

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD OF MEDICAL EXAMINERS
)	
JOSEPH HENSLEY, M.D.)	
RESPONDENT)	DOCKET NO: 17.18-159365A
)	
HOHENWALD, TENNESSEE)	
TENNESSEE LICENSE NO. 15978)	

RECEIVED
2019 JUN 12 PM 3:20
SECRETARY OF STATE

**NOTICE OF CHARGES
AND
MEMORANDUM FOR ASSESSMENT OF CIVIL PENALTIES**

Comes now the Division of Health Related Boards of the Tennessee Department of Health (hereinafter the "Division"), by and through the Office of General Counsel, and for cause of action against Joseph Hensley, M.D. (hereinafter "Respondent") would respectfully show as follows:

I. JURISDICTION AND NOTICE OF RIGHTS

1. The Tennessee Board of Medical Examiners (hereinafter "the Board") is responsible for the regulation and supervision of the practice of medicine in the State of Tennessee. TENN. CODE ANN. § 63-6-101, *et seq.*
2. TENN. CODE ANN. § 63-6-214 grants the Board the power and duty to suspend or revoke or otherwise discipline a licensee who has violated the provisions of Title 63, Chapter 6 of the TENN. CODE ANN.
3. The Tennessee Department of Health, Division of Health Related Boards, and the Board may initiate a civil penalty assessment with respect to any person required to be licensed

by any board, commission or agency attached to it against such person in an amount not to exceed one thousand dollars (\$1,000.00) for each separate violation of a statute, rule, or order pertaining to such board. TENN. CODE ANN. § 63-1-134(a) and TENN. COMP. R. & REGS. 0880-02-12.

4. Each day of continued violation by such person of the statute, rule, or order constitutes a separate violation. TENN. CODE ANN. § 63-1-134(a).
5. The Board has established by rule a schedule designating the minimum and maximum civil penalties which may be assessed. TENN. CODE ANN. § 63-1-134(b) and TENN. COMP. R. & REGS. 0880-02-12.
6. The contested case provisions of Title 4, Chapter 5, of the TENN. CODE ANN. govern proceedings for the assessment of civil penalties. TENN. CODE ANN. § 63-1-134 and TENN. COMP. R. & REGS. 0880-02-12.
7. Proceedings for disciplinary action against a license holder are conducted in accordance with the Tennessee Administrative Procedures Act, Title 4, Chapter 5, of the TENN. CODE ANN. TENN. CODE ANN. § 63-6-216.
8. The Division and the Board may initiate an assessment of costs for actual and reasonable costs of the prosecution of the matter incurred by the Office of General Counsel, Department of Health, including all attorney and paralegal time, all costs incurred by the Bureau of Investigations in connection with the prosecution of the matter, and all costs incurred by the Administrative Law Judge(s), court reporters and witnesses, including, but not limited to, travel and lodging during the prosecution of this matter. TENN. CODE ANN. § 63-1-144; TENN. CODE ANN. § 63-6-214(k); and TENN. COMP. R. & REGS. 0880-02-12(j).

9. A Respondent in a disciplinary action is entitled to be represented by legal counsel, to personally appear before the Board, to present witnesses, to have subpoenas issued, and to receive thirty (30) days notice of the charges before being required to appear for a hearing. A Respondent who cannot afford legal counsel may be eligible for free or low-cost counsel. TENN. CODE ANN. § 4-5-101, *et seq.*
-

II. FACTS

10. 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 15978 by the Board on December 11, 1984, which has a current expiration date of July 31, 2019.
11. Between approximately December 2014 and March 2015, Respondent treated a patient, including through prescription of controlled substances, who was also an employee and with whom he was having a personal relationship.
12. Respondent also treated several immediate family members as patients, including through prescription of controlled substances.
-

III. CAUSES OF ACTION

The facts as alleged in Section II of this Notice of Charges and Memorandum for Assessment of Civil Penalties are sufficient to establish violations by Respondent of the following statutes or rules which are part of the provisions of the Tennessee Medical Practice

Act, (TENN. CODE ANN. § 63-6-101, *et seq.*) for which disciplinary action before and by the Board of Medical Examiners is authorized:

13. The allegations of fact in Section II constitute grounds for disciplinary action against Respondent's license to practice as a medical doctor in the State of Tennessee pursuant to TENN. CODE ANN. § 63-6-214(b)(1) which authorizes disciplinary action against a Respondent who has engaged in unprofessional, dishonorable, or unethical conduct.
14. The allegations of fact in Section II constitute grounds for disciplinary action against Respondent's license to practice as a medical doctor in the State of Tennessee pursuant to the Code of Medical Ethics of the American Medical Association, which constitutes a violation of TENN. COMP. R. & REGS. 0880-02-.14(8).

