



Texas Medical Board

BOARD MEETING

NOVEMBER 7, 2014

333 GUADALUPE, TOWER 2, SUITE 225

AUSTIN, TEXAS

The meeting was called to order on November 7, 2014 at 8:01 a.m. by Michael Arambula, M.D., Board President. Board members present were George Willeford, III, M.D., Vice-President; Paulette Southard, Secretary/Treasurer; Julie Attebury; David Baucom; Frank Denton; Manuel G. Guajardo, M.D.; J. Scott Holliday, D.O.; Margaret McNeese, M.D.; Surendra K. Varma, M.D.; Stanley S. Wang, M.D.; and Timothy Webb, J.D. John D. Ellis, Jr., J.D.; Carlos L. Gallardo; Allan Shulkin, M.D.; Wynne Snoots, M.D.; and Karl W. Swann, M.D., arrived a few minutes after roll call. John R. Guerra, D.O.; and Robert B. Simonson, D.O., were not present. Board staff present were Mari Robinson, J.D., Executive Director; Robert Bredt, 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. Arambula 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.*

Agenda item #2, Board Member Report. Dr. Arambula introduced and welcomed new board member, Dr. Varma.

Agenda item #3, Executive Director Report.

Outreach Update. Ms. Robinson reviewed the outreach presentation schedule and noted that the goal of presenting at all medical schools but two was met, as well as for all the Physician Assistant schools in Texas.

Budget. Ms. Robinson gave a budget update.

Legislative Update. Ms. Robinson gave a legislative update and reported staff will continue to monitor any legislation filed related to the agency.

Audit Update. A brief audit update was given. A report will be provided at the February board meeting that will include potential audit topics for Fiscal Year 2015.

Personnel Update. Ms. Robinson gave a brief update on the number of open positions.

Agenda item #4, Medical Director Report.

Dr. Bredt provided an update on the upcoming opioid trainings and the additional expert panelist training.

Agenda item #5, Public Information Update. Ms. Goode and Mr. Schneider gave an update on potential topics that will be included in the December TMB bulletin and resource links that were posted on the agency's webpage related to Ebola. In addition, the Board was informed of the new District Review Committee page that provides an overview of the committee.

Agenda item #6, Report on criminal convictions and sanctions. This item was pulled from the agenda.

Agenda item #9, Consideration and possible action regarding pending litigation. Dr. McNeese moved, Dr. Willeford seconded, and the motion passed to go into Executive Session at 8:14 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act Section 551.071, Government Code.

Open session resumed at 8:30 a.m. and it was announced that no action was taken. A certified agenda was made.

Mr. Freshour provided the board members an update concerning current litigation involving the board.

Agenda item #7, Report on letter sent to FDA regarding extended release opioids lacking tamper resistant features. Mr. Blech presented the final signed letter regarding extended release opioids lacking tamper resistant features. After final review, **the Board directed staff to mail the presented letter to the FDA.**

Agenda item #8, Report on continuing medical education (CME) for serving on an informal settlement conference panel. Ms. Pajak reported that serving on an informal settlement conference panel would not meet the criteria to be eligible for Category I CME hours, however, Informal CME hours could possibly be credited.

There were no items for Agenda item #11.

Agenda item #12, Consideration and approval of Modification Request/Termination Request Orders. After consideration, Dr. Willeford moved, Mr. Gallardo seconded, and the motion passed to approve the Modification Granted Orders for: Owen Ellington, M.D.; James Key, Sr., M.D.; and Thomas Leffingwell, M.D.; the Termination Denied Orders for: Ravikumar Kanneganti, M.D.; Jennifer Michele Moss, M.D.; Rex Darrel Poole, Jr., M.D.; and the Termination Granted Order for: Horis Stedman, Jr., M.D.

Agenda item #13, Consideration and possible action for Agreed Board Orders.

The Board discussed disciplinary guidelines, specifically the chart monitor sanction for cases that lack medical recordkeeping for family members. **The Board directed staff to review the guidelines in question and provide an update at a future Disciplinary Process Review Committee.**

After discussion, Ms. Attebury moved, Ms. Southard seconded, and the motion passed to approve the following Agreed Board Orders en masse for: Gerald Dunegan, M.D.; Billy Wayne Lewis, M.D.; Raja N. Salameh, M.D.; John Rascoe Ware, M.D.; Cyril A. Raben, M.D.; Teri Lynne Baumgartner, M.D.; Adam Brian Cary, D.O.; Pramesh C. Dave, M.D.; David Anthony Jolivet, M.D.; Carlos O. Mayo, M.D.; Robert Alan Moore, Jr., M.D.; Morgen M. Rozenboom, M.D.; Kozhaya C. Sokhon, M.D.; William F. Sorrels, D.O.; Jose De Jesus Trevino, M.D.; Gregory Ward, M.D.; Forrest Carroll Brown, M.D.; Jennifer Lee Davis, M.D.; Daniel E. Rousch, D.O.; Ana Maria Gonzalez-Angulo, M.D.; Jonathan R. Matthews, D.O.; Lloyd Faust Mercer, M.D.; Eduardo Antonio Wolffe, M.D.; and Malanie G. Illich, M.D.

