

**TEXAS MEDICAL BOARD**  
**MINUTES OF THE**  
**DISCIPLINARY PROCESS REVIEW COMMITTEE**  
June 9, 2016

Chair Margaret C. McNeese, M.D., called the meeting to order at 11:08 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., and George Willeford III, M.D. Committee Members Michael Arambula, M.D., Pharm.D, David Baucom, Manuel Guajardo, M.D., and Stanley Wang, M.D. were not present.

Staff members present were Mari Robinson, Executive Director, 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).

The Executive Director, Dr. John B. Fitzwater, presented the status of certain cases in PHP’s current caseload to the DPRC for possible referral back to the Board and requested guidance.

**Dr. Varma moved, and Dr. Holliday seconded that PHP Case #1 remain under the management of PHP. Motion carried.**

**Dr. Varma moved, and Ms. Attebury seconded that PHP Case #2 remain under the management of PHP. Motion carried.**

**It was announced by Dr. Fitzwater that PHP Case #3 be stricken from the agenda.**

**Dr. Varma moved, and Dr. Holliday seconded that PHP Case #4 be returned to the jurisdiction of the Texas Medical Board. Motion carried.**

**Ms. Attebury moved, and Dr. Holliday seconded that PHP Case #5 remain under the management of PHP. Motion carried.**

**Dr. Holliday moved, and Dr. Varma seconded that PHP Case #6 be returned to the jurisdiction of the Texas Medical Board for an ISC. Motion carried.**

**Dr. Willeford moved, and Dr. Holliday seconded that PHP Case #7 remain under the jurisdiction of PHP and if the individual’s license is not cancelled in 60 days, the case is to be returned to the jurisdiction of the Texas Medical Board. Motion carried.**

**It was announced by Ms. Robinson that PHP Case #8 be stricken from the agenda.**

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

This was an informational item only and no vote was necessary.

**Agenda Item #4.** Discussion, recommendation, and possible action regarding participant fees for Texas Physician Health Program. (Ms. Robinson)

This was an informational item only and no vote was necessary.

**Agenda Item #10.** Discussion regarding standard information provided at Informal Settlement Conferences by the Texas Physician Health Program

This was an informational item only and no vote was necessary.

**Ms. Attebury moved, and Dr. Holliday seconded; the motion passed at 12:21 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 3:14 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 #14.** Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 15-1883, 15-3660, 15-5218, 15-5445, 15-7469 15-7543, 16-0490, 16-0999, 16-2117; ii. Legal Files: 15-0717 (15-1563), 15-0768 (15-2720), 15-0951 (15-3821), 16-0061 (15-5011), 16-0061 (15-6402), 16-0079 (15-4138) B. Jurisdictional-Not-Filed Complaints: 14-6762, 15-2920, 16-1148, 16-1149, 16-1973, 16-1986, 16-2025, 16-2188, 16-2199, 16-2282, 16-2297, 16-2418, 16-2477, 16-2498, 16-2707, 16-2761, 16-2769, 16-2826, 16-2828, 16-2924, 16-3056, 16-3199, 16-3309, 16-3441, 16-3471, 16-3510, 16-3576, 16-3669, 16-3829, 16-3842, 16-3880, 16-3881, 16-4109, 16-4147, 16-4151, 16-4428, 16-4646. C. Non-Jurisdictional Complaints: 16-2829

**Ms. Attebury moved, and Dr. Holliday seconded that the appeal of Item 14.A.i, Log #16-2117 be denied.**

**Dr. Willeford moved, and Ms. Attebury seconded that all other appeals under Agenda Item 14.A.i. not specifically granted above be denied. Motion carried.**

**Dr. Varma moved, and Dr. Willeford seconded that the appeal of Item 14.A.ii, Log #15-0768 (15-2720) be denied and a custom letter be sent to the Respondent regarding better communication with other specialists and hospitalist involved in patient's care. Motion carried.**

**Dr. Shulkin recused himself from any discussion and decision on this case.**

**Dr. Swann moved, and Dr. Holliday seconded that the appeal of Item 14.A.ii, Log #15-0951 (15-3821) be denied and a custom letter be sent to the Respondent reminding of the importance of following through of operating reports, suggesting timely communication, and paying attention to medical record system changes. Motion carried.**

**Dr. Willeford moved, and Dr. Varma seconded that all other appeals under Agenda Item 14.A.ii. not specifically granted above be denied. Motion carried.**

