



Texas Medical Board

BOARD MEETING

MAY 2, 2014

333 GUADALUPE, TOWER 2, SUITE 225

AUSTIN, TEXAS

The meeting reconvened at 8:02 a.m. The meeting was called to order on May 2, 2014 by Irvin E. Zeitler, Jr., D.O., Board President. Board members present were Michael Arambula, M.D., Vice-President; Julie Attebury; David Baucom; Frank S. Denton; John D. Ellis, J.D.; Carlos L. Gallardo; Manuel G. Guajardo, M.D.; J. Scott Holliday, D.O; Margaret McNeese, M.D.; Robert B. Simonson, D.O.; Stanley S. Wang, M.D.; Timothy Webb, J.D., Devinder S. Bhatia, M.D.; Allan Shulkin, M.D.; Wynne Snoots, M.D.; Karl W. Swann, M.D.; and George Willeford, III, M.D., arrived a few minutes after roll call. Reginald C. Baptiste, M.D., Physician Assistant Board Member and liaison, was also present. Paulette Southard, Secretary/Treasurer was not present. Board staff present were Mari Robinson, J.D., Executive Director; Robert Breddt, M.D., Medical Director, Scott Freshour, J.D., General Counsel; Tonie Knight, Licensure Manager; and Megan Goode, Governmental Affairs & Communications Manager, and various other staff.

Agenda item #1, Mission Statement. Dr. Zeitler read the board's mission statement into the minutes. *Our Mission is to protect and enhance the public's health, safety and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline, and education.*

Clarification regarding the process for reconsideration of a previous motion made the prior day was explained.

Reconsideration of David A. Mosig, D.O., SOAH #503-14-0147.

After discussion, **Dr. Arambula moved, Dr. Holliday seconded, and the motion passed to reconsider the original motion for the Proposal for Decision for David A. Mosig, D.O., SOAH #503-14-0147. After discussion, a vote was taken on the motion to reconsider. The motion passed to reconsider the motion for David A. Mosig, D.O.**

After discussion, **Mr. Gallardo moved, Dr. Bhatia seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law recommended by the Administrative Law Judge in the Proposal for Decision, and the staff suggested final order for revocation.**

There were no items for Agenda item #2.

Agenda item #3, Executive Director Report.

Budget. Ms. Robinson presented the budget update, stating that the agency is experiencing a decrease in the amount of funds spent in professional services rendered by expert panelists. The funds saved have been redirected to hiring additional staff in the Pre-Licensure, Registration & Consumer Services department, and Licensure department to address the increase in licensure applications. In addition, resources were also added to the Litigation department to deal with the large amount of cases that are currently at the State Office of Administrative Hearings.

Legislative update. After Ms. Robinson briefly outlined the draft strategic plan, the board discussed items to include in the strategic plan. Ms. Robinson reported Interim Charges and Committee Hearings were held.

Ms. Robinson discussed trends of faulty drugs and laws surrounding ownership of compounding pharmacies.

Agenda item #7, at 9:00 a.m. Physician coaching presentation. David Teegarden, M.D., M.S., and John McCracken, PhD, gave a presentation on the physician coaching program.

Agenda item #6, Medical Board/Physician Assistant Liaison update. Dr. Wang gave a report on the March 7, 2014 Physician Assistant Board meeting.

Agenda item #8, Discussion, recommendation, and possible action relating to acudetox. As per direction from the February 2014 board meeting, Ms. Tuthill presented information on whether Advanced Practice Registered Nurses were eligible for certification from the Board to practice as acudetox specialists. After discussion, **Mr. Webb moved, Ms. Attebury seconded, and the motion passed to not pursue rulemaking due to the statutory limitations that bars the Board from adding physician assistants to the list of eligible providers who may obtain certification from the Board to perform acupuncture detoxification services, however, the board directed staff to raise this issue with Sunset.**

Agenda item #9, Discussion, recommendation, and possible action relating to testosterone hormone for anti-aging prescribing. Mr. Blech presented research materials as directed at the previous Board meeting. After discussion, **The Board directed staff to address the concerns surrounding testosterone therapy for anti-aging on all TMB media and seek a joint publication with other physician groups.**

Agenda item #10, Discussion, recommendation, and possible action relating to policy that clarifies rule 189.11. After discussion, **the Board directed staff to implement the policy presented related to the Executive Director's authority to withdraw approval for group practice setting and/or physicians who act as workplace monitors or supervisors for probationers.**

Agenda item #11, Discussion, recommendation, and possible action relating to physician emeritus retirement status. After discussion, the Board directed staff to implement the affidavit presented.

