

TEXAS PHYSICIANS ASSISTANT BOARD
MINUTES OF THE
DISCIPLINE AND ETHICS COMMITTEE
March 7, 2014

Chair Anna Arredondo Chapman, called the meeting to order at 9:45a.m. Other members present were Reginald C. Baptiste, M.D., Margaret K. Bentley, Linda Delaney, P.A., and Felix Koo, M.D.

Also present was Mari Robinson, Executive Director, and various other staff.

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

The new Executive Director, Dr. John B. "Brad" Fitzwater, MD, was introduced to the committee. Dr. Fitzwater discussed the circumstances of two cases the Texas Physician Health Program is currently working and requested additional guidance on.

Ms. Chapman moved, and Dr. Koo seconded that PHP Case #12-0134 remain under the management of the PHP with the understanding that there is zero tolerance for any future infractions and that the Respondent completes the recommended increased testing requirements, including Soberlink; if not, the case will be returned to the jurisdiction of the Texas Physician Assistant Board for further action. Motion carried.

Dr. Baptiste moved, and Dr. Koo seconded that PHP Case #13-0326 be returned to the jurisdiction of the Texas Physician Assistant Board for further action. Motion carried.

Agenda Item #3. Reports and discussion regarding the Investigation, Litigation and Compliance Departments.

Ms. Robinson presented the Enforcement Report for January 2014, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #4. Discussion and possible direction regarding physician assistants under Board Orders or remedial plans and the option to retire.

The committee directed staff to prohibit physician assistants under board orders and/or remedial plans from retiring their licenses and to draft a policy outlining that direction.

Agenda Item #5. Review, discussion and possible action regarding appeals of dismissed complaints. A. Jurisdictional-Not-Filed Complaints: 14-0144.

Ms. Delaney moved, and Dr. Baptiste seconded that the appeal of Item 5.A., Log #14-0144 be denied. Motion carried. Dr. Koo recused himself from any discussion and decision regarding Log #14-0144.

Agenda Item #6. Review, discussion, and possible action regarding selected files and cases.

Ms. Bentley moved, and Dr. Koo 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.

Agenda Item #7. Adjourn.

At 10:40 a.m., Ms. Chapman announced the meeting was adjourned, there were no objections.

DISCIPLINE & ETHICS REVIEW & DECISIONS

Texas Physician Health Program (Probationer/Licensee Violated PHP Agreement & Cases of Concern)

March 7, 2014

	REMAIN WITH PHP	PA BOARD ACCEPTED	CONTINUE
<p>1. 12-0134</p> <p>(New Case)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> Referral Type: TMB Agreement Term: 11/28/2011 – 11/27/2016 Referral Reason: Substance Sobriety Date: 10/4/2010 Drug(s) of Choice: Alcohol <p><u>Issue(s):</u></p> <p>4/30/2012: Test resulted in “low creatinine” (17.3 mg/dL; SG: 1.004).</p> <p>5/29/2012: Test resulted in “low creatinine” (19.1 mg/dL; SG: 1.004).</p> <p>3/12/2013: Test resulted in “low creatinine” (17.0 mg/dL; SG: 1.004).</p> <p>6/28/2013: Test resulted in “low creatinine” (13.0 mg/dL; SG: 1.003).</p> <p>7/8/2013: Test resulted in “low creatinine” (17.6 mg/dL; SG: 1.004).</p> <p>7/10/2013: Test resulted in “low creatinine” (12.9 mg/dL; SG:</p>	<p style="text-align: center;">X</p> <p>With the understanding that there is zero tolerance for any future infractions and that the Respondent completes the recommended increased testing requirements, including Soberlink; if not, the case will be returned to the jurisdiction of the Texas Physician Assistant Board for further action.</p>		

1.003).

8/19/2013: Participant missed check-in (test reported as “negative”) and provided the following explanation:

“Mr. Torres,

I am SO sorry, my explanation for not logging in is that I just completely forgot! I got up earlier than usual today at 5am to go running and it just slipped my mind. I am more than willing to take any course of action as a result. I apologize again.”

9/10/2013: Test resulted in “low creatinine” (18.7 mg/dL; SG: 1.003).

