CONSENT ORDER

The Division of Health Related Boards of the Tennessee Department of Health (hereinafter the "Division"), by and through the Office of General Counsel, and Respondent, Wayne F. Yakes, M.D. (hereinafter "Respondent") respectfully move the Tennessee Board of Medical Examiners (hereinafter the "Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

I. AUTHORITY AND JURISDICTION

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. See Tennessee Medical Practice Act, Tennessee Code Annotated Section (hereinafter "TENN. CODE ANN. §") 63-6-101, et seq. It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining medical doctors who violate the provisions of TENN. CODE ANN. § 63-6-101, et seq., or the Rules and Regulations
promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the
State of Tennessee (hereinafter “TENN. COMP. R. & REGS.”).

Respondent, by signing this Consent Order, waives the right to a contested case hearing
and any and all rights to judicial review in this matter. Respondent agrees that presentation to and
consideration of this Consent Order by the Board for ratification and all matters divulged during
that process shall not constitute unfair disclosure such that the Board or any of its members shall
be prejudiced to the extent that requires their disqualification from hearing this matter should this
Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged
during the attempted ratification process shall not be used against Respondent in any subsequent
proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to
seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent
understands that by signing this Consent Order, Respondent is allowing the Board to issue its order
without further process. Respondent acknowledges that this is a formal disciplinary action and will
be reported to the Healthcare Practitioner Data Bank and/ or similar agency. In the event that the
Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

II. STIPULATIONS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor
in the State of Tennessee, having been granted Tennessee medical license number 21240
by the Board on January 14, 1991. Respondent’s license currently has an expiration date
of March 31, 2018.
2. On or about July 14, 2016, Respondent entered into a Stipulation and Final Agency Order ("Colorado Order") with the Colorado Medical Board for unprofessional conduct.

3. The discipline against Respondent’s medical license in Colorado stemmed from Respondent’s plea of guilty to “Driving While Ability Impaired – with 1 Prior Alcohol, an unclassified misdemeanor, in Case No. 2015T7208 in County Court, Arapahoe County, Colorado” and from a finding by the Colorado Physician Health Program ("CPHP") that Respondent “has a physical or mental illness or condition for which he is receiving treatment.”

4. The Colorado Medical Board found that Respondent had “excessively used or abused alcohol.”

5. The Colorado Medical Board placed Respondent’s license on probation for a period of five (5) years with conditions, including abstinence from addictive substances and treatment monitoring under the CPHP.

6. Under the terms of the Colorado Order, upon expiration of the probationary period and full compliance with the terms of the Colorado Order, Respondent may request restoration of unrestricted status to his license from the Colorado Medical Board.

7. On February 13, 2017, the Illinois State Medical Licensing Board placed Respondent’s license on probation based on the Colorado Order.

8. Respondent failed to report his Colorado or Illinois discipline to the Tennessee Board of Medical Examiners within thirty (30) days of the discipline.
III. GROUNDS FOR DISCIPLINE

The Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, (TENN. CODE ANN. § 63-6-101, et seq.) for which disciplinary action before and by the Board is authorized:

9. The facts stipulated in paragraphs two (2) through seven (7) constitute a violation of TENN. CODE ANN. § 63-6-214(b)(20):

   Disciplinary action against a person licensed to practice medicine by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state;

10. The facts stipulated in paragraph eight (8) constitute a violation of TENN. CODE ANN. § 63-51-101, et seq. Section 63-51-117(d) of the Health Care Consumer Right to Know Act of 1998 provides that:

   Each provider who has submitted information pursuant to this chapter must update that information in writing by notifying the department within thirty (30) days after the occurrence of an event or attainment of a status that is required to be reported.

IV. POLICY STATEMENT

The Board takes this action in order to protect the health, safety and welfare of people in the State of Tennessee and ensure that the public confidence in the integrity of the medical profession is preserved.
V. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

11. The Tennessee medical license of Wayne F. Yakes, M.D., license number 21240, is hereby placed on PROBATION, effective the date of entry of this Consent Order, for the duration of the probationary period set forth in the Colorado Order.

12. During the period of probation Respondent shall:

   a. Maintain one hundred percent (100%) compliance with all provisions of the CPHP monitoring/advocacy contract, or extension thereto he has entered into with the CPHP.

   b. Respondent shall cause CPHP to issue quarterly reports to the Board detailing Respondent’s compliance with the terms of his CPHP contract including any extensions of the contract beginning three (3) months after the effective date of this Order.

   c. Respondent shall cause CPHP to notify the Board in writing of any violation of the CPHP contract or extension.

13. At the end of the period of probation and compliance with all terms of the Colorado Order and this Order, Respondent may petition the Board for an Order of Compliance to have the probation lifted. As part of his petition for an Order of Compliance, Respondent must personally appear before the Board unless his appearance is waived by the Board’s medical director.
14. Respondent must pay two (2) "Type B" civil penalties, in the amount of three hundred dollars ($300.00) each, representing the violations outlined in paragraphs two (2) through eight (8) of the Stipulations of Fact, supra, for a total of six hundred dollars ($600.00).

15. Any and all civil penalties shall be paid within thirty (30) days of the effective date of this Order and shall be paid by certified check, cashier's check, or money order to the address listed below. A notation shall be placed on said check that it is payable for the costs of Wayne F. Yakes, Case Nos. 2017018671, 2017018651.

16. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j), the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be two thousand dollars ($2,000.00). Any and all costs shall be paid in full within sixty (60) days from the issuance of the Assessment of Costs by submitting a certified check, cashier's check, or money order to the address listed above. A notation shall be placed on said check that it is payable for the costs of Wayne F. Yakes, Case Nos. 2017018671, 2017018651.

17. Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB) and/or similar agency.
This CONSENT ORDER was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 27th day of September, 2017.

Chair
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:

Wayne H. Yakes, M.D.
Respondent

Peyton B. Smith, BPR# 33550
Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

9/25/2017
DATE

7/27/17
DATE
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent:

Wayne F. Yakes, M.D.
501 E. Hampden Ave.
#4600
Englewood, CO 80113

by delivering same in the United States Mail, Certified Number 7016 1970 001 1320 0453 return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination.

This 28th day of September, 2017.

Peyton B. Smith
Assistant General Counsel