



Texas Medical Board

BOARD MEETING
333 GUADALUPE, TOWER 2, SUITE 225
AUSTIN, TEXAS
October 14, 2016

The meeting was called to order on Friday, October 14, 2016 at 8:13 a.m. by Board President, Michael Arambula M.D., PharmD. Board members present were: George Willeford III, M.D., Vice-President; Julie Attebury; Frank S. Denton; John R. Guerra, D.O.; J. Scott Holliday, D.O. Margaret McNeese, M.D.; Allan Shulkin, M.D.; Robert B. Simonson, D.O.; Paulette Southard; Karl W. Swann, M.D.; Stanley S. Wang, M.D.; and Timothy Webb, J.D. Board members absent were David Baucom, John Ellis, Jr., J.D.; and Manuel G. Guajardo, M.D., and Surendra K. Varma, M.D. Board staff present were Robert Bredt, M.D., Medical Director, Scott Freshour, J.D., General Counsel; Rob Blech, J.D.; Sarah Tuthill, J.D.; Wendy Pajak, J.D., and Yvette Yarbrough, J.D.; and various other staff.

SUPPLEMENTAL NOTICE

Agenda item #1. Consideration and possible action regarding the *Teladoc, Inc., et.al v. Texas Medical Board, et.al* in U.S. Fifth (5th) Circuit Court of Appeals on appeal from the U.S. District Court, Western District of Texas. Dr. McNeese moved, Dr. Shulkin seconded, and the motion passed to go into Executive Session at 8:15 a.m. for private consultation and advice of counsel concerning pending 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. Ms. Southard arrived at 8:35 a.m. Open session resumed at 9:10 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, the board deferred Agenda item #1 for the Supplemental Notice to later in the meeting with Agenda item #10, Consideration and possible action regarding pending litigation.

Agenda items #2-#21 were deferred to later in the meeting.

Agenda item #22, Consideration and approval of Determinations of Default at 9:00 a.m.
1. Stephen Rice Fowler, M.D., SOAH #503-16-1169.MD. Claudia Kirk, staff attorney was present and gave a presentation. Dr. Fowler did not appear and no one appeared on his behalf. After discussion, **Ms. Southard moved, Mr. Gallardo seconded, and the motion passed to approve the Determination of Default Order for Dr. Stephen Rice Fowler, M.D., for revocation.**

Agenda item #15, Consideration and approval of Proposal for Decisions at 10:00 a.m. Mark Henry, M.D., SOAH #503-15-5304.MD. Mr. Freshour gave a brief procedural background. Michelle A. McFaddin, J.D., staff attorney, was present. Dr. Henry was not present. Timothy A. Hootman, J.D., was present representing Dr. Henry. Ms. McFaddin gave a presentation. Mr. Hootman gave a presentation. Mr. Webb moved, Ms. Southard 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 Mark Henry, M.D., and adopt the board staff suggested Final Order for dismissal.**

Carl Davis, M.D., SOAH #503-13-3810.MD. Mr. Freshour gave a brief procedural background. Nikki Karr, staff attorney, was present. Dr. Davis was present. No attorney was present representing Dr. Davis. Ms. Karr gave a presentation. Dr. Davis gave a presentation. Ms. Karr gave brief rebuttal. **Mr. Gallardo 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 Carl Davis, M.D., and adopt the board staff suggested Final Order for revocation.**

Agenda item #4, Medical Director Report. Dr. Bredt gave a status report of the expert panelists.

Agenda item #5, Public Information Update. Ms. Goode gave a public information update. The latest TMB bulletin introduced the new Medical Radiologic Technology board members.

Agenda item #6, Physician Assistant Update. Jason Cooper, PA, reported the Physician Assistant Board met August 29, 2016 to expedite the full licensure for physician assistant applicants. Mr. Cooper thanked Ms. Robinson for her service.

Agenda item #7 was deferred to later in the meeting.

Agenda item #8, Consideration and possible action regarding the Interim Executive Director. This item was considered in the Executive Committee meeting and will be addressed in the *Consent Agenda item: Consideration and Approval of the Executive Committee minutes and action items.*

Agenda item #9, Discussion, recommendation, and possible action regarding Board approval of CME for medical ethics. After discussion, **Mr. Gallardo moved, Ms. Southard seconded, and the motion passed to approve to eliminate the process for board approval of CME for medical ethics.**

Agenda item #10 was deferred to later in the meeting.

