

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
November 6, 2014

Chair Margaret C. McNeese, M.D., called the meeting to order at 10:33 AM. Other members present were Julie K. Attebury, David Baucom, Manuel Guajardo, M.D., 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 Member Michael Arambula, M.D., Pharm.D., was 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 and reports 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 additional guidance.

Dr. Holliday moved, and Dr. Guajardo seconded that PHP Case #1 be returned to the jurisdiction of the Texas Medical Board for an ISC. Motion carried.

Dr. Willeford moved, and Mr. Baucom seconded that PHP Case #2 remain under the management of PHP. Motion carried.

Dr. Wang moved, and Dr. Guajardo seconded that PHP Case #3 remain under the management of PHP with the understanding that any future positive tests will result in an automatic referral to the Texas Medical Board for further action.

Agenda Item #3. Discussion, recommendation, and possible action regarding renewals involving impaired licensees.

Mr. Baucom moved, and Dr. Shulkin seconded that Licensee #1 be sent an impairment packet requesting self-referral to PHP. Motion carried.

Dr. Wang moved, and Dr. Holliday seconded that no further action be taken on Licensee #2. Motion carried.

Dr. Guajardo moved, and Dr. Wang seconded that with regard to Licensee #3 , Board staff is to request letters from the two treating physicians reported by Licensee #3 to determine if PHP evaluation is needed. Motion carried.

Agenda Item #4. Reports and discussion regarding the Investigation, Litigation and Compliance Departments.

Ms. Robinson presented the Enforcement Report for September 2014, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #5. Discussion, recommendation, and possible direction regarding the request related to the proposed rulemaking for Title 22 TAC Chapter 165, §165.2.

The committee discussed the request that the rules be amended so that there is a maximum charge of \$10 to \$15 allowed for responding to written questions by deposition.

After discussion, **Dr. Wang moved, and Dr. Holliday seconded that the petition for rule change be denied, based upon the current rules being adequate to protect the public.**

Agenda Item #6. Discussion, recommendation, and possible action regarding Rule Review and proposed changes to the following chapters in Title 22 of the Texas Administrative Code:

A. Chapter 190, Disciplinary Guidelines, §190.14. Disciplinary Sanction Guidelines.

Dr. McNeese announced that this item was stricken from the agenda.

Agenda Item #7. Discussion and possible direction regarding Soberlink and remote alcohol monitoring.

The committee directed staff to include Soberlink in the tests available and make the paragraph flexible to reflect that it may be used, and obtain additional academic data regarding the use of Soberlink.

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

Dr. Guajardo moved, and Ms. Attebury seconded that the waiver list on Agenda Item 8 be approved. Motion carried.

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

Dr. Holliday moved, and Dr. Guajardo seconded that the appointments of members to the Expert Physician 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: 13-0277.

Dr. Swann moved, and Dr. Holliday seconded that the follow-up file under Agenda Item 12 be dismissed. Motion carried.

A lunch recess was taken at 11:50 a.m., and the committee returned at 12:13 p.m.

Dr. Shulkin moved, and Dr. Holliday seconded; the motion passed at 12:14 p.m. 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 2:10 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: 14-0264, 14-2289, 14-3173, 14-3445, 14-3929, 14-4360, 14-4552, 14-4693, 14-5078 ; ii. Legal Files: 14-0206 (13-5470), 14-0603 (14-1070). B. Jurisdictional-Not-Filed Complaints: 14-0966, 14-3638, 14-4179, 14-4487, 14-4772, 14-5671, 14-5755, 14-5946, 14-6024, 14-6059, 14-6285, 14-6417, 14-6420, 14-6468, 14-6565, 14-6967, 14-7025, 15-0048, 15-0174, 15-0589.

