



# Texas Medical Board

BOARD MEETING  
333 GUADALUPE, TOWER 2, SUITE 225  
AUSTIN, TEXAS  
October 20, 2017

The meeting was called to order on Friday, October 20, 2017 at 8:44 a.m. by Board President, Sherif Z. Zaafran, M.D. Board members present were: Paulette Southard, Michael E. Cokinos, Frank S. Denton, Kandace B. Farmer, M.D., J. Scott Holliday, M.D., Jeffrey Luna, M.D., Margaret McNeese, M.D., LuAnn Morgan, and Timothy Webb, J.D. Julie Attebury, Carlos L. Gallardo, John R. Guerra, D.O., Jayaram B. Naidu, M.D., Karl W. Swann, M.D. and Surendra K. Varma, M.D. were absent. Board staff present were Scott Freshour, J.D., Interim Executive Director and General Counsel, Robert Bredt, M.D., Medical Director, Megan Goode, Governmental Affairs and Public Information Manager, and the Assistant General Counsels, Amy Swanholt, J.D., Rob Blech, J.D., Sarah Tuthill, J.D. and Wendy Pajak, J.D., and various other staff.

**Agenda item #1, Mission Statement.** Dr. Zaafran 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. Zaafran presented a plaque and read a resolution into the minutes in honor of outgoing board members Stanley Wang, M.D. and George Willeford III, M.D, thanking them for their service and dedication to the board. Dr. Zaafran announced each outgoing member would receive a personalize Texas plaque in their honor.

**Agenda item #3, Consideration and approval of Mediated Settlement Agreed Orders.** After consideration, **Ms. Southard moved, Dr. McNeese seconded, and the motion passed to approve the Mediated Settlement Agreed Order for Benjamin J. Warshawsky, M.D.; Frank Castillon, III, M.D.; John P. Thomas, M.D.; Thomas S. Loftus, M.D.; Chad Seabold, M.D.; Marshall B. Lucas, M.D. ; Nicolas Lin, M.D. and Byron F. Conner, M.D.**

**Agenda item #4, Consideration and approval of Remedial Plans.** After consideration, **Mr. Denton moved, Mr. Cokinos seconded, and the motion passed to approve the Remedial Plan for Troy R. Hailparn, M.D.**

After further consideration, **Ms. Southard moved, Mr. Webb seconded, and the motion passed to approve the Remedial Plans en masse for: Salma Akbar, M.D.; Najah Al-shalchi, M.D.; Efrain O. Dickson, M.D.; Vishal C. Patel, M.D.; Joseph K. Preston, M.D.; Felipe Samaniego, M.D.; Daniel G. Trevino, M.D.; David N. Whitten, M.D.; Folahan K. Ayoola, M.D.; Pranav H. Bhakta, M.D.; Gordy Day, M.D.; Heather M. Gano, M.D.; Karen M.**

**Grant, M.D.; Thomas E. Howard, Jr., M.D.; Robert T. McMahon, M.D.; Nimesh N. Patel, M.D.; Kurt L. Pflieger, M.D.; Lyn M. Berutti, D.O.; Veronica Guel- Valdivia, M.D.; Saju Joseph, M.D.; Huy Do, M.D.; Naaz F. Khan, M.D.,; Humberto F. Nunez-Uriburo, M.D. and Peter D. Pirraglia, M.D.**

**Agenda item #5, Consideration and possible action for Agreed Board Orders.**

After consideration, **Dr. Holliday moved, Mr. Cokinos seconded and the motion passed to approve the Agreed Order as presented for Gregory Skie, M.D.**

After consideration, **Dr. Luna moved, Ms. Southard seconded and the motion passed to approve the Agreed Order as presented for Michael A. Velasquez, D.O.**

After consideration, **Dr. Holliday moved, Dr. McNeese seconded and the motion passed to approve the Agreed Order with the modification to add a public reprimand for Kyle D. Molen, M.D.**