Agenda item #11, Consideration and approval of Modification Request/Termination Request of Non-Public Rehabilitation Orders. After discussion, **Dr. Simonson moved, Ms. Southard seconded, and the motion passed to approve the Termination Granted of Rehabilitation Order #589.**

Agenda item #12, Consideration and approval of Modification Request/Termination Request Orders. After discussion, Mr. Webb moved, Ms. Southard seconded, and the motion passed to approve the Modification Granted Orders for Edward D. Briggs, M.D., Yusuf A. Mosuro, M.D., Gabriel Tarango, D.O.; the Termination Request Orders for Pramesh C. Dave, M.D., John H. Doran, M.D., Craig T. Kopecky, M.D., Loi Phi Nguyen, M.D., Douglas E. Thompson, M.D.; the Termination Denied Order for Dale L. Messer, M.D.; and the Termination Request of Suspension Order for Sam Jahani, D.O.

Agenda item #13, Consideration and approval of the Agreed Orders. After discussion, Dr. Willeford moved, Mr. Webb seconded, and the motion passed to approve the Agreed Order for David R. Armbruster, D.O.

After discussion, Mr. Gallardo moved, Dr. Guerra seconded, and the motion passed to approve the Agreed Order for #19 with the modification to add a \$3,000 administration penalty to be paid within 90 days. The board directed the Compliance Department to monitor the Respondent's PMP on a routine basis.

After discussion, Mr. Webb moved, Mr. Gallardo seconded, and the motion passed to approve the Agreed Order for John F. Gilmore III, M.D., as written.

After discussion, Ms. Southard moved, Dr. McNeese seconded, and the motion passed to approve the Agreed Orders en masse for: Michael A. Flores, M.D.; Ransome Etindi, M.D.; R. Greg Maul, D.O.; Kirk R. Lee, M.D.; Richard M. Perry, D.O.; Keith A. Norvill, D.O.; Colleen Kennedy, M.D.; Ghyasuddin Syed, M.D.; Raleigh A. Smith III, M.D.; Ronald L. Gelzer, M.D.; Janet Gregory, D.O.; Victoria M. Adeleye, M.D., Order Vacating Prior Order; Victoria M. Adeleye, M.D.; Arthur Hernandez, M.D.; Jocelyn M. Pyles, M.D.; Jennifer Motley, M.D.; Michael Van Nguyen, M.D.; and Marcos Reis, M.D.

Agenda item #14, Consideration and approval of Mediated Settlement Orders. After discussion, Ms. Southard moved, Mr. Gallardo seconded, and the motion passed to deny the Mediated Settlement Order for Stanton Packard, M.D., and to affirm the board's position that the board did not approve or issue this order and the case should remain open at SOAH.

After discussion, Mr. Gallardo moved, Ms. Southard seconded, and the motion passed to approve the Mediated Settlement Orders for Matthew N. Brams, M.D., and Chi M. Pham, M.D.

Agenda item #15, Consideration and approval of Remedial Plans. After discussion, Mr. Webb moved, Ms. Southard seconded, and the motion passed to approve the Remedial Plan for Antonio Roman, M.D.

Dr. McNeese moved, Ms. Attebury seconded, and the motion passed to approve to convert the Remedial Plan #18 to an Agreed Order with the same terms, due to the offer is outside of the guidelines for a Remedial Plan.

After discussion, **Mr. Gallardo moved, Ms. Southard seconded, and the motion passed to pull Remedial Plan #19 for additional information.**

After discussion, **Mr. Webb moved, Ms. Southard seconded, and the motion passed to approve the Remedial Plans en masse for: Emmanuel U. Agob, M.D.; Roberto A. Andrade, M.D.; Charles P. Cassady, M.D.; Gregg C. Castillo, M.D.; Manuel A. Estrada, M.D.; Alamgir A. Khan, M.D.; Ricardo Ochoa, M.D.; Heidi J. Seifer, M.D.; Jon C. Thompson, M.D.; Vu Truong, M.D.; Bruce A. Bollinger, M.D.; James S. Crockett, D.O.; Sadia Rashid, M.D.; Antonio Roman, M.D.; Houssam Al Kharrat, M.D.; Maia S. Danielson, M.D.; and Walter Gaman, M.D.**

Agenda item #16, Consideration and approval of Nunc Pro Tunc Orders. After discussion, **Ms. Attebury moved, Ms. Southard seconded, and the motion passed to approve the Nunc Pro Tunc Order for Anthony P. Sertich, M.D.**

There were no items for Agenda items #17 - #20.