Dr. Wang moved, and Dr. Shulkin seconded that the appeal of Item 11.A.i., Log # 14-3445 be granted to obtain medical records related to the pulmonologist's workup and Respondent's follow-up care related to the administration of the drug to determine the quality of the monitoring of toxicity of the drug. The records should be obtained from both Respondent and the pulmonologist, and should be submitted to the expert panel for additional review, with the case returned to the committee as a follow up file at the next meeting. Motion carried.

Dr. Holliday recused himself from any discussion and decision regarding Log # 14-3173.

Dr. Willeford moved, and Dr. Guajardo seconded that the appeal of Item 11.A.ii., Log # 14-0603 (14-1070) be granted and sent to a new expert panel to question if Hepatitis B status should be ascertained before administering biologic

Mr. Baucom moved, and Dr. Holliday seconded that the appeal of Item 11.A.ii., Log # 14-0206 (13-5470) be granted to obtain a written statement pending final decision until the February Board meeting.

Dr. Wang recused himself from any discussion and decision regarding Log # 14-4772 and 14-6059.

Dr. Wang moved, and Dr. Willeford seconded that the appeal of Item 11.B., Log # 14-5671 be granted and that an investigation be opened. Motion carried.

Dr. Holliday moved, and Dr. Guajardo seconded that the appeals of Item 11.B., Log # 14-6417 and 14-6420 be granted and that an investigation be opened. Motion carried.

Dr. Willeford moved, and Dr. Guajardo seconded that the appeal of Item 11.B., Log # 15-0174 be granted and that an investigation be opened. Motion carried.

Mr. Baucom moved, and Dr. Guajardo seconded that all other appeals under Agenda Item 11 not specifically granted be denied. Motion carried.

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

Dr. Swann recused himself from any discussion and decision regarding Log # 14-0802.

Dr. McNeese recused herself from any discussion and decision regarding Log # 14-3527.

Dr. Varma moved, and Ms. Attebury 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.

Dr. Holliday moved, and Dr. Guajardo seconded that the meeting adjourn. Motion carried at 2:20 p.m.

TMB - Disciplinary Process Review Committee
(DPRC) TXPHP - Participant Case Review
November 06, 2014

Case #	Remain with PHP	TMB Accepted	Continue
1		X	
2	X		
3	X		

DISCIPLINARY PROCESS REVIEW COMMITTEE (DPRC) & DECISIONS**Texas Impaired Licensee Renewals** (Concerns regarding Licensee(s) reporting Impairment to the Registrations Department)

November 6, 2014

	REQUEST ADDITIONAL INFORMATION	SEND LICENSEE IMPAIRMENT PACKET	NO FURTHER ACTION	COMMENTS
1. ID# 42205 Licensee Type: M.D. (Neurological Surgery/Legal Medicine) <u>Background:</u> <ul style="list-style-type: none">Referral Reason: Impairment reported on registrationRenewal Date: 4/29/2014Impairment(s) Reported: Diagnosed with generalized osteoarthritis and early Parkinson's. <u>Issue(s):</u> 4/29/2014: Licensee reported impairment on registration renewal application 5/08/2014: TMB mailed the Registration Mental and Physical Health form 5/15/2014: TMB received a response to the Registration Mental and Physical Health form. Licensee reported having generalized osteoarthritis and early Parkinson's. The prognosis is slowly progressive for both issues and has had multiple spinal surgeries resulting in weakness. Licensee has retired from surgical practice and from office practice but still provides consultation for 5-10 patients per year. 7/21/2014: TMB mailed an Impairment Packet 7/30/2014: TMB received a letter from the treating physician who reported seeing the licensee medically for a number of		X		Request self-referral to PHP