After consideration, **Mr. Denton moved, Ms. Southard seconded and the motion passed to approve the Agreed Order with the modification to add chart monitoring for eight cycles for Avi T. Deshmukh, M.D.**

After consideration, **Dr. Holliday moved, Ms. Southard seconded, and the motion passed to approve the Agreed Orders en masse for: Howard G. Diamond, M.D.; Steven W. Fath M.D.; Michael Baghdoian, M.D.; Adegboyega H. Lawal, M.D.; Jesus I. Aguirre-Burgos, M.D.; Raymond G. Armstrong, M.D.; Erica H. Lowery, M.D.; Paul P. Devaneson, M.D.; Earl E. Martin, D.O.; Paul J. Parkey, M.D.; Nafees F. Saiffee, M.D.; Paul E. Stoufflet, M.D.; Benajmin A. Deaton, M.D.; David V. Jeyaraj, M.D. and Gregory M. Gibbons, M.D.**

**Agenda item #6, Consideration and approval of Modifications Request/ Termination Request Orders.** After consideration, **Dr. Holliday moved, Ms. Southard seconded, and the motion passed to approve the Modification Request Order Granted for: Christopher R. Mann, D.O. and the Termination Request Order Granted for: Olurotimi A. Ashaye, M.D.; Jennifer M. Moss, M.D. and John B. Steel, M.D.**

**Agenda item #7, Consideration and approval of Cease and Desist Agreed Orders.** After consideration, **Dr. Holliday moved, Ms. Southard, and the motion passed to approve the Agreed Cease and Desist Order for Christopher Etheridge.**

There were no items for Agenda item #8.

**Agenda Item #9 at 9:00 a.m., Consideration and approval of Proposal for Decisions:**

1. **John O. Dimowo, M.D., SOAH #503-16-6161 .M.D.** Mr. Blech gave a brief procedural background. Michelle McFaddin, J.D., staff attorney, was present. John O. Dimowo M.D. was not present. No one was present to represent Dr. Dimowo. Ms. McFaddin gave a presentation. After discussion, **Mr. Denton moved, Mr. Webb seconded, and the motion passed to adopt the Findings of Fact and the Conclusions**

**of Law of the Administrative Law Judge in the Proposal for Decision for John O. Dimowo M.D., and to approve the staff's suggested final order filed by Board.**

2. **Alejandro Moreno, M.D., SOAH #503-16-4052.M.D.** Ms. Pajak gave a brief procedural background. Michelle McFaddin, J.D., staff attorney, was present. Alejandro Moreno, M.D., was present. Tim Weitz, J.D. was present representing Dr. Moreno. Ms. McFaddin gave a presentation. Mr. Weitz gave a presentation. Ms. McFaddin gave a brief rebuttal. After discussion, **Mr. Webb moved, Dr. Holliday seconded, and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Alejandro Moreno, M.D., and to approve the staff's suggested final order filed by Board.**

The board recessed at 9:48 a.m.

The board reconvened at 10:12 a.m.

**Agenda item #32, Discussion, recommendation, and possible action regarding proposed amendments and rule review to 22 of the Texas Administrative Code:**

a. Chapter 193, Standing Delegation Orders

§193.8 Prescriptive Authority Agreements: Minimum Requirements.

Dr. Zaafran gave a brief summary of proposed amendments and rule review to 22 of the Texas Administrative Code: Chapter 193, Standing Delegation Orders §193.8 Prescriptive Authority Agreements: Minimum Requirements. These proposed rules were approved for publication by the Licensure Committee and will be published for comment in the Texas Register.

