

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
December 9, 2021 – 9:10 A.M.

Chair, Manuel Quinones, Jr., M.D., called the meeting to order at 9:37 a.m. Other members present were Sharon Barnes, Devinder S. Bhatia, M.D., Ada Booth, M.D., James S. Distefano, D.O., LuAnn Morgan, Jason K. Tibbles, M.D., David G. Vanderweide, M.D. and Sherif Zaafran, M.D. Robert Gracia was not in attendance.

Staff members present were Stephen Brint Carlton, J.D., Executive Director; Robert Breidt, M.D., Medical Director; Chris Palazola, J.D., Director of Operations; and various other staff.

Agenda Item #2. Texas Physician Health Program (TXPHP).

A. Discussion and Possible Action Regarding Case Referrals

Ms. Morgan moved and Dr. Vanderweide seconded that TXPHP Case No. 10-0119-A MD, 20-0608 PIT DO and 21-0503 MD, be returned to the jurisdiction of the TMB. Motion carried.

Ms. Barnes moved and Ms. Morgan seconded that TXPHP Case No. 17-0444 MD, 17-0464 MD, 20-0906MD, 21-0810MD, remain under the management of TXPHP. Motion carried.

B. Emergent Referral Report

There was no report to consider.

C. Other Discussion Items

Dr. McQueen presented a report providing an overview of the TXPHP's statistics and operational data. This was an information item only and no vote was necessary

Agenda Item #3. Pre-Investigation Process Reports

A. Warning Letters Report

Mr. Palazola presented the Warning Letters Report. This was an informational item only and no vote was necessary.

B. Criminal Case Review Report

Mr. Palazola presented the Criminal Case Review Report. This was an informational item only and no vote was necessary.

Agenda Item #4. Investigation, Litigation and Compliance Enforcement Activity Report

Mr. Palazola presented the Enforcement Activity Report. This was an informational item only and no vote was necessary.

Agenda Item #5. Reports Regarding Cases Over One Year Old

Mr. Palazola presented to the Committee the current status of cases that are over one year old. This was an informational item only and no vote was necessary.

Agenda Item #6. Discussion and Possible Action Regarding Review of Probationers' Appearances

There are none.

Agenda Item #7. Consideration and Approval of Membership of the Expert Physician Panel

Dr. Bhatia moved and Ms. Morgan seconded to grant the approval of three appointments on the Expert Panel members list. The motion carried.

Agenda Item #8. Discussion and Possible Action Regarding Rule Review and Proposed Changes to the Following Chapters in Title 22 of the Texas Administrative Code

There are none.

At 10:04 a.m., Dr. Quinones moved and Ms. Morgan seconded, 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 160.008, 164.007(c), Texas Occupations Code.

Open session resumed at 11:05 a.m., and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Agenda Item #9. Discussion and Possible Action Regarding Follow-Up Files Previously Referred from DPRC, Specifically Including:

Ms. Morgan moved and Ms. Barnes seconded that follow-up file #20-5410 be sent back to investigations to obtain new expert panel. Expert panel to consist of Pediatric Neurologist and Pediatric Intensivist. The motion carried.

Dr. Bhatia moved and Dr. Zaafran seconded that follow-up file #21-0332 (19-8608) be sent back to investigations to obtain criminal and civil court outcomes. The motion carried.

Dr. Tibbles moved and Dr. Distefano seconded that follow-up file #21-7172 be dismissed. The motion carried.

At 11:12 a.m., Dr. Quinones moved and Ms. Morgan seconded, 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 160.008, 164.007(c), Texas Occupations Code.

Open session resumed at 2:44 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 #10. Discussion and Possible Action Regarding Selected Files and Cases

A. Investigative Files Recommended for Dismissal

Dr. Quinones moved and Dr. Distefano seconded that all files under Agenda Item 10A be resolved as noted on the individual sign-off sheets. The motion carried.

B. SOAH Cases

There are none.

Agenda Item #11. Discussion and Possible Action Regarding Appeals of Dismissed Complaints

A. Jurisdictional

- i. **Investigations:** 20-7818; 20-8761; 21-1557; **21-1759***; 21-1765; 21-2022; 21-2174; 21-2175; **21-2229***; 21-2521; **21-3270***; 21-3813; 21-3819; 21-4615; 21-4616; 21-5442; 21-5532

Dr. Tibbles moved and Dr. Vanderweide seconded to deny the appeal for case number 21-1759. The motion carried.

