown direct and positive conflict because the regulations week the same object and impose the same character of obligation as does the federal act; therefore, they can consistently stand together."

Larry Griffin moved to accept the policy statement as stated by Mark King; seconded by Dr. Dunn. The motion was voted on by a roll call vote.

Dr. Alderson	yes	Larry Griffin	yes
David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	recused	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	yes
Chairman Ellenburg	yes		

Motion passed.

The lunch break was called.

After the lunch break, the court was not yet present. Chairman Ellenburg called Mr. Joe Phillips for the monthly production report. Mr. Phillips pointed out the increase in paramedics. Tennessee now has over 4,000 licensed personnel. He also remembered in 1988 when the count hit 1,000. He noted the decrease in ambulance services which reflected the trend of larger ambulance services with more vehicles.

COPEC Report

Ms. Rhonda Phillippi, the Executive Director for the State's Committee on Pediatric Emergency Care, was present for the report. Ms. Phillippi reported the committee was established by the Tennessee Legislature in 1998. In the past eighteen months, a restructuring of the committee has been conducted due to the need for consistent attendance by its members and the higher level of responsibility. There are now operating rules and by-laws for the committee. The committee membership is made up from four representatives from each comprehensive regional pediatric center; i.e. Monroe Carrell Children's Hospital at Vanderbilt, T. C. Thompson Children's Hospital, located in the Chattanooga area; East Tennessee Children's Hospital in Knoxville; and, in Memphis, LeBonheur Children's Medical Center. There are levels of care for pediatrics similar to the trauma levels. General pediatric levels have two voting members and the other associated memberships have one voting member.

Elections were recently conducted. Dr. Ken Holbert will be the new chair beginning in January and Rita Westbrook was elected to be the vice-chair.

The committee has been awarded a five year grant for $120,000 per year from the Centers for Disease Control to have a commissioner's council on injury prevention and surveillance. Previously, there was not a method to collect information to determine the number of people had a particular injury and have the data for the nature of the injury, where the injury took place, and how to have an effective injury prevention program. With the help of the trauma registrar coordinator and the EMITS reporting data, the committee will be able to collect and distribute the required reports to the CDC. Ms. Phillippi recognized Board Member, Dr. Julie Dunn, for her efforts to the Trauma Care Advisory Council and of the State's trauma registry approval.

A nonprofit foundation has been established in order to look at alternative resources for funding emergency medical services for children. COPEC does not receive any assistance from any State fund.

The committee is also working with the State's Hospital Bioterrorism Task Force to help develop a plan for pediatrics similar to the adult's scope within the Task Force. The children's hospitals in Tennessee will assist closely in this endeavor.

The EMS rules and regulations for children are being reviewed for needed revisions.

There are three grants pending for COPEC; the HRSA EMSC STATE GRANT, the grant that has funded COPEC ten years. The award of the grant will be around March 1, 2006. They are in the midst of writing grants for CDC prevention for fire-related deaths. (Tennessee had fourteen deaths in the month of October, 2005 resulting from residential fires), and, finally, the CDC research grant for the care of acutely injured citizens in Tennessee.

After Ms. Phillippi's report, the board concluded the AirEvac peitition.

COMMITTEE REPORTS AND STAFF REPORTS

Air Ambulance Committee – Richard Land

The Air Ambulance Committee met in October and formed several sub-committees to look into issues of medical crew, equipment and the administrative requirements.

The next committee meeting will be Thursday, February 24, 2006 in association with the Tennessee Ambulance Service Association's (TASA) Mid-Winter Conference in Gatlinburg, Tennessee.

Communications Committee – Richard Land

The committee is working with the Hospital Preparedness Program to upgrade the specifications for the purchase of hospital bay station radios.

Arrangements are being made to form a new regional plan in the Knoxville area to narrow band the UHF communication capabilities.