After further discussion, Ms. Southard moved, Ms. Attebury seconded, and the motion passed to approve the Agreed Board Order for Mohamedaouf A. Khaznadar, M.D.

Agenda item #14, Consideration and approval of Mediated Settlement Agreed Orders. Dr. Willeford moved, Mr. Gallardo seconded, and the motion passed to go into Executive Session at 9:00 a.m. 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), and 164.202 & .203, Occupations Code. Open session resumed at 9:18 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, Dr. Wang moved, Mr. Gallardo seconded, and the motion passed to approve Agreed Board Order #5 on the condition that under the mitigating factors paragraph additional mitigating factors from the case are cited. Order terms will remain as presented.

After discussion, Mr. Webb moved, Ms. Southard seconded, and the motion passed to approve the Agreed Board Order for Judi Ann Shaw-Rice, M.D.

After consideration, Dr. Willeford moved, Dr. Guajardo seconded, the motion passed to approve the following Mediated Settlement Agreed Orders en masse for: Joseph McWherter, M.D.; Robert Hadley Gross, M.D.; Jamie A. Gutierrez, M.D.; Kevin Bernard James, M.D.; Rezik A. Saqer, M.D.; Jerome Francis Schrapps, M.D.; George G. Miller, M.D.; Raleigh A. Smith, M.D.; and Robert Alvah Brimmer, II, M.D.

The board recessed at 9:25 a.m.

The board reconvened at 9:37 a.m.

Agenda item #15, Consideration and approval of Remedial Plans. Dr. Holliday recused himself for consideration of Mark A. Bishara, M.D. Dr. Wang recused himself for consideration of Todd R. Shepler, M.D.; and Angela Siler-Fisher, M.D. Dr. Varma recused himself for consideration of Larry Alan Warmoth, M.D.

After discussion, **Dr. Willeford moved, Dr. McNeese seconded, to change Remedial Plan #28 into an Agreed Order with the same terms drafted in the presented Remedial Plan.**

After consideration, **Mr. Gallardo moved, Ms. Southard seconded, and the motion passed to approve the following Remedial Plans en masse for: Victor Raul Alvarez, M.D.; Osama Bisher Atallah, M.D.; Sergio Saul Cantu, M.D.; Andrew Hoover, M.D.; Jimmie Earl Lewis, Jr., M.D.; David Naranjo Lopez, M.D.; Stuart Carpenter McKennon, M.D.; Lesley Kittredge Newton, M.D.; Ikechukwu A. Osuji, M.D.; Golden Pan, M.D.; David Sutton Shelmire, M.D.; Timothy Lee Spradlin, M.D.; Jasmine Sulaiman, M.D.; Ronald Koji Yamamoto, M.D.; Mustafa N. Hyder, M.D.; Jeffrey David Reuben, M.D.; Mark A. Bishara, M.D.; Mark Douglas Francis, M.D.; William N. Hawkins, M.D.; Keith A. Picou, M.D.; Jose Miguel Rivera, M.D.; Todd R. Shepler, M.D.; Harold Leroy Smitson, II, M.D.; Victoria Jean Thompson, M.D.; Garth O. Vaz, M.D.; Truc Le, Jr., D.O.; Eduardo Miranda, M.D.; Angela Siler-Fisher, M.D.; Victor D. Trevino, M.D.; Larry Alan Warmoth, M.D.**

There were no items for Agenda item #16.

Agenda item #17, Consideration and approval of Agreed Cease and Desist Orders. After consideration, **Dr. Guajardo moved, Dr. Holliday seconded, and the motion passed to approve the Agreed Cease and Desist Order for Prem P. Gogia.**

Agenda item #18, Consideration and approval of Nunc Pro Tunc Orders. Dr. Wang recused himself from consideration of Nandini Dhir Kohli, M.D. After consideration, **Ms. Southard moved, Dr. Holliday seconded, and the motion passed to approve the Nunc Pro Tunc Orders for: Nandini Dhir Kohli, M.D.; and Charles E. Longmoor, M.D.**

Agenda item #19, Consideration and approval of Determinations of Default.

1. Rahman C. Johnson, M.D., SOAH #503-14-2947.MD. Amy Swanholm, staff attorney gave a presentation. Johnson did not appear. No one representing Dr. Johnson appeared. After discussion, **Mr. Gallardo moved, Ms. Southard seconded, and the motion passed to approve the Determination of Default Order for Rahman C. Johnson, M.D.**

There were no items for Agenda items #20-22.

Agenda item #23, Report on Cease and Desist Orders approved by Executive Director. A report was given on the Cease and Desist Orders approved by Executive Director.

Agenda item #24, Report on Motions for Rehearing Requests. A report was given on the Motions for Rehearing.

Agenda item #25, Report of Suspension by Operation of Law. A report was given on the Suspensions by Operation of Law.