Agenda item #12, Discussion, recommendation, and possible action relating to the Maintenance of Certification education credits to maintain board certification status in lieu of continuing medical education (CME). Ms. Robinson brought forth for discussion whether the Medical Board should accept proof of MOC to fulfill CME requirements. After discussion, the Board directed staff to gather documentation on how American Board of Medical Specialties tracks participation in the Maintenance of Certifications (MOC) program, how the Medical Board's acceptance of proof of MOC to fulfill CME requirements would function, and directed staff to draft a proposed rule.

Agenda item #13, Discussion, recommendation, and possible action relating to sleep medicine. After discussion, the Board directed staff to modify the current proposed comments to proposed Rule §108.12 and submit to the Dental Board.

Agenda item #14, Discussion, recommendation, and possible action relating to a request for a position on the Surgical Assistant Stakeholder group. After discussion, the Board directed staff to approve the request for a position on the Surgical Assistant Stakeholder group.

Agenda item #15, Discussion, recommendation, and possible action regarding chart monitor procedures. Ms. Robinson gave a brief overview regarding chart monitor procedures. Dr. Bredt presented options in the event a chart monitor recommends restricting or suspending the probationer's practice. After discussion, the Board directed staff to set a 10 day notice hearing if the chart monitor recommends a chart monitor or a restriction. The hearings panel at that time would be able to consider modifying the current order.

Agenda item #16, at 10:30 a.m. Presentation by the Center for Personalized Education for Physicians. Beth Korinek, CEO, gave a presentation regarding the Center for Personalized Education for Physicians.

Agenda item #4, Medical Director Report.

OBA Statistics. Dr. Bredt reported the office-based anesthesia statistics previously requested by the Board. The Board directed staff to continue to monitor statistics and address the Board's concern with Sunset.

Agenda item #5, Public Information Update. Ms. Goode provided an update on the agency's new website.

Agenda item #17, Consideration and possible action regarding pending litigation. Mr. Freshour gave a report on pending litigation.

Agenda item #3, Executive Director Report. (Continued)

Standard paragraph for Agreed Orders. Ms. Robinson presented a revised closing paragraph that is standardly used in Agreed Orders. After discussion, **the Board directed staff to implement the presented closing paragraph.**

Audit Update. Ms. Robinson reviewed the audit report on performance measures conducted by the State Auditor's Office.

Outreach Update. Ms. Robinson reviewed the Outreach presentation schedule and reported a goal to have Outreach presentations available to licensed physicians in major cities.

Agenda item #34 at 11:30 a.m. Discussion, recommendation, and possible action regarding the adoption of proposed amendments and rule review to 22 Texas Administrative Code:

§175.1, Application and Administrative Fees

§175.2, Registration and Renewal Fees

Ms. Pajak gave a brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Ms. Attebury moved, Dr. McNeese seconded, and the motion passed to adopt the proposed amendments and rule review for 22 Texas Administrative Code §175.1, Application and Administrative Fees; and §175.2, Registration and Renewal Fees, as published in the Texas Register.**

§187.35, Presentations of Proposal for Decision

§187.37, Final Decisions and Final Orders

§187.38, Motions for Rehearing

Ms. Tuthill gave a brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Wang moved, Dr. Arambula seconded, and the motion passed to adopt the proposed amendments and rule review for 22 Texas Administrative Code §187.35, Presentations of Proposal for Decision; §187.37, Final Decisions and Final Orders; and §187.38, Motions for Rehearing, as published in the Texas Register.**

Agenda item #37, Discussion, recommendation, and possible action regarding adoption of proposed rule changes to 22 T.A.C. Chapter 185, Physician Assistants.