**Dr. McNeese moved, and Dr. Varma seconded that the appeal of Item 14.B, Log #16-3842 be denied. Motion carried.**

**Dr. McNeese moved, and Dr. Holliday seconded that the appeal of Item 14.B, Log #16-3510 be granted and sent for a full investigation. Motion carried.**

**Dr. Holliday moved, and Dr. Willeford seconded that the appeal of Item 14.B, Log #16-1986 be granted and kept in the preliminary stage (45 day time period) in order to get an official read from the radiologist. If a fracture is indicated on the report, staff will open for full investigation. If a fracture is not indicated, staff is to return the file back to JNF status. Motion carried.**

**Dr. Varma moved, and Ms. Attebury seconded that the appeal of Item 14.B, Log #16-3669 be granted to get an initial response from the Respondent in a 45 day timeframe. Motion carried.**

**Ms. Attebury moved, and Dr. Willeford seconded that all other appeals under Agenda Item 14.B. not specifically granted above be denied, with the exception of Log #14-6762 which has been moved to the August 2016 board meeting as a courtesy to the complainant. Motion carried.**

**Dr. McNeese moved, and Dr. Willeford seconded that all appeals under Agenda Item 14.C. be denied. Motion carried.**

**Agenda Item #15.** Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the DPRC for follow-up action, specifically including: 15-7349

**Dr. Willeford moved, and Ms. Attebury seconded that follow-up file #15-7349 be dismissed. Motion carried.**

**Agenda Item #5.** Discussion, recommendation, and possible action regarding renewals involving impaired licensees. (Ms. Robinson)

It was announced by Ms. Robinson that there were no renewal cases to be presented to the DPRC for consideration under Agenda Item 5.

**Agenda Item #6.** Reports and discussion regarding the Investigation, Litigation, and Compliance Departments.

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

**Agenda Item #7.** Discussion, recommendation, and possible action regarding proposed changes to the following chapters in Title 22 of the Texas Administrative Code:

- A. Chapter 177, Business Organizations,
  - §177.16 – (Subchapter C) Physician Assistants
- B. Chapter 187, Procedural Rules,
  - §187.18 – (Subchapter B) Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance
  - §187.95 – Purpose and Construction
  - §187.97 – Child Support Payment Default
  - §187.98 – Student Loan Default (Subchapter K) – Procedures Related to Child Support Payment or Student Loan Default
- C. Chapter 200, Standards for Physicians Practicing Complementary and Alternative Medicine,
  - §200.3 – Practice Guidelines for the Provision of Complementary and Alternative Medicine

**Dr. McNeese moved, and Dr. Varma seconded that the amendments to rules §177.16 under Agenda Item 7.A. be approved for publication and comment. Motion carried.**

**Dr. Varma moved, and Ms. Attebury seconded that the amendments to rules §187.18 under Agenda Item 7.B. be approved for publication and comment. Motion carried.**

**Agenda Item 7.B §187.95, 187.97, and 187.98 were pulled from the agenda.**

**Dr. Willeford moved, and Ms. Attebury seconded that the amendments to rules §200.3 under Agenda Item 7.C. be approved for publication and comment. Motion carried.**

**Agenda Item #8.** Discussion regarding active Board Certification for Expert Panelists

Direction was given to staff that a mechanism be put into place to confirm continued active Board Certification.

**Agenda Item #9.** Review, discussion, and possible action regarding the requirement in Board Rule 189.11, Process for Approval of Physicians, Other Professionals, Group Practices and Institutional Settings for board certification in the same or associated specialty as the probationer

Direction was given to staff that the chart monitor must be in the same or a similar specialty that the licensee is practicing in and that the Medical Director has discretion when the physician has multiple specialties or other ambiguous situations.

**Agenda Item #11.** Review, discussion, and possible action regarding review of probationer's appearances.

**Dr. Willeford moved, and Ms. Attebury seconded that the waiver list on Agenda Item #11 be approved. Motion carried.**

**Agenda Item #12.** Consideration and approval of membership of the Expert Physician Panel.

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

**Agenda Item #13.** 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 #16.** Review, discussion, and possible action regarding selected files and cases.