medical conditions over the years; however, none of the conditions disqualify the licensee from practicing medicine safely. The treating physician states that the licensee's decision to retire from surgery was solely that of the licensee.				
	REQUEST ADDITIONAL INFORMATION	SEND LICENSEE IMPAIRMENT PACKET	NO FURTHER ACTION	COMMENTS
<p>2. ID# 200547</p> <p>Licensee Type: M.D.</p> <p>(Orthopedic Surgery/Adult Reconstructive Orthopedics)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> Referral Reason: Impairment reported on registration Renewal Date: 4/21/2014 Impairment(s) Reported: Has venous vascular disease with recurrent leg ulcerations. <p><u>Issue(s):</u></p> <p>4/21/2014: Licensee reported impairment on registration renewal application</p> <p>4/28/2014: TMB mailed the Registration Mental and Physical Health form</p> <p>5/10/2014: TMB received a response to the Registration Mental and Physical Health form. Licensee reported having venous vascular disease in both lower extremities with recurrent ulceration in the right leg. The prognosis is fair and permanent and the licensee has had two vein procedures with more likely in the future. The treatment plan for the diagnosis includes compression stockings for both legs and pressure pad on right ankle, frequent elevation, frequent walking exercises, no prolonged standing.</p> <p>7/21/2014: TMB mailed an Impairment Packet</p>			X	

8/27/2014: TMB received a letter from the treating physician who reported the licensee does have some physical limitations regarding health risks from standing for prolonged periods of time to perform surgery but has no problems with his competence to practice clinical medicine.				
	REQUEST ADDITIONAL INFORMATION	SEND LICENSEE IMPAIRMENT PACKET	NO FURTHER ACTION	COMMENTS
3. ID# 461185 Licensee Type: M.D. (Pediatrics) <u>Background:</u> <ul style="list-style-type: none"> Referral Reason: Impairment initially reported on application in 2005. Impairment(s) Reported: Bipolar disorder <u>Issue(s):</u> 5/28/2014: TMB mailed Registration Mental 6/18/2014: TMB received a response to the Registration Mental and Physical Health form. Licensee reported being diagnosed with Bipolar disorder which is well controlled. The prognosis is excellent with a treatment plan of medication and cognitive behavioral therapy once a week and no affect on the Licensee's ability to practice medicine.	X			Board staff is to request letters from the two treating physicians reported by licensee to determine if PHP evaluation is needed

Total = 3

Expert Panel Members for Board Approval November 2014

LAST	FIRST	LIC #	CITY	SPECIALTY
Farhat	George	J6944	Hurst	Anesthesiology/Pain Management
Hagey-Levert	Rhonda	J1678	Highland Village	Hospitalist/Inpatient Internal Medicine
Marcellus	John	J4325	Houston	Adult/Child/Adolescent Psychology
Rittichier	Kristine	M0243	Boerne	Pediatrics/Pediatric Emergency Medicine
Vengrow	Michael	K0230	Plano	Neurology/Psychiatry
Yang	Ping	M0317	Sugar Land	Oral and Maxillofacial Surgery

Interim Approval

DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED**ISC PANEL RECOMMENDATIONS – Texas Medical Board** November 6, 2014**ISC Dismissal's****CASE # Close Continue To ISC**

14-0762	X		
14-0856		X	
14-0879	X		
14-0742	X		
14-0934	X		
14-0780	X		
14-0747	X		
14-0795	X		
14-0883	X		
14-0606	X		
14-0855	X		
14-0862	X		
14-0864	X		
14-0728		X	
14-0935	X		
14-0743	X		
14-0676	X		
14-0745	X		
14-0850	X		
14-0805	X		
14-0650	X		
14-0901	X		
14-0890	X		
14-0641	X		
14-0857	X		
14-0763	X		
14-0906	X		
14-0802	X		
14-0736	X		
14-0661	X		
14-0731	X		
14-0765	X		
14-0710	X		
14-0620	X		
14-0704	X		
14-0783	X		
14-0817	X		
14-0876	X		
14-0831	X		
14-0796	X		
14-0801	X		
14-0815	X		
14-0760	X		
14-0588	X		
14-0770	X		