The committee will look at the 70's and 80's communication linkages because many of these systems have not been updated. In Nashville, dual receivers will be used (155.280) for the secondary medical reporting frequency due to the UHF radio system going down.

The Tennessee Wireless Communications Council is working to develop state radio specifications for both homeland security and FCC requirements. This Council was created after the development of the State Interoperability Task Force (by TEMA) and the Department of Homeland Security. The council consists of state communication officials from Finance and Administration, Department of Safety, Department of Transportation, the Emergency Management Agency, Department of Military, Department of Conservation and Environment and the Tennessee Wildlife Resource Agency.

Communications Staff Report – Richard Land

Mr. Land reported the implementation of the hospital resource tracking system. This system will equip regional hospital coordinators, hospital preparedness staff with key EMS staff with mobile/portable radios under the Division of Emergency Medical Services license.

Ambulance Licensing Staff Report – Richard Land

During the October Staff meeting, there were procedural changes made to the yearly audit. Some of the changes in procedure were because of the State's audit recommendations.

The new equipment regulations will be in effect in June 2006. Due to the license renewals, the transition will probably be delayed until July 1, 2006 for the next inspection year of July 1, 2006 to June 30, 2007.

Education Committee Report – Donna Tidwell

Ms. Tidwell referred the board members to their report in their manuals. In highlighting the report, Ms. Tidwell reported the committee had been updated on the critical care rules and the module standards that were passed by the Board.

The committee is still addressing Rule 13 for the update of accreditation school approvals. The paramedic program directors wanted to make some additions/deletions. The committee hopes to have their recommendations ready for rulemaking presentation at the March Board Meeting.

A sub-committee of the paramedic program directors has been established to address issues that deal directly with the paramedic programs. Their proposals will be presented to the Education Committee for recommendations to the Board.

The committee will also be addressing the revisions for the EMT basic skills manual; so, the manual sub-committee will be re-established for the review of the skills manual and make the change recommendations to the Committee/Board by the July, 2006 IC conference. To that end, a new manual could be distributed at the conference.

The issue of basic EMT's being allowed to suction tracheotomies or patients with trachs were brought to the committee. The committee statement was yes, basic EMT's have always been trained in airway obstructions to suction; to do the superficial suctioning of the stoma in order to remove an airway obstruction in order to ventilate a patient that was not breathing. But, NO, they can not do deep tracheotomy suctioning and deep trach care; it is not part of the training for Basic EMT. Due to this confusion from many service directors, Joe Phillips will be sending out a service director mailing to clarify this issue.

Also, it has been brought to the attention of the committee, the redundancy of criminal backgrounds checks. When a student does his training in a hospital setting, the hospital does a check and then, the state requires a background check. Instead of duplicating the cost to the student, we are meeting with counsel to check the particular items of each background report. If the background reports are similar then, the length of the educational and licensure process needs to be addressed so the student does not have to pay for 2 or more criminal background checks.

Terrorism Preparedness Training Staff Report – Donna Tidwell

Ms. Tidwell distributed the third CD of the Weapons of Mass Destruction series for EMS Training. The regional consultants will be distributing the CD's to the service directors. The schools and members of the Education Committee have also received the CD. The CD's are not copyrighted so copies can be made for other entities of the profession.

A contract has been signed for next year's series; Chemical Agents of Destruction.

NATIONAL INCIDENT MANAGEMENT SYSTEMS (NIMS) Staff Report – D. Tidwell

The NIMS training, (which included the incident command for EMS in multisystems jurisdictions), to certify in a "train the trainer" program was conducted in July.

The discovery of errors in the program material distributed, participation in the program was put "on-hold" until the corrected materials were ready for distribution. The program materials have now been corrected and the Division has received that mailing. A schedule will be developed to include the in-service training coordinators and all schools' representatives for certification in this program. The certifying personnel will then be able to certify their students and/or local personnel to meet the federal guidelines and requirements of emergency responders. These certifications have become important due to the risk of losing some federal funding.

