

08-06-15

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH

IN THE MATTER OF:	)	BEFORE THE TENNESSEE
	)	BOARD OF MEDICAL EXAMINERS
JENNIFER ANN BRAULT, M.D.	)	
PETITIONER	)	
	)	
NASHVILLE, TENNESSEE	)	DOCKET NO.: 17.18-132414A
	)	
PETITION FOR DECLARATORY	)	
ORDER	)	

RECEIVED  
AUG -5 PM 3:34  
SECRETARY OF STATE

NOTICE OF HEARING

Comes now the Department of Health, Division of Health Related Boards, by and through counsel and gives notice that a Petition for Declaratory Order filed on behalf of Jennifer Ann Brault, M.D. (and attached hereto as Exhibit A) was granted by the Board on July 21, 2015 and referred for a contested case hearing, which shall be heard on September 16, 2015 at 10:00 a.m. or as soon thereafter as the Board may take this matter up. This case shall determine whether Dr. Brault ("Petitioner") qualifies for the issuance of her Tennessee medical license.

PREPARED BY:

Andrea Huddleston, BPR # 016155  
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Chief Deputy General Counsel  
665 Mainstream Drive  
Nashville, Tennessee 37243  
(615) 741-1611

8-4-15  
DATE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon Jennifer Ann Brault, M.D. by and through her attorneys, by delivering the same in the United States certified mail number 7014 3490 0000 6657 9771 and United States mail with sufficient postage thereon to reach its destination.

Tom Wiseman, Gail Ashworth & Michele Marsicano  
Wiseman Ashworth Law Group PLC  
511 Union Street, Suite 800  
Nashville, TN 37219

This 31<sup>st</sup> day of August, 2015.



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Andrea Huddleston  
Chief Deputy General Counsel

**JENNIFER ANN BRAULT, M.D.'S PETITION FOR DECLARATORY ORDER**

1. **Petitioner's Name:** Jennifer Ann Brault, M.D.  
**Address:** 115 Sloan Road  
Nashville, Tennessee 37209  
**Telephone Number:** (317) 997-6134
2. **Petitioner's Attorneys' Names:** Tom Wiseman and Michele Marsicano  
**Address:** Wiseman Ashworth Law Group PLC  
511 Union Street, Suite 800  
Nashville, Tennessee 37219  
**Telephone Number:** (615) 254-1877
3. **Organization, if any, that the Petitioner Represents:** This Petitioner does not represent an organization.  
**Organization Name:** Not Applicable  
**Address:** Not Applicable  
**Telephone Number:** Not Applicable
4. **Provide a statement of the facts which led to the filing of this petition. Include all facts you believe necessary for the agency to make a decision in this matter.**

Jennifer Ann Brault, M.D., was recruited to join the Vanderbilt University Medical Center medical staff because of her exceptional skills and expertise that meet a need at Vanderbilt and in the State of Tennessee. Dr. Brault has a highly specialized and sought-after skillset having completed residencies in Pediatrics, Child Neurology, and Clinical Genetics. The combination of these three residencies uniquely qualifies her to diagnose and treat pediatric patients with neurogenetics conditions. Dr. Brault's expertise allows her to recognize the clinical features of these disorders and utilize genetic investigation confidently in the treatment of her patients.

Dr. Brault's clinical practice meets a significant need and is exceedingly rare as there are only a handful of physicians in the United States with her same expertise.<sup>1</sup> According to Dr. Steven A. Webber, Chair of the Department of Pediatrics at Vanderbilt University Medical Center, the Department searched for some three years for an individual with Dr. Brault's training.<sup>2</sup> Currently, only one other physician in the state of Tennessee has the same expertise as Dr. Brault, and as such, there is a critical shortage of physicians who are trained to provide medical care for children with neurogenetics conditions.<sup>3</sup> Given this paucity across the entire State, at Vanderbilt's Children's Hospital, children with neurological disorders have an average six month wait time for a new appointment.<sup>4</sup> Vanderbilt is deeply committed to correcting the

<sup>1</sup> See Exhibit 1, letter from Dr. Reimschisel, Vice Chair for Education in the Pediatric Department and the Director of Leadership Education in Neurodevelopmental Disabilities Program at Vanderbilt University Medical Center.

<sup>2</sup> See Exhibit 2, letter from Dr. Webber, Chair of the Department of Pediatrics at Vanderbilt University Medical Center.

<sup>3</sup> See Exhibit 1, letter from Dr. Reimschisel.

<sup>4</sup> See Exhibit 3, letter from Dr. Ess, Chief of Pediatric Neurology at Vanderbilt University Medical Center.



imbalance between service needs and providers with the ongoing recruitment of highly trained professionals like Dr. Brault.<sup>5</sup> It would best serve Tennessee's patient population to expediently grant the highly trained Dr. Brault a license to reduce the wait time for the diagnosis and treatment of these patients.