§185.2. Definitions

§185.4. Procedural Rules for Licensure Applicants

§185.10. Physician Assistant Scope of Practice

§185.11. Tasks Not Permitted to be Delegated to a Physician Assistant

§185.13. Notification of Intent to Practice and Supervise

§185.14. Physician Supervision

§185.30. Prescriptive Authority Agreements

§185.31 Prescriptive Authority Agreements: Minimum Requirements

Ms. Tuthill gave a brief summary of proposed amendments to Chapter 185. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Wang moved, Dr. Arambula seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 185. Physician Assistants, §185.2. Definitions; §185.4. Procedural Rules for Licensure Applicants; §185.10. Physician Assistant Scope of Practice; §185.11. Tasks Not Permitted to be Delegated to a Physician Assistant; §185.13. Notification of Intent to Practice and Supervise; §185.14. Physician Supervision; §185.30. Prescriptive Authority Agreements; §185.31 Prescriptive Authority Agreements: Minimum Requirements, as recommended by the Physician Assistant Board.**

Agenda item #34 at 11:30 a.m. Discussion, recommendation, and possible action regarding the adoption of proposed amendments and rule review to 22 Texas Administrative Code:

§189.4, Limitation on Physician Probationer's Practice

Ms. Tuthill gave a brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Arambula moved, Dr. Shulkin seconded, and the motion passed to adopt the proposed amendments and rule review for 22 Texas Administrative Code §189.4, Limitation on Physician Probationer's Practice, as published in the Texas Register.**

Agenda item #35, Discussion, recommendation, and possible action regarding a petition for proposed rule changes to 22 T.A.C. Chapter 183, Acupuncture, related to general wellness. After discussion, Mr. Gallardo moved, Dr. Simonson seconded, and the motion passed to decline the petition due to statute limitations; the board recommended to evaluate the matter during Sunset review.

Agenda item #36, Discussion, recommendation, and possible action regarding adoption of proposed rule changes to 22 T.A.C. Chapter 183, Acupuncture.

§183.11 Complaint Procedure Notification.

Mr. Freshour gave brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Bhatia moved, Mr. Gallardo seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 183, Acupuncture, §183.11 Complaint Procedure Notification as recommended by Texas State Board of Acupuncture Examiners.**

Agenda item #3, Executive Director Report. (Continued)

Hospital Report. Ms. Robinson discussed concerns related to hospital reporting of physicians and whether the board rules and statutes in place to accomplish reporting are appropriate. After discussion, **the Board directed staff to proceed with drafting a legislative resolution to the current procedures in place.**

Temporary Suspensions. Ms. Robinson discussed the Board's limitations when pursuing a Temporary Suspension where an incident is not recent. After discussion, **the Board directed staff to clarify the existing statute related to Temporary Suspension proceedings by ensuring that the time lapsed in a case is not a factor when setting emergency Temporary Suspensions.**

Agenda item #38, at 12:00 p.m. Open forum for public comments. No one signed in for Open forum public comments.

The board recessed at 12:14 p.m.

The board reconvened at 12:41 p.m.

Agenda item #18, Consideration and approval of Modification Request/Termination Request of Non-Public Rehabilitation Orders. After consideration, **Dr. Arambula moved, Ms. Attebury seconded, and the motion passed to approve the Modified Agreed Rehabilitation Order #669; and the Termination Granted of Rehabilitation Order #542.**

Agenda item #19, Consideration and approval of Modification Request/Termination Request Orders. Order #7 was excluded from consideration and approval. After consideration, **Dr. Holliday moved, Dr. Arambula seconded, and the motion passed to approve the Modification Requests Granted for James D. Burleson, M.D.; Gary W. Earp, M.D.; James H. Elder, III, D.O.; and Steven Farber, M.D.; the Termination Granted for Brian R. Davis, M.D.; John D. Hunt, M.D.; Yvonne Reed, M.D.; and John Tuinstra, D.O.; the Termination Denied for Ransome Etindi, M.D.; and Mauricio E. Jimenez, M.D., as presented.**

Agenda item #20, Consideration and possible action for Agreed Board Orders. After consideration, **Mr. Gallardo moved, Dr. McNeese seconded, to deny the Agreed Order for Kathryn Judd, M.D., and indefinitely suspended licensees license.** After discussion, **Dr. Snoots made a friendly amendment to probate the suspension, Dr. Snoots withdrew his amendment. A hand vote on the original motion was taken and the motion failed.**

After discussion, **Dr. Snoots moved, Dr. Bhatia seconded, to approve the Agreed Order for Kathryn Judd, M.D., as written; a hand vote was taken and the motion passed.**

Dr. Holliday was recused for consideration of James G. Holliday, D.O.