Agenda item #26, Report on Temporary Suspensions. A report was given on the Temporary Suspensions.

Agenda item #27, Report on Automatic Orders. A report was given on the Automatic Orders.

Agenda item #28, Discussion, recommendation, and possible action regarding to proposed amendments to 22 Texas Administrative Code:

1. Chapter 192. Office Based Anesthesia Services

Ms. Tuthill gave a brief summary of proposed amendments. After discussion, **Dr. Varma moved, Mr. Gallardo seconded, and the motion passed to approve proposed amendments to 22 T.A.C. Chapter 192. Office Based Anesthesia Services, for publication.**

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

1. Consideration and approval of the August 29, 2014 Board Meeting Minutes. **Dr. McNeese moved, Mr. Gallardo seconded, and the motion passed to approve the August 29, 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.

Ms. Attebury gave a report of the Finance Committee meeting. **Ms. Attebury moved, Mr. Gallardo seconded, and the motion passed to approve the Finance Committee meeting minutes and action items.**

Dr. Snoots gave a report of the Electronic Records and Communication Ad Hoc Committee. **Dr. Snoots moved, Ms. Attebury seconded, and the motion passed to approve the Electronic Records and Communication Ad Hoc Committee meeting minutes and action items.**

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

Dr. Swann gave a report of the Telemedicine Committee meeting. **Mr. Denton moved, Dr. Holliday seconded, and the motion passed to approve the Telemedicine Committee meeting minutes and action items.**

Ms. Southard gave a report of the Licensure Committee meeting. **Ms. Southard moved, Mr. Webb seconded, and the motion passed to approve the Licensure Committee minutes and action items.**

Ms. Attebury gave a report of the Disciplinary Process Review Committee meeting. **Ms. Attebury moved, Dr. Guajardo seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items with the corrections as cited by Ms. Robinson.**

Agenda item #10, at 10:00 a.m., Consideration and approval of Proposal for Decisions for:

1. Marelyn Medina, M.D.; SOAH #503-13-1514. Christopher Palazola, J.D., staff attorney was present. Dr. Medina was present. Mr. Palazola gave a presentation. Dr. Medina gave a presentation. Mr. Palazola gave a brief rebuttal presentation. **Mr. Gallardo moved, Dr. Willeford 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 approve the suggested Final Order filed in this matter by Board staff. Dr. Holliday recused himself for consideration of Marelyn Medina.**

2. Willie J. Hawkins, M.D.; SOAH #503-13-5325. Trina Richardson, J.D., staff attorney was present. Dr. Hawkins was present. Claude E. Decloux, appeared representing Dr. Hawkins. Ms. Richardson gave a presentation. Mr. Decloux gave a presentation. Ms. Richardson gave a brief rebuttal presentation. After discussion, **Mr. Gallardo moved, Dr. Varma seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision and approve the staff's suggested Final Order for revocation of the license of Willie J. Hawkins, M.D. Dr. Holliday and Dr. Snoots voted against the motion.**

The board recessed at 10:45 a.m.

The board reconvened at 11:01 a.m.

Agenda item #29, Discussion, recommendation, and possible action regarding the adoption of proposed amendments and rule review to 22 Texas Administrative Code:

1. §163.7 Ten Year Rule

Ms. Robinson gave a brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Mr. Baucom moved, Ms. Southard**

seconded, and the motion passed to adopt 22 Texas Administrative Code §163.7, Ten Year Rule, as published in the Texas Register.

2. §166.2 Continuing Medical Education

Ms. Tuthill gave a brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Varma moved, Mr. Gallardo seconded, and the motion passed to decline the adoption of the proposed amendments for §166.2 Continuing Medical Education and approve re-publication in the Texas Register for comment.**

3. §190.8 Violation Guidelines

Ms. Robinson gave a brief summary. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Willeford moved, Ms. Southard seconded, and the motion passed to adopt 22 Texas Administrative Code §190.8, Violation Guidelines, as published in the Texas Register.**

Agenda item #30, Discussion, recommendation, and possible action regarding adoption of proposed rule changes to 22 Texas Administrative Code, Chapter 183, Acupuncture.

1. §183.4 (a)(8) Licensure

Ms. Robinson gave a brief summary of proposed amendments to **§183.4 (a)(8), Licensure**. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Varma moved, Mr. Gallardo seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 183, Acupuncture, §183.4 (a)(8) Licensure, as recommended by the Texas State Board of Acupuncture Examiners.**

2. §183.11 Complaint Procedure Notification

Ms. Robinson gave a brief summary of proposed amendments to **§183.11, Complaint Procedure Notification**. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Willeford moved, Ms. Southard 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 the Texas State Board of Acupuncture Examiners.**

Agenda item #32, at 11:30 a.m. Open forum for public comments. No one signed in to present public comments during the Open Forum.

Agenda item #33, Adjourn, Dr. Varma moved, Dr. Shulkin seconded, and the motion passed to adjourn the meeting at 11:31 a.m.