

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
October 13, 2016

Chair Margaret C. McNeese, M.D., called the meeting to order at 11:42 a.m. Other members present were Julie K. Attebury, James “Scott” Holliday, D.O., Allan Shulkin, M.D., Karl W. Swann, M.D., Surendra K. Varma, M.D., Stanley Wang, M.D., and George Willeford III, M.D. Committee Members Michael Arambula, M.D., Pharm.D, David Baucom, and Manuel Guajardo, M.D. were not present.

Staff members present were Mari Robinson, Executive Director, Scott Freshour, General Counsel, Robert Bredt, M.D., Medical Director, and various other staff.

Agenda Item #2. Discussion, recommendation, and possible action regarding referrals from the Texas Physician Health Program (PHP).

It was announced by Dr. Fitzwater that there were no PHP files to be presented to the DPRC for consideration under Agenda Item 2.

Agenda Item #3. Reports and discussion regarding Texas Physician Health Program. (Dr. Fitzwater)

It was announced by Dr. McNeese that there was no report to be provided to the DPRC under Agenda Item #3.

Agenda Item #4. Discussion, recommendation, and possible action regarding renewals involving impaired licensees. (Ms. Robinson)

It was announced by Ms. Robinson that there were no impaired renewals to be presented to the DPRC under Agenda Item #4.

Ms. Attebury moved, and Dr. Wang seconded; the motion passed at 11:46 am. to go into Executive Session for deliberations concerning disciplinary action, investigative information, peer review information, and rehabilitation orders under the authority of The Medical Practice Act Sections 152.009, 160.006 through .008, 164.007(c), Texas Occupations Code. Open session resumed at 1:21 p.m., and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Agenda Item #11. Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 14-3803, 16-0447, 16-1407, 16-1944, 16-1945, 16-3610, 16-4545, 16-5034, 16-5067; ii. Legal Files: 16-0234 (15-5323), 16-0534 (16-0496) B. Jurisdictional-Not-Filed Complaints: 16-5050, 16-5083, 16-5131, 16-5988, 16-6526, 16-6684, 16-6835, 16-6884, 16-6992, 16-6993, 16-7090, 16-7161, 16-7312, 16-7508, 16-7509, 16-7510, 16-7531, 16-7579 C. Non-Jurisdictional Complaints: 16-7947

Dr. Wang moved, and Dr. Willeford seconded that the appeal of Item 11.A.i, Log #s 16-1944 and 16-1945 be granted to be re-evaluated with new experts on the question of whether the two physicians adequately looked at data from tests that they ordered prior to surgery. Direction to staff was given to investigate the radiologists from the initial July 2014 CT scan, who may have missed an initial finding that may have prevented the situation, as well as the interpreting radiologist from the second preoperative scan because of the delay in producing a report that could have helped the surgeons. Motion carried.

Ms. Attebury moved, and Dr. Holliday seconded that the appeal of Item 11.A.i, Log #16-5067 be granted and sent to ISC. Motion carried.

Dr. McNeese moved, and Dr. Varma seconded that the appeal of Item 11.B, Log #16-6526 be denied and a custom letter be sent stating that even if a procedure is time sensitive that more complete communications must be made to the patient outlining the pros and cons of treatment, and that any changes to the planned procedure need to be documented. The letter should make clear that improved communications with the patient are paramount. Motion carried.

Dr. McNeese moved, and Dr. Varma seconded that the appeal of Item 11.A.i, Log #14-3803 be granted and sent to a new set of experts with the specific questions of whether supervision of the PA was appropriate and why a psychiatric consult was not done on a psychotic patient that ultimately aspirated and died. Motion carried.

Dr. Varma moved, and Ms. Attebury seconded that all other appeals under Agenda Item 11.A.i. not specifically granted above be denied. Motion carried.

Ms. Attebury moved, and Dr. Swann seconded that all appeals under Agenda Item 11.A.ii. be denied. Motion carried.

Dr. Willeford moved, and Dr. Holliday seconded that the appeal of Item 11.B, Log #16-6911 be granted and more information be gathered to find out if Respondent had an ownership interest in the facility and see what the billing records show and if they are in line with the estimates given to the patient. Motion carried.

Dr. Wang moved, and Dr. Holliday seconded that the appeal of Item 11.B, Log #16-6993 be granted. Motion carried.

Dr. Varma moved, and Ms. Attebury seconded that all other appeals under Agenda Item 11.B not specifically granted above be denied. Motion carried.

Dr. McNeese moved, and Dr. Varma seconded that the appeal of Item 11.C Log #16-7947 be granted. Motion carried.

Agenda Item #5. Discussion, recommendation, and possible action regarding Compliance administrative FO-4 Waivers and information provided to licensees.

Direction was given to staff that one waiver be given, one time, per order.