Dr. Wang was recused for consideration of Jane C. Nelson, M.D.

After discussion, **Dr. Arambula moved, Mr. Webb seconded, and the motion passed to approve the following Agreed Board Orders en masse for: Jaishree R. Ellis, M.D.; Eva Klima, M.D.; Michael Smith, M.D.; Del B. Stigler, M.D.; Rick A. Szumlas, M.D.; James M. DeSantis, M.D.; Xing Gao, M.D.; Humaira V. Khan, M.D.; Jerry M. Keepers, M.D.; Ronda L. Beene, D.O.; Lena R. Bruce, M.D.; Lewis S. Christian, Jr., M.D.; Samuel A. Hale, Jr., M.D.; James G. Holliday, D.O.; Matthew J. Isom, M.D.; Raymond S. Khouw, M.D.; Gregory D. McClain, M.D.; Thomas A. Mitchell, M.D.; Jane C. Nelson, M.D.; Federico R. Ng, M.D.; Juan Saucedo, D.O.; Clyde W. Simmons, M.D.; Robert A. Weaver, M.D.; Ammon D. Weber, M.D.; Daniel M. Brener, M.D.; Richard A. Le, M.D.; Howard Marmell, M.D.; Jeffrey Krantz, D.O.; Edgar A. Lockett, M.D.; William H. Mack, M.D.; Nicolas A. Padron, M.D.; Nick J. Patzakis, D.O.; Samuel J. Pierce, M.D.; Harold H. Randecker, Jr., M.D.; Theodore M. Herring, Jr., M.D.; David S. Burkett, M.D.; and Oscar Quintana, M.D.**

Agenda item #21, Consideration and approval of Mediated Settlement Agreed Orders. After discussion, **Mr. Gallardo moved, Dr. Arambula seconded, and the motion passed to deny the Mediated Agreed Order #13, and refer to SOAH for revocation.**

After discussion, **Dr. Arambula moved, Mr. Gallardo seconded, and the motion passed to approve the following Mediated Settlement Orders en masse for: Justin L. Koch, M.D.; Robert Abbate, D.O.; Adeniran A. Ariyo, M.D.; Monica Clark-Reed, M.D.; Ronald L. Fraser, M.D.; Scott W. Holland, M.D.; Renee C. Smith, M.D.; Chad B. Stephens, D.O.; Job B. Mongare, M.D.; Charles H. Fischer, M.D.; Charles C. Anderson, M.D.; Sabrina Echols-Elliott, M.D.; and Albert E. Rath, M.D.**

Agenda item #22, Consideration and approval of Remedial Plans. After discussion, **Dr. Arambula moved, Dr. McNeese seconded, and the motion passed to approve the Remedial Plan for #45, with the modification to add a chart monitor for 8 cycles instead of 4 cycles.**

After discussion, **Dr. Wang moved, Mr. Webb seconded, and the motion passed to deny the Remedial Plan for #64, and dismiss the underlying case.**

After consideration, **Dr. Arambula moved, Mr. Gallardo seconded, and the motion passed to approve the following Remedial Plans en masse for: Creed W. Abell, IV, M.D.; Charles P. Anderson, M.D.; Charisa R. Arinyedokiari, M.D.; Angelis Berios, M.D.; Richard H. Bevan-Thomas, M.D.; Maria S. Blahey, M.D.; Thomas M. Buzbee, Jr., M.D.; Darius A. Buzenas, M.D.; Paul K. Conner, Jr., M.D.; Russell D. Cunningham, M.D.; Eugene C. Deal, Jr., M.D.; James D. Dopson, Jr., M.D.; Erin E. Endom, M.D.; Mohamed A. Esiely, M.D.; Sergio A. Giralt, M.D.; James S. Harrold, Jr., M.D.; Bobby R. Hobbs, M.D.; Nagarajani Kapu, M.D.; Ronald A. Lester, M.D.; Robert J. Machos, Jr., M.D.; Syed H. Mehdi, M.D.; Morris L. Mickelson, M.D.; Rafael A. Mimbela, M.D.; Imran Nathani, M.D.; Carol B. Norton, M.D.; Pamela C. O'Connor, M.D.; Ravi B. Patel, M.D.; John R. Sebok, M.D.; Ashish R. Singhal, M.D.; Geraldo M. Sioco, M.D.; Jeanne J. Smith, M.D.; Mark W. Taylor, M.D.; Victor J. Trevino, M.D.; George A. Valdez, M.D.; Russell C.**