**Dr. Varma moved, and Dr. Holliday 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 #17.** Adjourn.

**Dr. Swann moved, and Dr. Varma seconded that the meeting adjourn.**

**Motion carried at 3:40 p.m.**

**TMB - Disciplinary Process Review Committee  
(DPRC) TXPHP - Participant Case Review  
June 9, 2016**

<b>Case #</b>	<b>Remain with PHP</b>	<b>TMB Accepted</b>	<b>Continue</b>
1	X		
2	X		
3	<b>PULLED</b>		
4		X	
5	X		
6		X	
7	X for 60 days		
8	<b>PULLED</b>		

**Expert Panel Members for Board Approval June 2016**

<b>LAST</b>	<b>FIRST</b>	<b>LIC #</b>	<b>CITY</b>	<b>SPECIALTY</b>
Lee	Ernestine	Q5851	Austin	Family Medicine
Wagner	Louis	MP0082	The Woodlands	Medical Physicist
Yanosik	Justin	N9012	Houston	Anesthesiology/ Pain Management

**Interim Approval**

Booser	Daniel	F5840	Houston	Internal Medicine/ Oncology
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**DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED**  
**ISC PANEL RECOMMENDATIONS – Texas Medical Board**      June 9, 2016

**ISC Dismissal's**

CASE #   CLOSE   CONTINUE TO ISC

16-0348	X		
16-0490	X		
16-0305	X		
16-0230	X		
16-0297	X		
16-0247	X		
16-0483	X		
16-0277	X		
16-0235	X		
16-0245	X		
16-0347	X		
16-0260	X		
16-0409	X		
16-0385	X		
16-0489	X		
16-0246	X		
16-0185	X		
16-0479	X		
16-0271	X		
16-0234	X		
15-0206	X		
16-0200	X		
16-0392	X		
16-0135	X		
16-0351	X		
16-0199	X		
16-0294	X		
16-0394	X		
16-0339	X		
16-0274	X		
16-0240	X		



16-0206	X		
15-0144	X		
16-0342	X		
16-0266	X		
16-0481	X		
16-0238	X		
16-0329	X		
16-0233	X		
16-0450	X		
16-0098	X		
16-0251	X		
16-0387	X		
16-0471	X		
15-0540	X		
16-0446	X		
15-0865	X		
16-0461	X		
16-0449	X		
16-0283	X		
16-0141	X		
16-0408	X		

**Total = 52**

**COMPLAINTS REVIEWED PURSUANT TO STAFF**

CASE # CLOSE CONTINUE TO ISC

16-0470	X		
16-0552	X		
16-0597	X		
16-0619	X		
16-0003	X		
16-0467	X		
16-0330	X		
16-0398	X		
15-0559	X		
16-0566	X		
16-0323	X		