Agenda Item #6. Review, discussion, and possible action regarding orders that involve restriction on the treatment of chronic pain. (Dr. Bredt)

Direction was given to staff to delete the standard paragraph in question and when these questions arise, focus more on the problem of origin and limit them to a specific area of practice.

Agenda Item #7. Reports and discussion regarding the Investigation, Litigation, and Compliance Departments.

Ms. Robinson presented the Enforcement Report for August 2016, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #8. Review, discussion, and possible action regarding review of probationer's appearances.

Dr. Holliday moved, and Ms. Attebury seconded that the waiver list on Agenda Item #08 be approved. Motion carried.

Agenda Item #9. Consideration and approval of membership of the Expert Physician Panel.

Dr. Holliday moved, and Dr. Wang seconded that the appointments of members to the Expert Panel be accepted as noted in the attachment. Motion carried.

Agenda Item #10. Reports and discussion regarding cases over one year old.

Ms. Robinson presented to the DPRC the current status of cases that are over one year old. To date, all investigations over one year are in criminal courts for a resolution and the majority of the litigation cases are at SOAH. This was an informational item only and no vote was necessary.

Agenda Item #12. Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the DPRC for follow-up action, specifically including: 14-5370, 16-3426, custom letter to hospital regarding 9 licensees/files

Dr. Willeford moved, and Dr. Holliday seconded that follow-up file #14-5370 be dismissed. Motion carried.

Dr. Varma moved, and Dr. Wang seconded that follow-up file #16-3426 be sent to ISC for the specific issue related to the legal question of reporting suspected child abuse. Motion carried.

Direction to staff to continue with custom letter, making sure that confidential information is not divulged.

Agenda Item #13. Review, discussion, and possible action regarding selected files and cases.

Direction to staff was given regarding legal file 16-0620 to leave the matter pending and wait to see outcome of ISC on the physician.

Ms. Attebury moved, and Dr. Shulkin seconded; the motion passed at 2:50 pm. to go into Executive Session for deliberations concerning disciplinary action, investigative information, peer review information, and rehabilitation orders under the authority of The Medical Practice Act Sections 152.009, 160.006 through .008, 164.007(c), Texas Occupations Code. Open session resumed at 3:01 p.m., and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Ms. Attebury moved, and Dr. Wang seconded that the investigations and cases reviewed by the committee be resolved as noted and that they be listed along with each resolution as part of the minutes of this Committee. Motion carried.

Agenda Item #14. Adjourn.

Ms. Attebury moved, and Dr. Holliday seconded that the meeting adjourn.

Motion carried at 3:08 p.m.

Expert Panel Members for Board Approval October 2016

LAST	FIRST	LIC #	CITY	SPECIALTY
Desai	Seemal	N3612	Plano	Dermatology

Interim Approval

DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED

ISC PANEL RECOMMENDATIONS – Texas Medical Board October 13, 2016

ISC Dismissal's

CASE # CLOSE CONTINUE TO ISC

16-0819	X		
16-0834	X		
16-0728	X		
16-0614	X		
16-0732	X		
16-0715	X		
16-0067	X		
16-0730	X		
16-0752	X		
16-0775	X		
16-0755	X		
16-0835	X		
16-0649	X		
16-0908	X		
16-0771	X		
16-0741	X		
16-0537	X		
16-0828	X		
16-0825	X		
16-0863	X		
16-0772	X		
16-0647	X		
16-0673	X		
16-0570	X		
16-0844	X		
16-0832	X		
16-0719	X		
16-0700	X		
16-0830	X		
16-0750	X		

16-0808	X		
16-0720	X		
16-0884	X		
*16-0784		X	
*16-0882		X	

Total = 35

* = added late

COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

16-0836	X		
15-0908	X		
16-0921	X		
16-0852	X		
16-0674	X		
16-0758	X		
16-0807	X		

Total = 7

Pre-Approved for Submission/COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

17-0015	X		
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SOAH Case Dismissals (To be reviewed by full committee) Also, to have Formal complaint in LF

CASE # CLOSE CONTINUE TO ISC

16-0580	X		
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Total = 1

TXPHP Dismissals

CASE # CLOSE CONTINUE TO ISC

16-0821	X		
16-0833	X		
16-0909	X		
16-0608	X		

Total = 4

Disciplinary Committee Decisions Regarding Complaints Reviewed Pursuant to Staff or ISC Panel Recommendation
(Physicians)