Ms. Barnes moved and Ms. Morgan seconded to deny the appeal for case number 21-2229. The motion carried.

Dr. Zaafran moved and Dr. Tibbles seconded to deny the remaining appeals under Agenda Item #11(A)(i). The motion carried. Case number 21-3270 has been deferred to March DPRC.

- ii. **Legal Files:** 21-0589 (21-4273)

Dr. Zaafran moved and Dr. Tibbles seconded to deny the appeal for case number 21-0589 (21-4273). The motion carried.

B. **Jurisdictional Not Filed (JNF):** 21-5491; 21-5846; 21-5975; 21-6296; 21-6582; 21-6777; 21-6861; 21-6899; **21-6902***; 21-7110; 21-7254; 21-7357; **21-7365***; 21-7372; 21-7384; **21-7409***; **21-7410***; 21-7487; 21-7545; 21-7563; 21-7626; 21-7648; 21-7677; 21-7691; 21-7704; 21-7744; 21-7835; 21-7836; 21-7916; 21-7940; 21-8153; **21-8166***; 21-8170; 21-8197; 21-8405; **21-8409***; 21-8443; 21-8601; 21-8607; 21-8635; 21-8656; 21-8723; 22-0011; 22-0122; 22-0164; 22-0176; 22-0206; 22-0218; 22-0314; 22-0471; 22-0519; 22-0548; 22-0802

Dr. Zaafran moved and Dr. Bahtia seconded to grant the appeal for case number 21-6902. The motion carried.

Dr. Vanderweide moved and Ms. Barnes seconded to grant the appeal for case number 21-7365. The motion carried.

Dr. Vanderweide moved and Dr. Bhatia seconded to grant the appeal for case number 21-7409. The motion carried.

Dr. Vanderweide moved and Dr. Bhatia seconded to grant the appeal for case number 21-7410. The motion carried.

Dr. Booth moved and Dr. Vanderweide seconded to grant the appeal for case number 21-7254. The motion carried.

Dr. Vanderweide moved and Ms. Barnes seconded to deny the remaining appeals under Agenda Item #11(B). The motion carried. Case number 21-8166 has been deferred to March DPRC.

Agenda Item. #12. Adjourn

Dr. Bhatia moved and Ms. Barnes seconded that the meeting adjourn.

The motion carried and the meeting adjourned at 2:54 p.m.

**Texas Medical Board
Disciplinary Process Review Committee
TXPHP - Participant Case Review
December 9, 2021, 2021**

Case #	Remain with PHP	Accepted by TMB	Continue
1		X	
2	X		
3	X		
4		X	
5	X		
6		X	
7	X		

Expert Panel Members for Board Approval December 2021

LAST	FIRST	LIC #	CITY	SPECIALTY
1 Evans	Daniel	R8557	Austin	Psychiatry
2 Kamal	Junaid	S3688	Pearland	Pain Management
3 Patterson	Jan	G3338	San Antonio	Internal Medicine/ID/IM

Interim Approval

INVESTIGATIONS SECTION ACTIVITY REPORT					
First Quarter 2022					
INVESTIGATIONS SECTION (DONE)	9/1 to 11/30	FY 2022	FY 2021	FY 2020	FY 2019
Current Investigations	793	793	695	738	1192
Physician	690	690	556	585	913
Physician Assistant	32	32	42	22	32
Acupuncturist	3	3	2	0	3
Surgical Assistant	0	0	0	3	0
SB202/Other	59	59	98	128	244
Investigations Opened	421	421	1769	1915	2127
Physician	366	366	1488	1493	1656
Physician Assistant	17	17	76	55	83
Acupuncturist	3	3	4	1	5
Surgical Assistant	0	0	1	6	3
SB202/Other	29	29	133	360	380
Investigations Completed	446	446	1763	2449	2226
Physician	388	388	1478	1888	1698
Physician Assistant	15	15	77	72	83
Acupuncturist	1	1	3	6	9
Surgical Assistant	0	0	4	3	3
Unknown/Other	42	42	172	480	433
Jurisdictional Not Filed Complaints	948	948	3600	3636	3549
Physician	873	873	3317	3360	3231
Physician Assistant	42	42	170	180	161
Acupuncturist	1	1	4	1	5
Surgical Assistant	0	0	5	3	2
SB202/Other	32	32	107	92	150
Non-Jurisdictional Complaints	775	775	3817	3376	3123
Physician (INC)	220	220	1163	1083	1013
No active license	2	2	14	12	22
Duplicate allegations	20	20	159	116	88
Referred to another entity	2	2	255	25	14
No identifiable patient/licensee	1	1	57	129	132
Improperly requested medical records	28	28	115	120	136
Unlicensed Staff	0	0	0	0	0
Misc./Custom	159	159	902	681	621