16-0556	X		
16-0419	X		
15-0811	X		
16-0281	X		

Total = 15

### **COMPLAINTS REVIEWED PURSUANT TO QA**

CASE # CLOSE CONTINUE TO ISC

16-0519	X		
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Total = 1

### **Pre-Approved for Submission/COMPLAINTS REVIEWED PURSUANT TO STAFF**

CASE # CLOSE CONTINUE TO ISC

15-0359	X		
16-0475	X		
16-0488	X		
16-0513	X		
16-0671	X		
16-0512	X		
16-0286	X		

Total = 7

### **SOAH Case Dismissals** (To be reviewed by full committee) Also, to have Formal complaint in LF

CASE # CLOSE CONTINUE TO ISC

12-0388	X		
15-0549	X		
13-0956	X		
15-0310	X		

Total = 4

### **PHP Resolved Dismissals**

CASE # CLOSE CONTINUE TO ISC

16-0322	X		
16-0324	X		
16-0359	X		

Total = 3

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

Total : 263

Log Number	Allegation	Close	Continue	ISC	Hold	Name
146929	164.052(A)(5)	x				
154847	164.051(A)(6)	x				
155447	164.051(A)(6)	x				
155568	164.051(A)(6)	x				
156260	164.051(A)(6)	x				
156590	164.051(A)(6)	x				
156624	164.052(A)(5)	x				
156950	164.051(A)(6)	x				
156989	164.052(A)(5)	x				
157014	164.052(A)(5)	x				
157018	164.051(A)(7)	x				
157024	164.051(A)(6)	x				
157025	164.051(A)(6)	x				
157045	164.051(A)(6)	x				
157061	164.053(A)(6)	x				
157153	164.052(A)(5)	x				
157205	164.051(A)(6)	x				
157349	164.051(A)(6)	x				
157460	164.051(A)(6)	x				
157494	164.051(A)(6)	x				
157541	164.052(A)(5)	x				
157542	164.052(A)(5)	x				
157642	164.053(A)(6)	x				
157646	164.051(A)(6)	x				
157647	164.051(A)(6)	x				
157649	164.051(A)(6)	x				
160084	164.052(A)(5)	x				
160123	164.051(A)(6)	x				
160133	164.051(A)(6)	x				
160211	164.051(A)(6)	x				
160242	164.051(A)(6)	x				
160243	164.051(A)(6)	x				
160300	164.051(A)(3)	x				
160326	164.051(A)(6)	x				
160354	164.053(A)(6)	x				
160363	164.051(A)(6)	x				
160384	164.051(A)(6)	x				
160385	164.053(A)(1)	x				
160394	164.051(A)(6)	x				
160415	164.051(A)(6)	x				
160426	164.052(A)(5)	x				
160438	164.051(A)(6)	x				
160447	164.051(A)(6)	x				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
160489	164.053(A)(6)	x				
160503	164.051(A)(6)	x				
160530	164.051(A)(6)	x				
160550	164.051(A)(6)	x				
160569	164.051(A)(6)	x				
160604	164.053(A)(6)	x				
160623	105.002(A)(1)	x				
160626	164.051(A)(6)	x				
160646	604.201(B)(2)	x				
160655	164.053(A)(5)	x				
160677	604.201(B)(2)	x				
160741	164.053(A)(5)	x				
160744	164.053(A)(5)	x				
160795	164.051(A)(6)	x				
160803	164.051(A)(6)	x				
160805	164.053(A)(5)	x				
160808	164.051(A)(6)	x				
160812	164.051(A)(6)	x				
160817	164.053(A)(6)	x				
160930	164.053(A)(1)	x				
160947	164.052(A)(5)	x				
160950	164.052(A)(4)	x				
160955	164.051(A)(6)	x				
160960	164.051(A)(7)	x				
161028	164.051(A)(6)	x				
161051	164.051(A)(6)	x				
161055	164.052(A)(5)	x				
161066	164.051(A)(6)	x				
161124	151.002(A)(13)	x				
161128	164.053(A)(6)	x				
161154	164.051(A)(6)	x				
161181	164.053(A)(8)	x				
161212	164.052(A)(5)	x				
161222	164.051(A)(6)	x				
161232	164.051(A)(6)	x				
161283	164.052(A)(5)	x				
161296	164.052(A)(5)	x				
161301	164.052(A)(5)	x				
161304	164.052(A)(6)	x				
161323	164.051(A)(6)	x				
161345	164.051(A)(4)(D)	x				
161367	164.051(A)(6)	x				
161373	164.053(A)(6)	x				
161374	164.051(A)(6)	x				
161401	164.051(A)(6)	x				
161404	164.052(A)(5)	x				
161407	164.051(A)(6)	x				
161408	164.051(A)(6)	x				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
161422	164.053(A)(6)	x				
161456	164.053(A)(6)	x				
161464	164.052(A)(17)	x				
161470	164.052(A)(5)	x				
161480	164.051(A)(6)	x				
161500	159.002	x				
161501	164.053(A)(6)	x				
161502	164.051(A)(6)	x				
161541	164.051(A)(6)	x				
161602	164.051(A)(6)	x				
161609	164.052(A)(5)	x				
161664	164.051(A)(6)	x				
161681	164.052(A)(5)	x				
161695	164.053(A)(6)	x				
161696	164.051(A)(6)	x				
161704	164.051(A)(6)	x				
161720	164.053(A)(6)	x				
161721	164.051(A)(6)	x				
161743	101.351	x				
161751	164.051(A)(6)	x				
161815	164.051(A)(6)	x				
161861	164.051(A)(6)	x				
161877	164.053(A)(1)	x				
161884	164.051(A)(6)	x				
161886	164.052(A)(5)	x				