Total : 130

Log Number	Allegation	Close	Continue	ISC	Hold	Name
145370	164.051(A)(6)	X				
150616	164.052(A)(5)	X				
161774	164.051(A)(6)	X				
162119	164.052(A)(5)	X				
162266	164.051(A)(6)	X				
162449	164.051(A)(6)	X				
162875	164.051(A)(6)	X				
163074	164.053(A)(1)	X				
163162	164.053(A)(6)	X				
163219	164.051(A)(6)	X				
163221	151.002(A)(13)	X				
163224	164.053(A)(6)	X				
163426	164.051(A)(6)			X		
163447	164.051(A)(6)	X				
163512	164.051(A)(6)	X				
163515	164.051(A)(6)	X				
163541	164.052(A)(5)	X				
163618	101.351	X				
163885	164.052(A)(5)	X				
163921	164.052(A)(5)	X				
163932	164.053(A)(5)	X				
164013	164.052(A)(5)	X				
164020	164.051(A)(6)	X				
164066	164.052(A)(5)	X				
164204	164.051(A)(6)	X				
164242	164.052(A)(5)	X				
164250	164.051(A)(6)	X				
164401	164.051(A)(6)	X				
164402	164.053(A)(6)		X			
164408	164.051(A)(6)	X				
164426	164.052(A)(5)	X				
164448	159.006	X				
164478	164.052(A)(5)	X				
164494	164.051(A)(6)	X				
164573	164.051(A)(6)	X				
164614	164.053(A)(6)	X				
164618	164.051(A)(6)	X				
164628	101.351	X				
164629	164.051(A)(6)	X				
164631	164.051(A)(6)	X				
164639	164.052(A)(5)	X				
164663	164.051(A)(6)	X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
164771	164.051(A)(6)	X				
164786	164.052(A)(5)	X				
164798	164.051(A)(6)	X				
164801	159.002	X				
164856	164.053(A)(6)	X				
164882	164.051(A)(6)	X				
164885	164.051(A)(6)	X				
164923	164.051(A)(6)	X				
164933	164.051(A)(6)	X				
164940	164.051(A)(6)	X				
164967	164.052(A)(5)	X				
164981	164.051(A)(6)	X				
164990	164.051(A)(6)	X				
164992	164.051(A)(6)	X				
164993	164.051(A)(6)	X				
165018	164.053(A)(6)	X				
165038	164.051(A)(6)	X				
165075	164.051(A)(6)	X				
165081	164.051(A)(6)	X				
165082	164.051(A)(6)		X			
165102	164.051(A)(6)	X				
165109	101.351	X				
165142	164.052(A)(17)	X				
165143	151.002(A)(13)	X				
165163	164.052(A)(5)	X				
165171	164.051(A)(6)	X				
165187	164.051(A)(7)	X				
165189	164.051(A)(6)	X				
165190	164.051(A)(6)	X				
165191	164.051(A)(6)	X				
165195	164.051(A)(6)	X				
165203	164.051(A)(6)	X				
165256	164.051(A)(6)	X				
165257	164.051(A)(6)	X				
165263	164.051(A)(6)	X				
165280	164.051(A)(6)	X				
165326	164.051(A)(6)	X				
165351	164.053(A)(6)	X				
165375	164.051(A)(6)	X				
165472	164.051(A)(6)	X				
165476	164.051(A)(6)	X				
165535	164.051(A)(6)	X				
165556	164.051(A)(6)	X				
165619	164.051(A)(6)	X				
165689	164.052(A)(5)	X				
165691	164.053(A)(5)	X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
165743	159.006	X				
165744	164.051(A)(6)	X				
165745	164.052(A)(5)	X				
165755	101.351	X				
165758	164.051(A)(6)	X				
165799	164.052(A)(5)	X				
165826	164.052(A)(5)	X				
165840	164.051(A)(6)	X				
165851	164.051(A)(6)	X				
165861	164.051(A)(6)	X				
165878	101.351	X				
165934	164.051(A)(4)(A)	X				
165940	164.053(A)(1)	X				
165984	164.052(A)(5)	X				
165985	164.051(A)(6)	X				
165993	164.051(A)(6)	X				
166064	164.052(A)(5)	X				
166114	164.051(A)(6)	X				
166156	164.052(A)(5)	X				
166204	164.051(A)(6)	X				
166288	164.052(A)(5)	X				
166414	601.252(C)(3)	X				
166472	164.051(A)(6)	X				
166535	164.052(A)(5)	X				
166590	164.052(A)(5)	X				
166592	164.052(A)(5)	X				
166593	164.053(A)(1)	X				
166675	164.053(A)(8)	X				
166676	151.002(A)(13)	X				
166681	101.201	X				
166682	101.201	X				
166683	151.002(A)(13)	X				
166875	164.053(A)(1)	X				
166877	164.053(A)(1)	X				
166948	164.051(A)(4)(B)	X				
166949	164.053(A)(1)	X				
167005	164.052(A)(5)	X				
167100	164.052(A)(5)	X				
167154	102.001	X				
167230	164.052(A)(5)	X				
167651	164.053(A)(1)	X				
167652	164.053(A)(1)	X				