**Agenda item #33, Discussion, recommendation, and possible action regarding the adoption of proposed amendments and rule review to 22 Texas Administrative Code:**

a. Chapter 163, Licensure

- §163.2 Full Texas Medical License
- §163.4 Procedural Rules for Licensure Applicants
- §163.6 Examinations Accepted for Licensure
- §163.7 Ten Year Rule
- §163.13 Expedited Licensure Process

b. Chapter 171 Post Graduate Training Permits

- §171.3 Physician-in-Training Permits

c. Chapter 172, Temporary and Limited Licenses

- §172.4 State Health Agency Temporary License
- § 172.8 Faculty Temporary License

d. Chapter 174, Telemedicine

e. Chapter 175, Fees and Penalties

- §175.1 – Application and Administrative Fees
- §175.2 Registration and Renewal Fees

f. Chapter 178, Complaints

- §178.3 – Complaint Procedure Notification

g. Chapter 187 Procedural Rules,

- §187.16 Informal Show Compliance Proceedings ( ISCs)
- §187.18 Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance
- §187.83 Proceedings for Cease and Desist Orders

h. Chapter 190, Disciplinary Guidelines

- §190.8(1)(L) Violation Guidelines

**Chapter163 Licensure, §163.7 Ten Year Rule.** Ms. Tuthill presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. Written comments were received and reviewed. After discussion, **Dr. Zaafran moved, Ms. Southard seconded, and the motion passed to adopt the repeal of 22 T.A.C. Chapter 163 Licensure, §163.7 Ten Year Rule and publish such repeal in the Texas Register.**

**Chapter163 Licensure, §163.2 Full Texas Medical License, §163.4 Procedural Rules for Licensure Applicants, §163.6 Examinations Accepted for Licensure and §163.13 Expedited Licensure Process.** Ms. Tuthill presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. No written comments were received. After discussion, **Ms. Morgan moved, Ms. Southard seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 163 Licensure, §163.2 Full Texas Medical License, §163.4 Procedural Rules for Licensure Applicants, §163.6 Examinations Accepted for Licensure and §163.13 Expedited Licensure Process and for publication in the Texas Register.**

**Chapter 171 Post Graduate Training Permits, §171.3 Physician-in-Training Permits.** Ms. Tuthill presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. No written comments were received. After discussion, **Ms. Southard moved, Ms. Morgan seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 171 Post Graduate Training Permits, §171.3 Physician-in-Training Permits and for publication in the Texas Register.**

**Chapter 172, Temporary and Limited Licenses, §172.4 State Health Agency Temporary License and § 172.8 Faculty Temporary License.** Ms. Tuthill presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. Written comments were received and reviewed for §172.4. After discussion, **Dr. McNeese moved, Ms. Southard seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 172, Temporary and Limited Licenses, §172.4 State Health Agency Temporary License and § 172.8 Faculty Temporary License and for publication in the Texas Register.**

**Chapter 174, Telemedicine.**

Mr. Freshour presented a brief summary and review of the proposed rules for adoption. Chris Petiprin and Shannon Noble signed in to present oral comments. Written comments were received and reviewed. After discussion, **Mr. Denton moved, Dr. Holliday seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 174, Telemedicine with non –substantive changes and for publication in the Texas Register.**

**Chapter 175, Fees and Penalties, §175.1 Application and Administrative Fees and §175.2 Registration and Renewal Fees.** Ms. Tuthill presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. No written comments were received. After discussion, **Ms. Southard moved, Dr. McNeese seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 175, Fees and Penalties, §175.1 Application and Administrative Fees and §175.2 Registration and Renewal Fees and for publication in the Texas Register.**

**Chapter 178, Complaints, §178.3 Complaint Procedure Notification.**

Mr. Freshour presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. No written comments were received. After discussion, **Mr. Denton moved, Mr. Webb seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 178, §178.3 Complaint Procedure Notification and for publication in the Texas Register.**