IV. CIVIL PENALTY ASSESSMENT

15. The Tennessee Medical Practice Act provides authority and guidance to the Board in assessing civil penalties pursuant to that legislation. TENN. CODE ANN. § 63-1-134(a) and (b) read in pertinent part:
 - (a) With respect to any person required to be licensed, permitted or authorized by any board, commission or agency attached to the division of health related boards, each respective board, commission or agency may assess a civil penalty against such person in an amount not to exceed one thousand dollars (\$1,000) for *each* separate violation of a statute, rule or order pertaining to such board, commission or agency. *Each day of continued violation constitutes a separate violation.* (Emphasis added).
 - (b) Each board, commission or agency shall by rule establish a schedule designating the minimum and maximum civil penalties that may be assessed under this section. In assessing civil penalties, the following factors may be considered:
 - (1) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (2) The circumstances leading to the violation;

- (3) The severity of the violation and the risk of harm to the public;
- (4) The economic benefits gained by the violator as a result of noncompliance; and
- (5) The interest of the public.

16. Civil penalties may be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division. TENN. COMP. R. & REGS. 0880-02-.12(4)(d)(2).

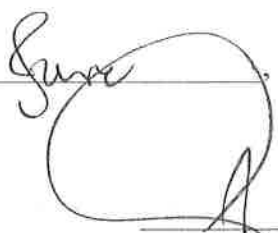
V. NOTICE AND PETITION FOR RELIEF

WHEREFORE, premises considered, the Division, by and through counsel, hereby:

17. Issues to Respondent a copy of this Notice of Charges and Memorandum for Assessment of Civil Penalties.
18. Gives Notice that if Respondent does not enter an appearance and defend, a default judgment may be entered.
19. Gives Notice that this matter will be presented for full hearing as a contested case to a panel of the board on **September 18, 2019, beginning at 10:00 a.m. C.S.T.**, or as soon thereafter as the Board may take up this matter, at the hearing rooms, 665 Mainstream Drive, Nashville, Tennessee 37228, or at a location yet to be determined.
20. Petitions that, at the hearing of this cause, the Board determine that Respondent is guilty of violating the provisions of TENN. CODE ANN. § 63-6-101 *et seq.*; determine whether and to what amount a civil penalty is justified; and determine whether Respondent's license to practice as a medical doctor should be suspended, revoked, or otherwise disciplined.

21. Petitions, pursuant to TENN. CODE ANN. § 63-1-144, TENN. CODE ANN. § 63-6-214(k), and TENN. COMP. R. & REGS. 0880-02-.12(j), that at the hearing of this cause, the Board assess and collect the reasonable costs incurred in the prosecution of this case, including investigatory costs, upon finding that the licensee has violated the referenced provisions of the Tennessee Medical Practice Act. Pursuant to TENN. CODE ANN. § 63-1-144(b); the maximum amount of costs to be assessed shall not exceed Twenty-Five Thousand Dollars (\$25,000.00).
22. Lower cost legal counsel is available through the various Legal Services of Tennessee for those who qualify.

Respectfully submitted this 24th day of June, 2019.


Andrea Huddleston (B.P.R. #016155)
Deputy General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Joseph Hensley, M.D., 855 Summertown Highway, Hohenwald, TN 38462 by delivering same in the United States Mail, Certified Number 7018229000114036783 return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination

This 13th day of June, 2019.

Andrea Huddleston
Deputy General Counsel
Tennessee Department of Health

LITIGATION TRANSMITTAL FORM
TENNESSEE DEPARTMENT OF HEALTH

NAME OF CASE

17.18-159365A

TENNESSEE DEPARTMENT OF HEALTH
BOARD OF MEDICAL EXAMINERS

(APD DOCKET #)
343.10-HL0000327
(AGENCY CODE #)
201701471
(AGENCY CASE #)

V.

JOSEPH HENSLEY, M.D.

AGENCY: Tennessee Department of Health, Board of Medical Examiners

HEARING DATE AND TIME: September 18, 2019 @ 10:00 a.m. CT

HEARING LOCATION: 665 Mainstream Dr., Nashville, TN 37228

MANNER OF CONDUCTING HEARING: _____ AGENCY HEAD _____ ALJ

CASE DESCRIPTION: Disciplinary action for alleged violation of the statutes and rules of the Tennessee Board of Medical Examiners

EXPEDITED OR SPECIAL ARRANGEMENTS: _____ ALJ ASSIGNED: _____

HEARING TIME ESTIMATE: _____

COURT REPORTER: _____

NAME, ADDRESSES AND PHONE NUMBERS OF PARTIES AND ATTORNEY
(including agency attorney);

Joseph Hensley, M.D.
855 Summertown Highway
Hohenwald, TN 38462

Andrea Huddleston, Esq.
Deputy General Counsel
TN Department of Health
Office of General Counsel
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

OTHER INFORMATION: _____

Contested Case Transmittal Form to be filed with the initial case record no later than three (3) business days after: the Notice of Hearing is mailed; the case has been scheduled with the APD, if no hearing date has been set (unless waived by the Division).