14-0884	X		
14-0642	X		
14-0759	X		

Total = 48

COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

14-0840	X		
15-0026	X		
14-0767	X		
14-0660	X		
14-0549	X		
15-0058	X		
14-0640	X		
15-0028	X		
14-0794	X		
14-0469	X		
14-0863	X		
14-0630	X		
14-0811	X		

Total = 13

PHP Resolved Dismissals

CASE # CLOSE CONTINUE TO ISC

14-0435	X		
14-0531	X		
13-1021	X		

Total = 3

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

Total : 175

Log Number	Allegation	Close	Continue	ISC	Hold	Name
130277	164.051(A)(6)	✓				
140433	164.052(A)(5)	✓				
140972	164.052(A)(5)	✓				
141756	164.051(A)(6)	✓				
142106	164.052(A)(5)	✓				
142247	164.051(A)(6)	✓				
142708	164.051(A)(6)	✓				
143056	164.051(A)(6)	✓				
143213	164.051(A)(6)	✓				
143340	164.052(A)(5)	✓				
143375	164.051(A)(6)	✓				
143424	164.051(A)(6)		✓			
143494	164.053(A)(6)	✓				
143527	164.053(A)(6)	✓				
143584	164.051(A)(6)	✓				
143585	164.051(A)(6)	✓				
143632	164.051(A)(4)(A)	✓				
143636	164.051(A)(6)	✓				
143741	164.052(A)(5)	✓				
143780	164.051(A)(6)	✓				
143842	164.051(A)(6)	✓				
143908	164.051(A)(9)	✓				
143925	164.052(A)(5)	✓				
143931	164.052(A)(5)	✓				
143945	164.051(A)(6)	✓				
143953	164.051(A)(6)	✓				
143954	164.051(A)(6)	✓				
143991	105.002(B)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
144042	164.051(A)(6)	✓				
144072	164.051(A)(6)	✓				
144117	164.051(A)(6)	✓				
144152	164.053(A)(1)	✓				
144278	164.051(A)(6)	✓				
144282	164.051(A)(6)	✓				
144287	164.053(A)(6)	✓				
144332	164.052(A)(5)	✓				
144341	164.051(A)(6)	✓				
144350	164.051(A)(6)	✓				
144357	164.052(A)(5)	✓				
144394	164.051(A)(6)	✓				
144402	164.051(A)(6)	✓				
144405	164.051(A)(6)	✓				
144424	101.351	✓				
144432	164.053(A)(2)	✓				
144433	164.053(A)(2)	✓				
144434	164.053(A)(2)	✓				
144486	164.051(A)(9)	✓				
144499	164.051(A)(6)	✓				
144501	164.051(A)(6)	✓				
144510	164.051(A)(6)	✓				
144511	164.051(A)(6)	✓				
144512	164.051(A)(6)	✓				
144531	164.052(A)(5)	✓				
144553	164.051(A)(6)	✓				
144581	164.052(A)(5)	✓				
144600	164.051(A)(6)	✓				
144610	164.051(A)(7)	✓				
144644	164.052(A)(5)	✓				
144661	164.051(A)(6)	✓				
144662	164.053(A)(6)	✓				
144690	164.051(A)(6)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
144691	164.053(A)(5)	✓				
144692	164.051(A)(6)	✓				
144701	164.051(A)(6)	✓				
144706	164.052(A)(17)	✓				
144707	164.052(A)(5)	✓				
144711	164.053(A)(6)	✓				
144718	164.052(A)(5)	✓				
144731	164.052(A)(5)	✓				
144746	164.052(A)(5)	✓				
144747	164.051(A)(6)	✓				
144775	164.053(A)(6)	✓				
144778	164.051(A)(6)	✓				
144781	164.052(A)(4)	✓				
144814	164.051(A)(6)	✓				
144818	164.052(A)(5)	✓				
144834	164.051(A)(6)	✓				
144839	101.351	✓				
144847	164.051(A)(6)	✓				
