

**TEXAS MEDICAL BOARD**  
**MINUTES OF THE**  
**DISCIPLINARY PROCESS REVIEW COMMITTEE**  
November 3, 2011

Chair Melinda McMichael, M.D., called the meeting to order at 10:36 a.m. Other members present were Julie K. Attebury, Patricia S. Blackwell, Manuel Guajardo, M.D., James Scott Holliday, D.O., Margaret C. McNeese, M.D., Allan Shulkin, M.D., Stanley S. Wang, M.D., and George Willeford III, M.D. Committee Members David Baucom and Irvin E. Zeitler, Jr., D.O. was not present.

Also present was Mari Robinson, Executive Director, Medical Director Linda Gage-White, M.D., and various other staff.

**Agenda Item #2.** Discussion, recommendation, and possible action regarding referrals and reports from the Texas Physician Health Program.

The Executive Director, Dr. Bill Nemeth discussed three cases that the Texas Physician Health Program is currently working and requested additional guidance on.

**Dr. McNeese moved, and Ms. Blackwell seconded that TX PHP case #11-0239 be returned to the jurisdiction of the Texas Medical Board. Motion carried.**

**Ms. Attebury moved, and Ms. Blackwell seconded that TX PHP case #10-0152 be returned to the jurisdiction of the Texas Medical Board. Motion carried.**

**Ms. Blackwell moved, and Dr. Willeford seconded that TX PHP case #10-0363 remains under the management of the Texas Physician Health Program. Motion carried.**

**Agenda Item #3.** Discussion, recommendation, and possible action regarding Interim Agreements and the Texas Physician Health Program.

Staff was directed to incorporate additional language in future TX PHP contracts, such as, *if this case should be referred back to the Texas Medical Board, the undersigned will continue to be compliant with the terms of this Texas Physician Health Program contract during the interim time the case is referred back to the Texas Medical Board until the Texas Medical Board takes further action on this case*, or words to that effect.

**Agenda Item #11.** Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the DPRC for follow-up action, specifically including: 10-3971, 10-6370, 11-1371, and 11-3479.

**Dr. Wang moved, and Dr. Holliday seconded that all routine follow-up files be dismissed. Motion carried.**

**Dr. Wang moved, and Dr. Holliday seconded that the alleged offense against the doctor mentioned in Log #10-6370 will have a new PDD opened against that doctor. Motion carried.**

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

Ms. Robinson presented the Enforcement Report for August 2011, a copy of which is attached. This was an informational item only and no vote was necessary.

**Agenda Item #5.** Discussion, recommendation, and possible action regarding Rule Review and proposed changes to the following chapters in Title 22 of the Texas Administrative Code:

A. Physician Registration, 166.2. Continuing Medical Education

B. Disciplinary Guidelines, 190.15. Aggravating and Mitigating Factors

**Ms. Attebury moved, and Dr. Willeford seconded that the decision that the proposed changes to the rules as presented to the committee that pertain to Agenda Item 5 be postponed until the February 2012 DPRC. The committee unanimously agreed. Motion carried.**

**Agenda Item #6.** Discussion, recommendation, and possible action regarding public information of a probationers current registration status with an active order.

Staff was directed to leave the coding status regarding public information of a probationers current registration status with an active order as is.

**Agenda Item #7.** Review, discussion, and possible action regarding review of probationers appearances.

**Dr. McNeese moved, and Dr. Holliday seconded that the waiver list on Agenda Item 7 be approved. Motion carried.**

**Agenda Item #8.** Consideration and approval of membership of the Expert Physician Panel.

**Dr. Holliday moved, and Dr. Wang seconded that the memberships to the Expert Physician Panel on Agenda Item 8 be approved. Motion carried.**

**Agenda Item #9.** 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. This was an informational item only and no vote was necessary.

A lunch recess was taken at 11:47a.m., and the committee returned at 12:28p.m. Dr. Shulkin returned at 12:29p.m.

**Ms. Attebury moved, and Ms. Blackwell seconded; the motion passed at 12:40p.m. to go into Executive Session 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 12:50p.m., and it was announced that no action was taken during executive session. A certified agenda of the executive session was made. Dr. Wang recused himself from any discussion and decision regarding Log #11-0136.**

**Agenda Item #12.** Review, discussion, and possible action regarding selected files and cases.

**Ms. Attebury moved, and Ms. Blackwell 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.**

**Ms. Blackwell moved, and Dr. Wang seconded; the motion passed at 1:05p.m. to go into Executive Session 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 3:05p.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.** Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 10-0528, 11-1147, 11-2938, and 11-4564, ii. Legal File: 11-0580 (09-4347). B. Jurisdictional Not Filed Complaints: 10-5183, 11-1808, 11-2259, 11-4240, 11-4747, 11-5747, 11-5786, 11-6903, 11-6992, 11-7016, 11-7187, 11-7276, 11-7385, 11-7550, 11-7632, 11-7633, 11-7658, 11-7858, 11-7859, 11-7877, 11-8020, 11-8172, 11-8238, 11-8256, 11-8342, 11-8350, 12-0032, 12-0085, 12-0190, 12-0220; and C. Non-Jurisdictional Complaints: 11-6686 and 12-0332.

**Dr. Wang moved, and Dr. Guajardo seconded that the appeal of Item 10.A.ii., Log #11-0580 (09-4347) be granted and that a new ISC be held. Motion carried.**

**Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 10.B., Log #11-4747 be granted and that an investigation be opened. Dr. Holliday opposed this motion. Motion carried.**

**McNeese moved, and Ms. Blackwell seconded that the appeal of Item 10.B., Log #11-7385 be denied. Motion carried.**

**Dr. Willeford moved, and Dr. Holliday seconded that the appeals of Item 10.B., Logs #11-7858 and 11-7859 be denied. Motion carried.**

**Ms. Attebury moved, and Dr. Holliday seconded that all other appeals under Agenda Item 10.A.i. not specifically granted above be denied. Motion carried.**

**Dr. Wang moved, and Ms. Blackwell seconded that the appeal of Item 10.B., Log #11-7016 be granted and that an investigation be opened. Motion carried.**

**Dr. Willeford moved, and Dr. Shulkin seconded that the appeal of Item 10.B., Log #11-8342 be granted and that an investigation be opened. Motion carried.**

**Dr. Wang moved, and Ms. Blackwell seconded that the appeal of Item 10.B., Log #12-0220 be granted and that an investigation be opened. Motion carried.**

**Ms. Blackwell moved, and Dr. Guajardo seconded that all other appeals under Agenda Item 10.B. not specifically granted above be denied. Although denied, Dr. Willeford directed staff to take a closer look at the other patients named by the complainant in appeal Item 10.B., Log #11-4240 to see if they may have encountered a standard of care violation with this respondent. Motion carried.**

**Ms. Blackwell moved, Dr. Holliday seconded that the appeal of Item 10.C., Log #11-6686 be denied. Motion carried.**

**Dr. Guajardo moved, and Dr. Willeford seconded that the appeal of Item 10.C., Log #12-0332 be granted and that an investigation be opened. Motion carried.**

**Agenda Item #13. Adjourn.**

**Dr. Willeford moved, and Dr. Holliday seconded that the meeting adjourn. Motion carried at 3:20p.m.**