Vanbiber, III, M.D.; Scott E. Woodman, M.D.; Yin Xu, M.D.; Joan M. Bull, M.D.; Candace Y. Covington, M.D.; Paul D. Meggs, M.D.; Ambrose Aboud, M.D.; Teresa J. Bascom, M.D.; Royal M. Becker, M.D.; Hung T. Dang, M.D.; Mikhail Fukshansky, M.D.; Joseph D. Gaspari, M.D.; Thomas H. Miller, M.D.; Gregory F. Mondini, M.D.; Raymond L. Owen, M.D.; Gurney F. Pearsall, Jr., M.D.; Marina M. Pearsall, M.D.; Gary L. Penny, M.D.; Dennis C. Rainey, M.D.; Neeraj R. Sharma, M.D.; Calvin T. Simmons, M.D.; Debbie P. Spencer, M.D.; Yasmin P. Tejani, D.O.; Russell S. Dickerson, M.D.; Jeffrey E. Liddell, M.D.; Abraham Peringol, M.D.; Stephen Pustilnik, M.D.; and Robby M. Eaves, Jr., M.D.

There no items for Agenda item #23.

Agenda item #24, Consideration and approval of Cease and Desist Orders. After consideration, **Dr. Bhatia moved, Dr. Arambula seconded, and the motion passed to approve the following Cease and Desist Orders en masse for: Steven Ahee; and Julio Jimenez, D.C.**

There were no agenda items for Agenda items #25-27.

Agenda item #28, Consideration and approval of Nunc Pro Tunc Orders. **Dr. Bhatia moved, Dr. Arambula seconded, and the motion passed to approve the Nunc Pro Tunc Orders for Anibal Hadad, M.D.; and Adila N. Siddiqi, D.O.**

There were no items for Agenda items #29-30.

Agenda item #31, Report on Temporary Suspensions. A report was given for the Temporary Suspensions.

Agenda item #32, Report on Automatic Orders. A report was given for the Automatic Orders.

There were no items for Agenda item #33.

Agenda item #3, Executive Director Report. (Continued)

Licensure Compacts. Ms. Robinson reviewed key points of the Interstate Medical Licensure Compact draft and addressed the Boards concerns related to licensing requirements, enforcement, and governance of the compact. After discussion, **the Board directed staff to pursue participation in the Interstate Medical Licensure Compact.**

Telemedicine. After discussion, **the Board directed staff to draft a letter in regards to the agency's point of view on Telemedicine healthcare.**

Consent Agenda

Discussion/Action Items – to be considered at any time the full board is in session:

1. Consideration and approval of the February 7, 2014 Board Meeting Minutes. **Mr. Webb moved, Dr. Arambula seconded, and the motion passed to approve the February 7, 2014 Board Meeting Minutes and action items.**
2. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.

Dr. Zeitler gave a report of the Executive Committee meeting. **Dr. Zeitler moved, Mr. Webb seconded, and the motion passed to approve the Executive Committee meeting minutes.**

Dr. Holliday gave a report of the Finance Committee meeting. **Dr. Holliday moved, Dr. Shulkin seconded, and the motion passed to approve the Finance Committee meeting minutes.**

Dr. Arambula gave a report of the Licensure Committee meeting. **Dr. Arambula moved, Mr. Gallardo seconded, and the motion passed to approve the Licensure Committee minutes and action items.**

Dr. McNeese gave a report of the Disciplinary Process Review Committee meeting. **Dr. Wang moved, Dr. Shulkin seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items with exclusion from consideration of the following appeals: Log# 14-0881 and Case#13-0878.**

Agenda item #39, Adjourn. Dr. Arambula, Mr. Webb seconded, and the motion passed to adjourn the meeting at 2:29 p.m.