The IS-1-700 and IS-800s are to be done on-line prior to attending the course. The first part of 2006 is the approximate time for the program to begin. The training will be conducted at the Fire Academy for two-three days. Appropriate personnel will sign-up on a first-come, first-serve basis.

Renewal Exams Staff Report –Donna Tidwell

The decision was made to begin using the assessment exam from National Registry for all renewals at all levels; i.e., Basic EMT, EMT-IV, and Paramedics. A fee will be required; $20.00 for Basic EMT; $50.00 for EMT-IV (intermediate); and, $50.00 for Paramedic. This will be in effect beginning the exam month of January 2006.

EMITS Staff Report – Donna Tidwell

The third party vendors are being tested now for compliance. The objection of January 2006 is scheduled to have all services reporting into the system.

Currently, data in the system shows 34,543 medical transports; 34,454 interfacility transfers; 964 standbys; 327 intercepts; and, 202 mutual aid. One hundred seventeen (117) services have established their accounts on the system. The remaining services need to set-up their accounts whether they are entering data or not to insure they receive e-mail updates from the Division.
All services licensed in Tennessee are required to report to EMITS.

Trauma Care Advisory Council Committee – Dr. Julie Dunn

An important concern is the loss of a Level 2 trauma center in Memphis. Currently, that leaves West Tennessee without trauma care.

The Council is working on legislative funding for the Tennessee trauma centers. Dr. Dunn asked for everyone assistance with their legislator to help raise the money for current and future trauma centers.

The Council, in conjunction with the Committee on Trauma, has conducted its first ATCN course at Vanderbilt. This course is an advance trauma care course for nurses. The Council would like to see these courses in the smaller and rural emergency departments. The personnel of the smaller or rural ER would have the training to stabilize trauma patients before they are transported to the appropriate level trauma center.

In February 2006, the Council with the COT, will offer the “Trauma Outcomes Process Improvement Course (TOPIC). This course will let Tennesseans know with improved trauma care there are improvements in the results.

Communications Staff Report – Joe Phillips

In October, Maury Regional Hospital EMS was designated as the RCC for south central Tennessee. The funding and approved plans are in place for the remaining regions of Mid-Cumberland, Nashville; East Tennessee, Knoxville; and Tri-Cities. Mr. Phillips gave credit to Chattanooga Medcom in southeast Tennessee for showing the way on the path to regional EMS communications. Upon the completion of the designated RCCs, the communication committee will address rules regarding the standards for the RCCs.

Clinical Issues Committee Report – Dr. Joe Holley

Dr. Holley reported on the August committee meeting in which a proposal from Dr. Creel in Chattanooga was offered on a non-invasive carbon monoxide pulse oximetry type device. The device is very simple to use and caused no harm to patients. The Clinical Issues committee is recommending this device for use.

The October medical directors conference was cancelled, but preparation for the Gatlinburg conference in February has started. At that time, the feasibility of conducting a repeat Medical Director's in West Tennessee will be decided.

At the October Clinical Issues Committee meeting, there were many discussions on disaster response due to the hurricane season.

Dr. Holley has developed generic protocols for use of the prehospital CPAP (continuous positive airway pressure) device. They should be on the EMS website soon.

The American Heart Association Emergency Cardiac Care has released new recommendations on their website. Dr. Holley will incorporate most of their recommendations and update the EMS protocols on the State website. The recommendations addressed more aggressive CPR, high frequency, high compression rate CPR, less emphasis on ventilation and drugs, and more emphasis on defibrillation.

A break was called.

After the break, Chairman Ellenburg called Joe Phillips for a special report.

Hospital Resource Tracking System – Joe Phillips

A new system is being developed to track hospital resources on a daily basis and in mass casualty incidents. Mr. Phillips introduced Mr. Mike Dunn, Director for Information Technology Division in the Bureau of Licensure and Regulation (HRB).