LITIGATION SECTION (DONE)	9/1 to 11/30	FY 2022	FY 2021	FY 2020	FY 2019
Current Caseload	420	420	462	566	530
Physician	312	312	328	409	346
Physician Assistant	16	16	24	24	26
Acupuncturist	3	3	4	2	4
Surgical Assistant	1	1	1	1	0
Respiratory Care Practitioners	22	22	28	37	48
Med. Radiologic Technologists	31	31	43	59	89
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	31	31	37	34	18
Cases Received	164	164	687	1012	1048
Physician	130	130	500	671	702
Physician Assistant	4	4	39	32	43
Acupuncturist	1	1	3	4	6
Surgical Assistant	0	0	1	1	0
Respiratory Care Practitioners	5	5	29	64	100
Med. Radiologic Technologists	6	6	49	176	156
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	1	1
Other	16	16	54	63	40
I.S.C./Show Compliance Proceedings	109	109	578	515	728
Physician	89	89	471	414	519
Physician Assistant	10	10	31	16	32
Acupuncturist	0	0	8	1	2
Surgical Assistant	0	0	1	0	2
Respiratory Care Practitioners	1	1	19	38	64
Med. Radiologic Technologists	7	7	41	46	108
Medical Physicists	0	0	0	0	1
Perfusionists	0	0	0	0	0
Other	2	2	7	0	0
Temporary Suspension Hearings	7	7	41	51	41
Physician	2	2	26	38	28
Physician Assistant	1	1	3	3	4
Acupuncturist	0	0	0	0	0
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	1	1	5	6	3
Med. Radiologic Technologists	3	3	8	4	6
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0
Number of Cases pending at S.O.A.H.	61	61	47	25	76
Physician	35	51	35	19	52
Physician Assistant	0	0	0	0	2
Acupuncturist	1	1	2	0	1
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	5	5	4	3	12
Med. Radiologic Technologists	4	4	6	3	9
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0

LITIGATION SECTION (CON'T)	9/1 to 11/30	FY 2022	FY 2021	FY 2020	FY 2019
Formal Complaints Filed at S.O.A.H.	8	8	79	36	82
Physician	7	7	52	17	47
Physician Assistant	0	0	0	0	3
Acupuncturist	0	0	2	0	1
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	1	1	12	7	13
Med. Radiologic Technologists	0	0	13	12	18
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0
Hearings with S.O.A.H.	2	2	13	7	12
Physician	0	0	5	6	11
Physician Assistant	0	0	0	0	1
Acupuncturist	0	0	0	0	0
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	0	0	4	0	0
Med. Radiologic Technologists	2	2	7	1	0
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0
S.O.A.H. Cases - Agreed Orders	0	0	6	34	30
Physician	0	0	8	29	29
Physician Assistant	0	0	0	1	1
Acupuncturist	0	0	0	0	0
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	0	0	1	0	0
Med. Radiologic Technologists	0	0	0	4	0
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0
S.O.A.H. Cases - Mediated Orders	2	2	0	5	7
Physician	1	1	1	4	7
Physician Assistant	0	0	0	1	0
Acupuncturist	0	0	0	0	0
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	0	0	0	0	0
Med. Radiologic Technologists	1	1	0	0	0
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0
Mediation Conferences (S.O.A.H.)	3	3	2	9	11
Physician	3	3	5	9	10
Physician Assistant	0	0	0	0	1
Acupuncturist	0	0	0	0	0
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	0	0	0	0	0
Med. Radiologic Technologists	0	0	0	0	0
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0
Contested Hearings (S.O.A.H.)	2	2	1	37	29
Physician	2	2	1	11	11
Physician Assistant	0	0	0	0	2
Acupuncturist	0	0	0	1	0
Surgical Assistant	0	0	0	0	0
Respiratory Care Practitioners	0	0	0	11	5
Med. Radiologic Technologists	0	0	0	14	11
Medical Physicists	0	0	0	0	0
Perfusionists	0	0	0	0	0
Other	0	0	0	0	0