**Chapter 187 Procedural Rules, §187.16 Informal Show Compliance Proceedings.** (ISCs) Ms. Pajak presented a brief summary and review of the proposed rules for adoption. Sheila Hemphill and Coleman Hemphill signed in to present oral comments. Written comments were received and reviewed. After discussion, **Dr. Holliday moved, Mr. Cokinos seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 187 Procedural Rules, §187.16 Informal Show Compliance Proceedings (ISCs) with non –substantive changes and for publication in the Texas Register.**

**Chapter 187 Procedural Rules, §187.18 Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance and §187.83 Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance.** Ms. Pajak presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. Written comments were reviewed for §187.18. After discussion, **Ms. Southard moved, Ms. Morgan seconded, and the motion passed to adopt the proposed amendments to 22 T.A.C. Chapter 187 Procedural Rules, §187.18 Informal Show Compliance Proceeding and Settlement Conference Based with non-substantive changes and §187.83 Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance and for publication in the Texas Register.**

**Chapter 190, Disciplinary Guidelines §190.8(1) (L) Violation Guidelines.**

Mr. Freshour presented a brief summary and review of the proposed rules for adoption. No one signed-in to present oral comments. No written comments were received. After discussion, **Ms. Southard moved, Mr. Webb seconded, and the motion passed to adopt the proposed**

**amendments to 22 T.A.C. Chapter 190, Disciplinary Guidelines §190.8(1)(L) Violation Guidelines and for publication in the Texas Register.**

**Agenda item #38, Discussion, recommendation, and possible action regarding proposed rule amendments and rule review to 22 T.A.C. Chapter 160.**

a. Chapter 160. Medical Physicists

§160.7 Qualifications for Licensure

§160.10 Training

Mr. Blech gave a brief overview. No one signed-in for oral comments. No written comments were received. After discussion, **Ms. Southard moved, Dr. McNeese seconded, and the motion passed to approve to publish the proposed rule changes and rule review as presented and approved by the Medical Physicist Advisory Committee to 22 T.A.C. Chapter 160. Medical Physicists, §160.7 Qualifications for Licensure and §160.10 Training and publish in the Texas Register for public comment.**

**Agenda item #39, Discussion, recommendation, and possible action regarding proposed rule amendments and rule review to 22 T.A.C. Chapter 188.**

a. Chapter 188 Perfusionists

§188.5 Procedural Rules for Applicants

§188.9 License Renewal

Ms. Pajak gave a brief overview. No one signed-in for oral comments. No written comments were received. After discussion, **Mr. Denton moved, Ms. Morgan seconded, and the motion passed to approve to publish the rule changes and rule review as presented to 22 T.A.C. Chapter 188 Perfusionist, §188.5 Procedural Rules for Applicants and §188.9 License Renewal and publish in the Texas Register for public comment.**

**Consent Agenda**

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

1. Consideration and approval of the August 25, 2017 Board Meeting Minutes and action items. **Mr. Webb moved, Dr. McNeese seconded, and the motion passed to approve the August 25, 2017 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. **Mr. Webb moved, Dr. McNeese seconded, and the motion passed to approve the meeting minutes and action items.**

**Agenda item #10, Executive Director Report.**

**Budget Update.** Ms. Corrales presented and reviewed the budget. Ms. Corrales reported projected expenditures and revenue are in good standing and on target for the year.

**Legislative Update.** Ms. Goode gave an update on the current Sunset review of the Medical Board which will focus on the statutory recommendations which was identified during the previous review. Ms. Goode gave an update on the ongoing limited Sunset review; the updated statistical information is available on Sunset website. Ms. Goode gave a brief update on the Hurricane Harvey relief effort and the coordination with the

Governor's office. Dr. Zaafran thanked staff for their hard work on issuing temporary licenses and processing all requests in a timely fashion.

**Audit Update.** Ms. Goode reported the Medical Board approved the final audit report that has been received from our contracted internal auditors at the August meeting.