144868	164.051(A)(6)	✓				
144889	164.051(A)(6)	✓				
144907	164.053(A)(5)	✓				
144908	164.052(A)(5)	✓				
144917	105.002(A)(2)	✓				
144922	164.051(A)(6)	✓				
144928	164.052(A)(5)	✓				
144979	164.051(A)(6)	✓				
144980	164.051(A)(6)	✓				
145001	164.052(A)(4)	✓				
145036	164.051(A)(6)	✓				
145063	164.053(A)(6)	✓				
145065	164.052(A)(5)	✓				
145077	164.051(A)(6)	✓				
145089	164.051(A)(4)(A)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
145100	164.053(A)(6)	✓				
145106	164.051(A)(6)	✓				
145135	164.051(A)(6)	✓				
145146	164.052(A)(5)	✓				
145149	164.051(A)(6)	✓				
145166	164.052(A)(5)	✓				
145195	164.051(A)(6)	✓				
145201	164.051(A)(6)	✓				
145204	164.052(A)(4)	✓				
145211	164.053(A)(6)	✓				
145221	164.052(A)(5)	✓				
145225	164.051(A)(8)	✓				
145230	164.051(A)(6)	✓				
145298	164.051(A)(6)	✓				
145311	164.053(A)(6)	✓				
145324	164.051(A)(6)	✓				
145327	164.052(A)(5)	✓				
145376	601.302(6)	✓				
145398	164.052(A)(5)	✓				
145416	164.051(A)(6)	✓				
145422	164.051(A)(6)	✓				
145425	159.006	✓				
145440	164.052(A)(5)	✓				
145452	601.302(5)	✓				
145468	164.051(A)(7)	✓				
145487	164.051(A)(6)	✓				
145489	164.051(A)(6)	✓				
145508	601.302(5)	✓				
145525	164.051(A)(6)	✓				
145549	164.052(A)(5)	✓				
145560	164.051(A)(6)	✓				
145563	164.052(A)(5)	✓				
145564	164.052(A)(5)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
145565	164.051(A)(6)	✓				
145595	164.051(A)(6)	✓				
145686	164.051(A)(6)	✓				
145687	164.051(A)(6)	✓				
145713	164.053(A)(8)	✓				
145714	164.053(A)(1)	✓				
145722	159.002	✓				
145814	164.053(A)(5)	✓				
145823	164.053(A)(6)	✓				
145824	164.052(A)(5)	✓				
145826	164.051(A)(6)	✓				
145836	101.351	✓				
145858	164.051(A)(6)	✓				
145933	159.006	✓				
145962	151.002(A)(13)	✓				
145974	164.052(A)(5)	✓				
145976	164.052(A)(17)	✓				
146004	164.053(A)(1)	✓				
146087	164.051(A)(6)	✓				
146115	164.052(A)(5)	✓				
146164	164.052(A)(5)	✓				
146166	164.051(A)(3)	✓				
146168	164.053(A)(8)	✓				
146231	151.002(A)(13)	✓				
146256	164.052(A)(5)	✓				
146257	164.052(A)(5)	✓				
146321	164.053(A)(1)	✓				
146324	151.002(A)(13)	✓				
146339	101.351	✓				
146367	159.002	✓				
146368	151.002(A)(13)	✓				
146369	164.052(A)(17)	✓				
146370	164.052(A)(17)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
146371	164.052(A)(17)	✓				
146372	164.052(A)(17)	✓				
146373	206.302(4)	✓				
146439	164.051(A)(9)	✓				
146457	164.051(A)(4)(D)	✓				
146472	164.052(A)(5)	✓				
146486	151.002(A)(13)	✓				
146543	101.351	✓				
146545	151.002(A)(13)	✓				
146562	151.002(A)(13)	✓				
146571	159.006	✓				
146596	164.051(A)(4)(D)	✓				
146606	164.051(A)(7)	✓				
146644	164.053(A)(1)	✓				
146858	164.052(A)(4)	✓				