LITIGATION SECTION (CON'T) (DONE)	9/1 to 11/30	FY 2022	FY 2021	FY 2020	FY 2019
% of current caseload at S.O.A.H.	14.5%	14.5%	9.5%	4.0%	14.0%
Physician	11.2%	11.2%	10.0%	0.0%	0.0%
Physician Assistant	0.0%	0.0%	0.0%	0.0%	0.0%
Acupuncturist	33.0%	33.0%	33.0%	0.0%	0.0%
Surgical Assistant	0.0%	0.0%	0.0%	0.0%	0.0%
Respiratory Care Practitioners	22.7%	22.7%	20.0%	0.0%	0.0%
Med. Radiologic Technologists	12.9%	12.9%	14.6%	0.0%	0.0%
Medical Physicists	0.0%	0.0%	16.7%	0.0%	0.0%
Perfusionists	0.0%	0.0%	0.0%	0.0%	0.0%
Other	0.0%	0.0%	0.0%	0.0%	0.0%
COMPLIANCE SECTION ACTIVITY REPORT					
First Quarter 2022					
COMPLIANCE SECTION (DONE)	9/1 to 10/31	FY 2022	FY 2021	FY 2020	FY 2019
Current Probationers	674	674	687	687	687
Physician	443	443	445	434	480
Physician Assistant	35	35	35	35	35
Acupuncturist	5	4	3	3	3
Physician in Training	1	1	2	3	1
Surgical Assistant	0	0	1	1	1
SB202/Other	189	189	202	211	167
Drug Screens Conducted	348	348	2316	2997	3037
Physician	231	231	981	2286	2158
Physician Assistant	8	8	47	74	121
Acupuncturist	0	0	0	0	0
Physician in Training	0	0	0	0	0
Surgical Assistant	0	0	0	0	0
SB202/Other	55	55	425	637	758
MEDICAL BOARD DECISIONS					
First Quarter 2022					
MEDICAL BOARD DECISIONS	9/1 to 11/30	FY 2022	FY 2021	FY 2020	FY 2019
Disciplinary Actions					
<u>Temporary Disciplinary Actions</u>					
Suspensions	5	5	15	30	24
Restrictions	0	0	2	5	3
<u>Final Disciplinary Actions</u>					
Revocations/Surrenders	3	3	16	25	42
Suspensions	1	1	8	13	24
Public Reprimands	2	2	27	35	38
Restrictions	9	9	77	100	124
Administrative Penalties	4	4	0	2	0
Cease and Desist	3	3	31	22	19
Licensed with Conditions	1	1	5	10	5
License Denied following S.O.A.H. Hearing	0	0	0	0	0
Total Disciplinary Decisions	29	29	181	242	279
			262	122	131
Remedial Plans	23	23	80	122	131
Licensure Remedial Plans	1	1	14	10	8
Total Penalty Value	9,000	9,000	276,500	221,296	251,000
Total Actions			457	374	418
<u>Compliance MR/TR Requests</u>					
Modification Requests					
Granted	2	4	10	13	14
Denied	1	1	0	1	1
Termination Requests					
Denied	3	3	11	6	8
Granted	2	2	21	24	37
<u>Legal Dismissals</u>	28	28	310	311	339
Agreed Orders	17	17	N/A	N/A	N/A

Suspensions	1	1	0	1	1
Public Reprimands	0	0	0	4	9
Restrictions	1	1	0	13	19
Administrative Penalties	0	0	0	0	0
Cease and Desist	0	0	0	0	0
Licensed with Conditions	0	0	0	7	15
License Denied following S.O.A.H. Hearing	0	0	0	0	0
Agreed Resolutions	0	0	2	69	24
Consent Orders	0	0	0	0	1
Total Disciplinary Decisions	10	10	9	130	100
Remedial Plans	1	1	1	2	4
Licensure Remedial Plans	0	0	2	2	13
Total Penalty Value	0	0	500	3,000	10,000
Total Actions	16	16	21	134	117

<u>Compliance MR/TR Requests</u>					
Modification Requests					
Granted	0	0	0	2	6
Denied	0	0	0	0	0
Termination Requests					
Granted	1	1	5	3	0
Denied	0	0	2	0	0
<u>Dismissals</u>	5	5	41	81	76
Agreed Orders	6	6			