161887	164.052(A)(5)	x				
161917	164.052(A)(5)	x				
161920	159.006	x				
161925	164.052(A)(5)	x				
161952	164.052(A)(5)	x				
161959	164.051(A)(6)	x				
161966	164.051(A)(6)	x				
161972	164.051(A)(6)	x				
161976	164.051(A)(6)	x				
161979	101.351	x				
161980	101.351	x				
161983	164.051(A)(6)	x				
162014	164.051(A)(6)	x				
162024	151.002(A)(13)	x				
162031	164.052(A)(5)	x				
162040	164.051(A)(6)	x				
162046	164.052(A)(5)	x				
162048	164.051(A)(6)	x				
162053	164.053(A)(6)	x				
162073	164.052(A)(5)	x				
162097	164.051(A)(6)	x				
162113	164.051(A)(6)	x				
162138	164.052(A)(5)	x				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
162141	151.002(A)(13)		x			
162158	164.051(A)(6)	x				
162171	164.053(A)(1)	x				
162172	164.053(A)(1)	x				
162175	151.002(A)(13)	x				
162176	164.052(A)(5)	x				
162177	101.351	x				
162182	164.052(A)(5)	x				
162197	164.051(A)(6)	x				
162211	164.053(A)(6)	x				
162214	164.051(A)(6)	x				
162247	601.302(5)	x				
162248	164.053(A)(1)	x				
162270	164.051(A)(6)	x				
162273	164.051(A)(6)	x				
162290	164.052(A)(5)	x				
162302	164.052(A)(5)	x				
162312	101.351	x				
162319	164.051(A)(6)	x				
162329	164.052(A)(5)	x				
162334	164.051(A)(6)	x				
162343	164.051(A)(6)			x		
162364	164.051(A)(6)	x				
162365	164.051(A)(6)	x				
162366	164.051(A)(6)	x				
162367	164.051(A)(6)	x				
162369	164.052(A)(5)	x				
162391	164.053(A)(6)	x				
162406	164.051(A)(6)	x				
162407	164.051(A)(6)	x				
162426	164.053(A)(8)	x				
162431	164.053(A)(1)	x				
162435	151.002(A)(13)	x				
162454	164.052(A)(5)	x				
162480	601.302(5)	x				
162492	164.053(A)(1)	x				
162519	164.053(A)(5)	x				
162531	159.006	x				
162535	164.052(A)(5)	x				
162536	164.052(A)(5)	x				
162560	101.351	x				
162583	164.052(A)(5)	x				
162597	164.052(A)(5)	x				
162613	164.051(A)(6)	x				
162635	164.052(A)(4)	x				
162644	101.201	x				
162645	101.201	x				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
162652	164.053(A)(6)	x				
162657	164.051(A)(6)	x				
162686	164.052(A)(5)	x				
162689	164.051(A)(6)	x				
162749	164.053(A)(1)	x				
162750	164.053(A)(1)	x				
162752	164.053(A)(1)	x				
162767	164.052(A)(5)	x				
162793	164.051(A)(6)	x				
162816	601.302(5)	x				
162817	151.002(A)(13)	x				
162818	151.002(A)(13)	x				
162819	151.002(A)(13)	x				
162854	164.053(A)(1)	x				
162856	164.052(A)(5)	x				
162874	164.052(A)(5)	x				
162878	164.052(A)(5)	x				
162923	164.051(A)(6)	x				
162953	164.051(A)(6)	x				
162955	159.002	x				
163042	164.052(A)(5)	x				
163055	164.052(A)(5)	x				
163081	164.052(A)(5)	x				
163087	164.052(A)(5)	x				
163098	164.052(A)(5)	x				
163099	164.051(A)(6)	x				
163100	164.052(A)(5)	x				
163106	164.051(A)(6)	x				
163127	164.051(A)(6)	x				
163161	164.053(A)(6)	x				
163204	164.051(A)(6)	x				
163241	151.002(A)(13)	x				
163253	164.051(A)(6)	x				
163275	164.053(A)(1)	x				
163276	164.053(A)(1)	x				
163279	164.053(A)(1)	x				
163310	601.302(5)	x				
163330	164.051(A)(6)	x				
163348	101.351	x				
163381	101.351	x				
163382	164.053(A)(8)	x				
163402	151.002(A)(13)	x				
163450	164.051(A)(4)(B)	x				
163457	164.052(A)(5)	x				
163468	101.351	x				
163516	164.051(A)(6)	x				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
163525	101.201	x				
163537	164.051(A)(4)(D)	x				
163574	164.053(A)(1)	x				
163589	101.351	x				
163603	164.052(A)(5)	x				
163624	164.053(A)(1)	x				
163625	164.053(A)(1)	x				
163695	164.052(A)(5)	x				
163709	164.053(A)(1)	x				
163742	159.006	x				
163753	164.053(A)(1)	x				
163838	101.351	x				
163869	164.053(A)(1)	x				
163877	164.053(A)(1)	x				
163934	151.002(A)(13)	x				
164009	164.052(A)(5)	x				
164067	164.052(A)(5)	x				
164103	164.052(A)(5)	x				
164104	164.052(A)(5)	x				
164129	164.052(A)(5)	x				
164136	164.052(A)(5)	x				
164137	164.051(A)(4)(C)	x				
164157	164.052(A)(5)	x				
164174	151.002(A)(13)	x				
164182	164.052(A)(5)	x				
164184	164.052(A)(5)	x				
164240	164.052(A)(5)	x				
164280	164.053(A)(1)	x				
164476	164.052(A)(5)	x				
164752	164.051(A)(4)(A)	x				
164756	164.051(A)(4)(D)	x				