Mr. Dunn reported the HRSA grant money obligation is over $2 million toward this new system. The new system will integrate the radio systems of the RCCs which will help Tennessee in cases of any mass casualty incident.

Two positions have been acquired to implement the system; a programmer and a business analyst, Alex Kelsoe. Mr. Kelsoe was asked give the board members a short orientation on the system.

Mr. Kelsoe reported a statewide standards committee had been selected and have met twice. Dr. Wayne Moore is the chairman of the committee; Greg Maples, EMS

Director of Maury Regional; Randy Porter, EMS Director of Putnam County, who is also a previous EMS board member and board chairman; Barry Dennis, Administrative Director of Medical Center EMS in Jackson; Deborah Cox, Southeast Regional EMS Consultant; Donna Mason from Vanderbilt; Dr. Joe Holley, State EMS Medical Director; and Jack Cochran, Regional Hospital Coordinator, who is a previous EMS board member and chairman. This committee will establish the technical and operational groundwork for the first phase of the project. The project will have four phases.

The next phase is volunteer tracking. A method is needed to identify and track paramedics, doctors, nurses, etc. that may volunteer during a major crisis or disaster.

The third phase will be patient tracking. In an instance such as Katrina, this system would have been able to track each patient brought into Tennessee from the affected areas.

The last phase is for the system to track the pandemic arena.

The RCCs will be an integral part due to their part in controlling the flow of patients within each regional area of responsibility.

The Hospital Resource Tracking System is the system within itself, with a web-based piece of software. It will involve the daily updating of information such as beds, services, etc. for every hospital in Tennessee.

Approval of Minutes

The September Board Minutes had been previously distributed. Dr. Julie Dunn moved to accept the minutes as presented; seconded by Mark King. By a voice vote, the approval of minutes passed unanimously.

An inquiry was made as to what a **Rule 60** is. Richard Land said the Rule 60 is the Rules of Civil Procedure of the Supreme Court and applies to the practice of law by all attorneys and the relief from a judgment. The agenda was showing an item as “Rule 60” for the next day’s proceedings.

Chairman Ellenburg announced a presentation by Dr. Joe Holley on the USAR Team would follow the adjournment.

Ken Wilkerson moved to adjourn; seconded by Susan Breeden.

December 1, 2005

The second day of the EMS Board meeting was call to order at 9:00 a.m. by Chairman Ellenburg. Chairman Ellenburg called Mr. Mike Harkreader from TNPAP for a report.

TNPAP

Mr. Harkreader distributed a participation report for the program from July 1, 2005 thru November 15, 2005. Overall, there were four referrals; one referral came from the Board, one was self-referral and two were from their employers. The fourth referral did not want to participate in the program. Mr. Harkreader was asked to review the program again for the board members; when a person is referred to TNPAP, TNPAP contacts them to schedule an evaluation. The evaluator is asked to make a diagnosis and then a recommendation for treatment. At that point, the person is given names of various treatments sites (that TNPAP is associated with) to select a facility. After treatment, the person comes to Nashville to sign a contract which allows for random drug testing. TNPAP communicates with the direct supervisor to insure the person is safely returning to work. There is also a program for individuals that have anger or psychiatric issues,

ROLL CALL

Dr. Alderson	absent
David Baxter	present
Susan Breeden	present
Robert Byrd	present
Dr. Dunn	present
Susan Earl	absent
Larry Griffin	present
Mark King	present
Donald Mosby	present
Dr. White	present
Jackie Wilkerson	absent
Ken Wilkerson	present
Chairman Ellenburg	present

OGC Report – Juanita Presley

Ms. Presley's report had been distributed to the board members.

Trauma Care Advisory Council/ EMS Representative Appointment – Joe Phillips

Board Member, Dr. Julie Dunn, chairs this council; however, the council reports to the Board of Health Care Facilities. The council policy requires a member of the EMS Board to serve on the council. Mr. Ken Wilkerson has fulfilled that position, but, now

needs to step-down from that council. Robert Byrd volunteered to service on the council.