Agenda item #21. Consideration and approval of Cease and Desist Agreed Orders. After discussion, **Dr. Holliday moved, Mr. Gallardo seconded, and the motion passed to approve the Cease and Desist Agreed Orders for Ermit Marie De La Torre; Evangelina DeLeon; Donald Hamilton; Humpartzoom J. Kojian, M.D.; Erik C. Medina, M.D.; and Gonzalo Perez Del Puerto.**

Agenda items #22-23 were heard earlier in the meeting.

Agenda item #24, Report on Temporary Suspension Hearings. A report was given on 5 Temporary Suspension hearings.

Agenda item #25, Cease and Desist Orders approved by Executive Director. After discussion, the board directed staff to be more specific in Cease and Desist orders related to the use of the M.D. suffix.

Agenda item #26, Report on Motion for Rehearing Requests. A report was presented on the Motion for Rehearing Request for Dr. Haberman that was denied.

Agenda item #27, Report of Suspension by Operation of Law. A report was presented on the Suspension by Operation of Law of Anthony P. Sertich, M.D. and Etindi Ransome, M.D.

There were no items for Agenda items #28 - #34.

Agenda item #35 Open forum for public comments. Three public members signed-in to present public comments. Anthony D; Nick R, and Joy Rockwell presented public comments.

Agenda item #3, Executive Director Report.

Budget. Ms. Goode reported the FY16 budget closed in good standing and the current budget is scheduled to be on track for FY17.

Legislative update. Ms. Goode reviewed Legislative items and dates of interest.

Sunset. Ms. Goode gave an update of the process of the Sunset Review with tentative dates for the release of the Sunset Recommendations and final decision.

Outreach. Mr. Freshour reported Amy Swanholm, J.D., new Assistant General Counsel, will begin presenting the majority of Outreach presentations and working on the JP exam.

Transition of New Licensing Groups Update. Mr. Freshour gave a brief update on the status of new procedures to quickly process incoming mail and improving the response time to applicants.

Internal Audit. Ms. Goode announced the FY 16 Internal Audit for the Compliance Department was submitted and approved. The FY17 Internal Audit is estimated to begin in December 2016.

Email. Mr. Freshour reminded the members to use their TMB email addresses for board official business.

Agenda item #7, Discussion, recommendation, and possible action regarding lifting restrictions which conflict with DEA action. After discussion, the board directed staff to notify the board if lifting a restriction on a proposed order would conflict with a DEA action.

CONSENT AGENDA

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

1. **Consideration and approval of the August 26 2016 minutes.**
Dr. McNeese moved, Mr. Gallardo seconded, and the motion passed to approve the August 26, 2016 Medical 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.**

Dr. Arambula gave a report of the Executive Committee meeting. After discussion, **Ms. Attebury moved, Dr. McNeese seconded, and the motion passed to approve the Executive Committee and action items.**

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

Dr. McNeese gave report of the DPRC meeting. **Dr. McNeese moved, Ms. Attebury seconded, and the motion passed to approve the DPRC Committee meeting minutes and action items.**

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

Agenda item #10, Consideration and possible action regarding pending litigation. Mr. Freshour gave a report on pending Teladoc litigation. After discussion, **Dr. Shulkin moved, Mr. Gallardo seconded, and the motion passed to withdraw the appeal.**

Agenda item #2, Board Member Report. Dr. Arambula presented a plaque and read a Board Resolution in honor of Mari Robinson.

Agenda item #36, Adjourn. There being no further agenda items, **Mr. Gallardo moved, Ms. Southard seconded, and the motion passed to adjourn at 11:44 a.m.**