**Outreach Update.** Ms. Goode reviewed the Outreach presentation schedule and the progress made.

**Personnel Update.** Mr. Freshour reported that positions are being filled as quickly as possible since the removal of the hiring freeze. Dr. Zaafran directed staff to consider putting a task force together to examine these processes and make recommendations to the board staff as to the agency needs and whether or not additional resources are necessary.

**Agenda item #11, Medical Director Report.** Dr. Bredt requested suggestions for expert panelists in the areas of interventional radiologists, pulmonologists, neurosurgeons, oncologists, pain management physicians, orthopedic spine surgeons, dermatologists and endocrinologists..

**Agenda item #12, Public Information Update.** Ms. Goode presented a draft article on the use of Chaperone's for the next bulletin, as requested from a previous board meeting. Ms. Goode gave an overview on management actions to include relevant CME in the bulletin, a requirement to have at least one of the topics on Tick Born disease, which has been completed. Dave Claunch, a member of the Texas Lyme Disease Association, discussed the idea of having continuing education on the website and links to specific CME on the website. Ms. Goode presented a draft for the agency's linking policy.

There were no items for Agenda item #13.

**Agenda item #14, Discussion, recommendation, and possible action regarding the continuing medical education (CME) approval process.** Board gave direction to implement the process allowing CME courses that are instructed by defense counsel to be considered for approval and not categorically denied by virtue of the instructor being defense counsel.

**Agenda item #15, Discussion, recommendation, and possible action regarding time commitment expectations.** Dr. Zaafran gave an update on committing time to ISC and mediation scheduling. He indicated that time commitments are tough, but will get easier as new Board members are brought on.

**Agenda item #16, Discussion, recommendation, and possible action regarding emeritus retirement.** Board gave direction to staff to lift the moratorium on processing emeritus retirement requests, approve those applications that are pending who qualify, and move forward with the process that has been implemented. Board also gave staff direction to grant such status to those physicians who applied and were qualified for emeritus status, but were placed on hold, to be approved for emeritus retirement.

**Agenda item #17, Information on the process for the nomination and election of board officers.** Dr. Zaafran reviewed the process for the election of officers. After discussion, **Dr. McNeese moved, Ms. Southard seconded and the motion passed to elect Dr. Holliday as Vice President of the Medical Board.** Dr. Holliday agreed and the board approved by acclamation. After further discussion, **Mr. Webb moved, Dr. McNeese seconded and the motion passed to elect Mr. Cokinos as Secretary/Treasurer of the Medical Board.** Mr. Cokinos agreed and the board approved by acclamation.

**Agenda item #18, Report, consideration, and possible action relating to the executive director position.** Dr. Zaafran reported that a process is in place for the Executive Director position and has been posted for approximately three weeks. The Executive Search Committee will reconvene when the candidates have completed their application.

There were no items for Agenda item #19.

**Agenda item #20, Consideration and possible action regarding pending litigation.**

**a. Obtaining expert consultants.**

**b. ISC process and procedures.**

Mr. Freshour gave a report on the status of litigation. Mr. Denton asked for an update to be given at the next meeting if we have pending litigation that will incur fees for the agency.

**Agenda item #22, Report on Motions for Rehearing Requests.** Mr. Freshour gave a brief report and review of the process for rehearing requests.

**Agenda item #23, Consideration and approval of Cease and Desist Agreed Orders. Report.** A report was given on the Cease and Desist Orders approved by the Executive Director for Tara L. Nguyen.

**Agenda item #24, Report on Temporary Suspensions by Operation of Law.** A report was given on the Suspensions by Operation of Law hearings for Riaz Mazcuri, M.D.

There were no items for Agenda item #25-31.

There were no items for Agenda item #34-37

**Agenda item #40, Open forum for public comments at 12:00 p.m.** Sheila Hemphill and David Claunch signed-in and presented public comments.

**Agenda item #41, Adjourn.** There being no further agenda items, **Dr. Holliday moved, Mr. Webb seconded, and the motion passed to adjourn the meeting at 1:04 p.m.**