TASA Report – Rob Webb, President

Mr. Webb announced a TASA meeting at 11:00 in the Cordell Hull Building.

TASA is working with several different people for TennCare funding. They have conducted several meetings to help raise additional dollars for transportation in the TennCare structure.
Also, TASA will be working on a new incentive from the American Ambulance Association concerning Medicare funding.

Mr. Webb invited everyone to the midwinter conference in Gatlinburg, Tennessee, February 22 for the medical directors and the 23 and 24 for EMS directors.

A recess was taken until 10:00 a.m.

After the recess, Chairman Ellenburg introduced the Administrative Law Judge, the Honorable Lynn England.

IN THE MATTER OF:

JOANN FRIZZELL, EMT-P
GREENEVILLE, TENNESSEE
17.34-076875A

Chairman Darren Ellenburg recused himself from the proceeding; Larry Griffin served as the acting chairman.

Elisha Hodge, Office of General Counsel represented the State of Tennessee. Attorney Joseph Calandrello represented the respondent. After the case was heard by the Board, Judge England referred the proceeding back to the Chair for deliberations.

After discussion, the Chair entertained a motion to accept the allegations as Findings of Fact; so moved by Robert Byrd; seconded by Donald Mosby. During the deliberation, Dr. White asked about omitting #12 under the allegations. The Chair recognized the comment and asked Dr. White is he wanted to leave it in the text and make a note of it.

The roll call vote was taken.

David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes

Robert Byrd	yes	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	yes
Acting Chair	yes		

MOTION PASSED

The court reporter asked the Chair to clarify the previous motion; whether Dr. White's comment was in or out. Acting Chairman Griffin stated it was included; Dr. White was just making a comment. Judge England stated the motion should read: the allegations as presented in the Notice of Hearing, paragraphs #6 thru #14, are accepted by the Board as their Findings of Fact.

Dr. White moved to accept the Causes of Action as the Conclusions of Law; seconded by Ken Wilkerson. By a roll call vote of;

David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	yes	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	yes
Acting Chair	yes		

MOTION PASSED

Judge England wanted to go on the record stating, "The Board has adopted the Causes of Action listed in the State's Notice of Charges, which would be paragraphs #15, 16 and 17 as their Conclusions of Law.

Dr. Dunn made the motion to issue a letter of reprimand regarding that single action which was not demonstrated at any other time in her record; seconded by Don Mosby.

After discussion, Dr. Dunn accepted a friendly amendment from Ken Wilkerson and restated her motion to read: This is a letter of reprimand regarding that an unethical practice occurred in terms of striking a patient and given that this is a single violation, that we don't have any evidence of other types of behavior in the long history of her employment, that this is, basically, in terms of scope or severity, it's minimal harm or potential harm. As an isolated incident, we would also like a probationary period just to ascertain that this does not occur again."

Counsel Hodge asked the Judge to approach. After a side bar discussion, Judge England informed the Board the letter of reprimand could not include a probationary period; however, if the Board wanted to do an Order of Reprimand, it could include a probationary period. Dr. Dunn wanted to leave her motion as it stood. The Court for point of clarification asked Dr. Dunn if she wanted to leave it as a letter of reprimand, removing the probation. Dr. Dunn replied "correct". Therefore, the amendment became a hostile amendment and was removed from the previous motion.

The motion to be on the table was to issue a letter of reprimand; a vote was taken for the letter of reprimand.

David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	no	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	no
Acting Chair	no		

With a roll call vote of six (6) yes and three (3) no; the motion carried.

Mark King made the policy statement: "it is the duty and responsibility of the Board to ensure personnel who are subject to licensure, use their license to promote and protect the public health, safety and welfare. Unprofessional, dishonorable, and unethical conduct of any kind is unacceptable and cannot be tolerated. It betrays the trust placed in us as we work together as well as the trust placed in us by patients and their families. We believe the Respondent realizes that she's made a mistake, and the public would benefit in the long run by allowing her to continue to function in society as a paramedic."