If granted licensure, Dr. Brault will see patients in Vanderbilt's Neurogenetics and Metabolism Clinic with a variety of serious neurogenetics conditions, including intellectual disability, autism, epilepsy, cerebral palsy, brain malformations, multiple congenital anomalies, and other conditions associated with significant neurodevelopmental problems.<sup>6</sup> She will also see infants and children in the Tennessee State Genetics Center at Vanderbilt with brain malformations, neurologic symptoms, and/or delayed development.<sup>7</sup> Additionally, Dr. Brault is expected to play a critical role in expanding the Newborn Screening (NBS) Program per the Tennessee legislature's charge to add lysosomal storage disorders to the program.<sup>8</sup> Her expertise in Clinical Neurology and Clinical Genetics will be invaluable in providing specialized care to ensure the optimal outcome for these patients.<sup>9</sup> Dr. Brault will also work with Vanderbilt's Center for Undiagnosed Diseases in diagnosing and treating children with rare or unknown neurologic or neurogenetics disorders that could not be diagnosed by others.<sup>10</sup>

Dr. Brault attended the University of Cincinnati College of Medicine from 2002 through 2004<sup>11</sup> and attended Indiana University School of Medicine from 2004 through 2006 during which time she obtained a Doctor of Medicine degree.<sup>12</sup> In 2003, Dr. Brault was awarded 1<sup>st</sup> Place for her summer research program at the University of Cincinnati College of Medicine. From 2007 through 2009, she attended and completed a residency in Pediatrics at the Indiana University School of Medicine. Dr. Brault then attended and completed a residency in Child Neurology at the Indiana University School of Medicine from 2009 through 2012. During this residency, she was awarded the Child Neurology Society Travel Grant to attend the Epilepsy Symposium. Dr. Brault attended and completed her third and final residency in Clinical Genetics at Indiana University School of Medicine from 2012 through 2014.<sup>13</sup> She also completed a Master of Science in Medical and Molecular Genetics during this residency. According to Dr. John A. Phillips, Director of the Division of Medical Genetics and Genomic Medicine at Vanderbilt University Medical Center, the genetics residency at Indiana University School of Medicine is well-regarded as having a high quality training program.<sup>14</sup>

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<sup>5</sup> See Exhibit 2, letter from Dr. Webber.

<sup>6</sup> See Exhibit 1, letter from Dr. Reimschisel.

<sup>7</sup> See Exhibit 4, letter from Dr. Phillips, Director of Division of Medical Genetics and Genomic Medicine at Vanderbilt University Medical Center and Member of the Tennessee State Genetics Advisory Committee.

<sup>8</sup> See Exhibit 5, Tennessee SB44, which was passed and went into effect on May 18, 2015.

<sup>9</sup> See Exhibit 4, letter from Dr. Phillips.

<sup>10</sup> See Exhibit 4, letter from Dr. Phillips.

<sup>11</sup> Dr. Brault transferred medical schools because of her husband's job.

<sup>12</sup> See Medical School Transcript and Medical Degree sent with Dr. Brault's Application.

<sup>13</sup> See Residency Certificates sent with Dr. Brault's Application.

<sup>14</sup> See Exhibit 4, letter from Dr. Phillips.

In addition to practicing, Dr. Brault is an educator and researcher. During her genetics residency, she taught several graduate classes in the Department of Medical and Molecular Genetics. Further, she has presented at a number of seminars and lecture series. From 2012 through 2014 Dr. Brault worked as a medical genetics researcher investigating the etiology of pediatric patients' neurological conditions. Her research from this is currently being edited for publication, and she is named as first author on this work.<sup>15</sup> Dr. Brault has also presented her research in poster presentations at a number of conferences, including the Child Neurology Society Meeting and the David Smith Meeting.<sup>16</sup> Further, she was an invited speaker at the Indiana Network of Genetic Counselors meeting.<sup>17</sup>

Dr. Brault has been licensed in Indiana since 2014 and is currently a member of the American Medical Association.

Dr. Brault currently works as an Assistant Professor in the Department of Pediatrics in the Division of Pediatric Neurology and Genetics and Genomic Medicine at Vanderbilt University Medical Center. However, she is not licensed in Tennessee at this time, and she can only serve in an academic capacity while patients must wait several months for a neurogenetics consult. She applied for a Tennessee medical license in 2015, and she will appear for an interview before the Board on July 21, 2015 as Dr. Brault did not complete all steps of the USMLE within seven (7) years in accordance with Rule 0880-02-.08(4)(a)(b)(c)(d). In Indiana, where Dr. Brault completed her residencies, all steps of the USMLE were to be completed in ten years. Dr. Brault passed Step 1 on June 21, 2004 and passed Step 3 on May 19, 2014. As such, she passed all steps of the USMLE within ten years, but not within the seven years outlined in Rule 0880-02-.08(4)(a)(b)(c)(d). She passed each step on her first attempt.

