STATE OF TENNESSEE
BEFORE THE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF:

STEPHEN H. LANDY, M.D.,
Respondent.

License No. 14267
Germantown, Tennessee

DOCKET NO. 17.18-121083A

AGREED ORDER

The Division of Health Related Boards of the Tennessee Department of Health ("State"), by and through the Office of General Counsel, and Respondent, Stephen H. Landy, M.D., ("Respondent"), by and through counsel, respectfully move the Tennessee Board of Medical Examiners ("Board") for approval of this Agreed Order affecting Respondent's medical license in the State of Tennessee.

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, 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 ("TENN. COMP. R. & REGS.").

Respondent, by his signature to this Agreed 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 Agreed 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 the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

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, license number 14267.

2. Respondent is a Board Certified neurologist who treats patients who suffer from migraine headaches. According to Respondent, approximately 10% of his patients were treated with controlled narcotics for intractable migraines.

3. The State's expert reviewed 15 records of patients treated by Respondent with controlled substances: Patients AEC, AJD, BIC, DDB, DMB, GRB, JCG, JDH, JMB, MRT, NSM, PKH, RCM, SJA, and SLH

4. The patients involved in the investigation were referred for care by the respondent from other physicians, often neurologists, for the management of intractable headache and related other chronic pain.

5. Before seeing the respondent, most if not all of the patients involved in the investigation failed numerous non-narcotic headache medications.

6. The respondent maintains that all controlled narcotics prescribed for his patients were required to control chronic pain.

7. The respondent agrees that before 2011, his records before were not maintained for the purpose of withstanding a board investigation and therefore did not specifically include written justification for the prescription of narcotics or for changes in type or amount of narcotics as required by board rules. Rather, the respondent followed the procedure that
he learned in medical school and included what he considered to be sufficient information for his own continuity of care for the subject patients.

8. The Board's expert neurologist, a former nurse and retired headache specialist, follows the rule that "if it isn't written, it wasn't done." The consultant found numerous deficiencies in the respondent's record keeping protocol. The respondent does not disagree that there were deficiencies in his records.

9. The respondent no longer prescribes narcotic medications for chronic pain patients and has referred all such patients to pain management clinics. He continues to manage such patients for headache issues with non-narcotic medications in concert with pain clinic physicians.

GROUNDS FOR DISCIPLINE

Respondent's acts as described in paragraphs 7 through 8 of this Agreed Order 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. and TENN. COMP. R & REGS.) for which disciplinary action before and by the Board is authorized:

10. The facts stipulated in paragraphs 7 through 8 constitute a violation of TENN. COMP. R & REGS. 0880-02-.14(6)(c)(3), which authorizes disciplinary action against a Respondent who prescribes, orders, administers or dispenses dangerous drugs or controlled substances without observing the following guidelines for medical record keeping:

   (i) After a documented medical history, which may be provided orally or in writing by the patient, and physical examination by the physician providing the medication including an assessment and consideration of the pain, physical and psychological function, any history and potential for
substance abuse, coexisting diseases and conditions, and the presence of a recognized medical indication for the use of a dangerous drug or controlled substance;

(ii) Pursuant to a written treatment plan tailored for the individual needs of the patient by which treatment progress and success can be evaluated with stated objectives such as pain relief and/or improved physical and psychosocial function. Such a written treatment plan shall consider pertinent medical history and physical examination as well as the need for further testing, consultations, referrals, or use of other treatment modalities;

(iii) The physician should discuss the risks and benefits of the use of controlled substances with the patient or guardian;

(iv) Subject to documented periodic review of the care by the physician at reasonable intervals in view of the individual circumstances of the patient in regard to progress toward reaching treatment objectives which takes into consideration the course of medications prescribed, ordered, administered, or dispensed as well as any new information about the etiology of the pain;

(v) Complete and accurate records of the care provided as set forth in parts (i)-(iv) of this paragraph should be kept. When controlled substances are prescribed, names, quantities prescribed, dosages, and number of authorized refills of the drugs should be recorded, keeping in mind that pain patients with a history of substance abuse or who live in an environment posing a risk for medication misuse or diversion require special consideration. Management of these patients may require closer monitoring by the physician managing the pain and consultation with appropriate health care professionals.

POLICY STATEMENT

The Tennessee Board of Medical Examiners takes the following action in order to protect the health, safety and welfare of the citizens of the State of Tennessee by ensuring careful and complete documentation of treatment with controlled narcotics.

ORDER
Therefore, the Board ORDERS and Respondent AGREES to the following:

11. The Tennessee medical license of Stephen H. Landy, M.D., license number 14267, is hereby REPRIMANDED.

12. Within 6 months of the effective date of this Agreed Order, Respondent must enroll in and successfully complete the course entitled “Intensive Course in Medical Record Keeping” offered at the Case Western Reserve Continuing Medical Education Program at the Case Western Reserve School of Medicine located in Cleveland, Ohio, or an equivalent course pre-approved by the Board or the Board’s Medical Director. Proof of successful completion shall be provided to the Board’s Medical Director.

13. Within 6 months of the effective date of this Agreed Order, Respondent must enroll in and successfully complete the course entitled “Prescribing Controlled Drugs” offered at the Vanderbilt University Continuing Education Program at the Vanderbilt University School of Medicine located in Nashville, Tennessee, or an equivalent course pre-approved by the Board or the Board’s Medical Director. Proof of successful completion shall be provided to the Board’s Medical Director.

14. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and TENN. COMP. R. & REGS. 0880-2-.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, to a maximum of $50,000.00.

15. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB) and/or similar agency.

NOTICE
16. Any and all costs shall be paid in full within ninety (90) days from the issuance of the Assessment of Costs by submitting a certified check, cashier's check, or money order payable to the State of Tennessee, which shall be mailed or delivered to: Disciplinary Coordinator, Office of Investigations, Tennessee Department of Health, 665 Mainstream Drive, 2nd Floor, Nashville, Tennessee 37243. A notation shall be placed on said check that it is payable for the costs of **STEPHEN LANDY, MD, CASE NO. 17.18-121083A.**

This AGREED 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 19th day of March, 2014.

Chair
Tennessee Board of Medical Examiners
APPROVED FOR ENTRY:

Stephen Landy, MD (License #14267)
Respondent
Wesley Neurology Clinic
7655 Poplar Avenue
Germantown, Tennessee 38138

3/17/14

DATE

Darrell E. Baker, Jr. (BPR #016388)
Attorney for Respondent
Baker & Whitt, PLLC
6800 Poplar Avenue, Suite 205
Memphis, TN 38138
(901) 737-5656

3-19-14

DATE

Christopher M. Smith (BPR #029309)
Assistant General Counsel
Tennessee Department of Health
Office of General Counsel
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-5575

3-19-14

DATE
CERTIFICATE OF FILING

This Order was received for filing in the Office of the Tennessee Secretary of State, Administrative Procedures Division, and became effective on the 24th day of March, 2014.

Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Stephen H. Landy, M.D., through Respondent's attorney, Darrell E. Baker, Jr., Esq., Baker & Whitt, PLLC, 6800 Poplar Avenue, Suite 205, Memphis, Tennessee 38138, by delivering same in the United States First Class Mail, with sufficient postage thereon to reach its destination and via electronic mail at debaker@baker-whitt.com.

This 25th day of March, 2014.

Christopher M. Smith
Assistant General Counsel
Tennessee Department of Health