Susan Breeden moved to accept the policy statement; David Baxter seconded the motion.

The motion on the policy statement passed unanimously.

A lunch break was taken.

Screening Panels, Consent Orders and Agreed Orders – Bob Kraemer

Chairman Ellenburg called the meeting back to order, and introduced Mr. Bob Kraemer, Office of General Counsel, for comments to the Board on the process of screening panels, consent orders and agreed orders.

Mr. Kraemer explained the first step is the complaint process, and determining whether the complaint was a violation of an EMS rule and/or regulation. A determination is then made concerning the investigation of the violation. If an investigation is deemed necessary, the regional consultant usually conducts said investigation. After the investigation is complete, the file is reviewed by a board consultant, the director of EMS with the advice of counsel from the Office of General Counsel, and the investigating regional consultant. It is determined at that time whether the violation will be sent to the screening panel, or be forward the file to the Office of General Counsel to pursue a stronger method of discipline. This process is called Case Review.

If the case review process sends the investigation to the screening panel, the EMS Director with a representative from OGC will schedule a day for the screening panel to hear the case review.

The screening panel is most often made up of previous board members; however, a current board member may also sit on the screening panel. Mr. Phillips will contact the (previous) board members to see if they are available to attend on the scheduled day. The violator is also contacted for his attendance. The screening panel process is a more open meeting, without all of the legal language of a contested case, where the panel members may ask questions, and have dialogue with the participant. The violator must also agree that he has committed the violations as stated. After the screening panel reviews the violation and investigation, an appropriate punishment is then decided. The members of the screening panel have had participation in numerous case hearings while they served on the board, and are well acquainted with the discipline process.

Upon the discipline decision of the screening panel, the file would be presented at the next scheduled board meeting for the current members to ratify the decision of the screening panel, or the board may take another action.

Now, if after the case review, it is decided the violation is more serious or is in direct violation of the EMS rules and regulations, the decision will be made to send the file/investigation directly to the Office of General Counsel for prosecution. When the violator receives the Notice of Charges, he/she decides whether to contest the charges or try and talk to OGC concerning his intent. The violator could still receive the chance of a Consent Order, or an Agreed Order from OGC. If no decision could be made, the contested case would then come to the Board for them to be given the Notice of Charges, etc.; then, the discipline decision would be a Board decision.

One item Mr. Kraemer wanted to note to the board was the difference in an Agreed Order and a Consent Order. Whether these documents come from the screening panel or OGC, these documents have the respondent agreeing to the discipline, but the consent order has not been issued a docket number. The document that has been filed with the Secretary of State is given a docket number and then becomes an "Agreed Order".

Rule 60 Petition

IN THE MATTER OF:
Lanette Stratton, EMT-P
Kensington, GA
Docket # 17.34-072570A

Elisha, Hodge represented the State of Tennessee in the matter. Administrative Law Judge Lynn England presided over the petition. Board member, Susan Breeden, made the motion not to hear the matter; seconded by Dr. Alderson (the record did not

show the time of arrival for Dr. Alderson) Chairman Ellenburg called for a vote by roll call.

Dr. Alderson	yes	Larry Griffin	yes
David Baxter	yes	Mark King	yes
Susan Breeden	yes	Donald Mosby	yes
Robert Byrd	yes	Dr. White	yes
Dr. Dunn	yes	Ken Wilkerson	
abstain			
Chairman Ellenburg	yes		

The motion passed not to hear the petition.

There was no other business to come before the Board. Ken Wilkerson moved to adjourn; seconded by Susan Breeden. No one was opposed. By a voice vote, the meeting was adjourned.

Respectfully submitted,

Terrie E. Finch
Administrative Assistant
Tennessee Department of Health
Division of Emergency Medical Services
Regulatory Board