Dr. Brault files this Petition seeking a license pursuant to Tenn. Code Ann. § 63-6-207(b), which states the Board has the authority to create "exceptions that will extend the seven (7) year time frame" for the completion of the USMLE. Dr. Brault is a highly trained physician with an exceedingly rare skillset that meets a great clinical need in Tennessee, and it would be in the best interest of the children of Tennessee for Dr. Brault to begin practicing and treating patients as soon as possible.

**5. Provide a summary of the relief you are requesting including the specific nature of the requested order and the conclusions you would like the agency to reach at the conclusion of the declaratory order process:**

Tenn. Code Ann. § 63-6-207(b) grants the Tennessee Board of Medical Examiners authority to create exceptions to the seven (7) year rule for the completion of the USMLE. Dr. Brault has received a confirmed offer for an appointment to the Vanderbilt University Medical Center staff and is currently working in an academic capacity at Vanderbilt awaiting a licensure decision. Dr. Brault seeks relief from the Board in the form of an Order, which grants her a full, unrestricted license to practice medicine in the State of Tennessee. Dr. Brault's seven and a half

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<sup>15</sup> See Exhibit 6, Curriculum Vitae.

<sup>16</sup> See Exhibit 6, Curriculum Vitae.

<sup>17</sup> See Exhibit 6, Curriculum Vitae.

years of postgraduate education, rare skillset, and impressive references warrant an exception to the seven (7) year rule pursuant to Tenn. Code Ann. § 63-6-207(b).

**6. Citation to the statute, rule or order which is the subject of the petition:**

Tenn. Code Ann. § 63-6-207(b)  
Rule 0880-02-.08(4)(a)(b)(c)(d)

**7. State how the statute, rule and/or order cited above specifically and directly produces an effect or result upon you:**

Tenn. Code Ann. § 63-6-207(b) grants the Tennessee Board of Medical Examiners authority to create exceptions to the seven (7) year rule for the completion of the USMLE. The statute does not outline the specific exceptions that the Board can make, but instead it refers to the Rules and Regulations. The Rules outline one exception, but there is no indication in the Rules that this is the only exception that can be made by the Board. In the context of a declaratory order, the Board can make additional exceptions to the seven year rule, and such an exception is warranted given the education, qualifications, and skillset of Dr. Brault.

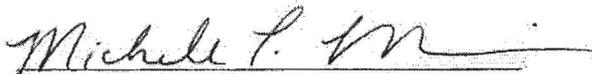
An exception is particularly appropriate in Dr. Brault's case as the Tennessee legislature explicitly expressed an interest in the expansion of treatment of neurogenetics disorders with the recently passage of SB44 to include lysosomal storage disorders in NBS. Dr. Brault is exactly the type of physician the Tennessee legislature charged the medical genetics centers to recruit in passing a bill expanding the testing and care of patients with these neurogenetics conditions.

Additionally, Dr. Brault qualifies for the exception described in Rule 0880-02-.08(4)(d) for applicants who have been working toward both an M.D. and Ph.D. in a biological science. This exception allows for an extension of the seven year deadline for the completion of the USMLE so as not to discourage or punish physicians for pursuing this combination of training, which normally takes eight years. Following this reasoning, an exception for an applicant who has been working toward both an M.D. and multiple residencies is in keeping with the purpose of the outlined exception so as not to prevent highly educated and trained physicians, such as Dr. Brault, from practicing in Tennessee. The number of years of training Dr. Brault underwent is comparable to the eight years of an M.D. and Ph.D. as she completed four years of medical school and seven and a half years of residency training for a total of eleven and a half years. Dr. Brault's pursuit of multiple residencies in order to gain the training needed for the highly specialized field of pediatric neurogenetics in which there is a critical shortage is certainly analogous to the pursuit of an M.D. and Ph.D., and an exception for Dr. Brault would be an appropriate interpretation of the Rule and its underlying purpose.

Dr. Brault meets all other criteria for licensure in the state of Tennessee, and she is scheduled to appear for an interview before the Board on July 21 2015. She asks the Board to review her education and training under the authority of Tenn. Code Ann. § 63-6-207(b) and grant her licensed to practice in the state of Tennessee. Based on her qualifications and her exceedingly rare skillset, which she will use to treat Tennessee children waiting an average of six months, Dr. Brault petitions the Board to expediently grant her an unrestricted license, pursuant to Tenn. Code Ann. § 63-6-207(b). For these reasons, Dr. Brault respectfully requests that the Tennessee Board of Medical Examiners affords her the relief requested herein.

Respectfully submitted,

**WISEMAN ASHWORTH LAW GROUP PLC**



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