MEDICAL PHYSICISTS DECISIONS
First Quarter 2022

MEDICAL PHYSICISTS DECISIONS	9/1 to 11/30	FY 2022	FY 2021	FY 2020	FY 2019
Disciplinary Actions					
<u>Temporary Disciplinary Actions</u>					
Suspensions	0	0	0	0	0
Restrictions	0	0	0	0	0
<u>Final Disciplinary Actions</u>					
Revocations/Surrenders	0	0	0	0	0
Suspensions	0	0	0	0	0
Public Reprimands	0	0	0	0	0
Restrictions	0	0	0	0	0
Administrative Penalties	0	0	0	0	0
Cease and Desist	0	0	0	0	0
Licensed with Conditions	0	0	0	0	0
License Denied following S.O.A.H. Hearing	0	0	0	0	0
Total Disciplinary Decisions	0	0	0	0	0

Denied	0	0	0	0	0
Termination Requests					
Granted	0	0	0	0	0
Denied	0	0	0	0	0
Dismissals	0	0	0	0	1

Legal Number	Document Type	Approved by Board
21-0073	Dismissal – Attny	yes
21-0719	Dismissal – Attny	yes
21-0723	Dismissal – Attny	yes
21-0736	Dismissal – Attny	yes
220012	Dismissal – Attny	yes
22-0013	Dismissal – Attny	yes
22-0071	Dismissal – Attny	yes
22-0079	Dismissal – Attny	yes
22-0080	Dismissal – Attny	yes
22-0089	Dismissal – Attny	yes
22-0098	Dismissal – Attny	yes
22-0109	Dismissal – Attny	yes
21-0325	Dismissal - ISC	yes
21-0434	Dismissal - ISC	yes
21-0604	Dismissal - ISC	yes
21-0628	Dismissal - ISC	yes
21-0634	Dismissal - ISC	yes
21-0653	Dismissal - ISC	yes
21-0657	Dismissal - ISC	yes
21-0658	Dismissal - ISC	yes
21-0664	Dismissal - ISC	yes
21-0684	Dismissal - ISC	yes
21-0686	Dismissal - ISC	yes
21-0692	Dismissal - ISC	yes
21-0703	Dismissal - ISC	yes
21-0709	Dismissal - ISC	yes
21-0710	Dismissal - ISC	yes
21-0741	Dismissal - ISC	yes
21-0752	Dismissal - ISC	yes
22-0008	Dismissal - ISC	yes

DPRC December 9, 2021

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

Total : 124

Log Number	Allegation	Close	Continue	ISC	Hold	Name
188669		X				
198832		X				
213368		X				
213435		X				
213534		X				
213535		X				
213657		X				
213793		X				
213833		X				
213999		X				
214164		X				
214295		X				
214296		X				
214379		X				
214380		X				
214768		X				
214889		X				
214976		X				
215011		X				
215028		X				
215048		X				
215144		X				
215183		X				
215191		X				
215246		X				
215249		X				
215291		X				
215293		X				
215473		X				
215481		X				
215494		X				
215593		X				
215621		X				
215628		X				
215640		X				
215641		X				
215646		X				
215661		X				
215674		X				
215687		X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
215692		X				
215707		X				
215708		X				
215722		X				
215736		X				
215741		X				
215769		X				
215795		X				
215876		X				
215962		X				
215982		X				
216000			X			
216090		X				
216113		X				
216115		X				
216116		X				
216123		X				
216131		X				
216136		X				
216209		X				
216225		X				
216238		X				
216245		X				
216246		X				
216250		X				
216256		X				
216258		X				
216259		X				
216263		X				
216264		X				
216267		X				
216272		X				
216274		X				
216303		X				
216325		X				
216326		X				
216332		X				
216344		X				
216406		X				
216424		X				
216441		X				
216444		X				
216459		X				
216575				X		
216593		X				
216594		X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
216595		X				
216610		X				
216626		X				
216627		X				
216629		X				
216630		X				
216709		X				
216828		X				
216838		X				
216881		X				
216916		X				
216926		X				
217191		X				
217267		X				
217269		X				
217374		X				
217417		X				
217432		X				
217565		X				
217577		X				
217637		X				
217647		X				
217969		X				
218052		X				
218270		X				
218271		X				
218451		X				
218641		X				
218807		X				
220017		X				
220162		X				
220196		X				
220637		X				
221034		X				
221258		X				

Follow-up

205410			X			
210332(198608)			X			
217172		X				