9/13/2013: Test resulted in “low creatinine” (16.1 mg/dL; SG: 1.003).

9/24/2013: Test resulted in “low creatinine” (16.2 mg/dL; SG: 1.003).

11/13/2013: Test resulted in “low creatinine” (11.0 mg/dL; SG: 1.003).

12/27/2013: Tested “positive” for Amphetamines (9340 ng/mL).

1/2/2014: Participant submitted the following response:

“Mr. Torres,

The reason for the test resulting positive in amphetamines was because I took Vyvanse on 12/26. I was behind on 120+ charts due to our high volume of patients during cold and flu season, and for once I had a day off as an opportunity to catch up. I only used Vyvanse as a means to be more productive during my day off - in fact, I hated the way it made me feel, I felt "keyed up" the whole day, and it took me forever to get to sleep; obviously it worsened my already constant low-level anxiety as well. I've felt I have mildly symptomatic ADD for the past several years, and have mostly coped with it well enough on my own. However, the mounting charts left me feeling overwhelmed and I knew I had to

conquer them.

I do not have a documented ADD diagnosis, nor do I have a Vyvanse prescription written in my name - a friend of mine has a prescription written for them for a Vyvanse dose that they are no longer using, and they let me try it since we discussed my frustration with my inability to tackle my growing stack of charts. I realize this is the classic "excuse", and is illegal; I do apologize for my wrong-doing. And, for some reason it never dawned on me that it would test positive for amphetamines -- I'm not sure why I was so oblivious to this fact, except that my goal was simply to get charts done. Since it was a one-time situation, I also was oblivious about remembering to include it on my front page of my monthly 12-step calendar (for December) that I faxed today.

I have not taken any Vyvanse since 12/26/13, and am hoping the drug test I took today (1/2/14) will be negative for amphetamines. I have notified my supervising physician of the situation as well. I have, of course, abstained from any other drug/alcohol use.

Thank you."

1/11/2014: TXPHP Medical Director recommended that the participant's drug testing frequency be increased by one level and any future "positive" test would result in a relapse evaluation.

1/31/2014: Case was presented to the TXPHP Governing Board, whereby they recommended that the participant undergo PEth testing, in addition, to increased 12-Step meeting attendance.

	REMAIN WITH PHP	PA BOARD ACCEPTED	CONTINUE
<p>2. 13-0326</p> <p>(New Case)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: Self • Agreement Term: 10/21/2013 – 10/20/2018 • Referral Reason: Substance • Sobriety Date: 10/19/2013 • Drug(s) of Choice: Alcohol <p><u>Issue(s):</u></p> <p>12/13/2013: Test resulted in “dilute” specimen (12.0 mg/dL; SG: 1.002)</p> <p>12/23/2013: Tested “positive” for Ethanol, urine (0.035) and EtG (>10000 ng/mL) and EtS (27383 ng/mL).</p> <p>1/2/2014: Tested “positive” for EtG (7581 ng/mL) and EtS (1673) ng/mL). TXPHP Medical Director recommended that the participant undergo a PEth test.</p> <p>1/13/2014: “Positive” PEth test result (1510 ng/mL). Participant also provided a urine specimen, which was reported as “negative.”</p> <p>1/27/2014: TXPHP Medical Director recommended that the participant temporarily stop practicing medicine and undergo a 96-hour evaluation.</p> <p>1/31/2014: Case was presented to the TXPHP Governing Board, whereby they deferred any further action until the findings of the 96-hour evaluation was received.</p>		<p style="text-align: center;">X</p> <p>PHP Case #13-0326 be returned to the jurisdiction of the Texas Physician Assistant Board for further action.</p>	

2/3/2014 – 2/6/2013: Underwent a 96-hour evaluation at The Arbor in Georgetown, TX.

2/7/2014: Received the participant's Professional Evaluation Summary, whereby they concluded the following:

"The Arbor staff have several areas of concern for the participant. The first area of concern involves her inability to relate her alcohol use to experienced consequences such as being arrested, financial costs, admissions to treatment programs, and having to be monitored by a peer assistance program. She continues to blame external persons, places, or things. It is also concerning that she refused to provide access to her Starlite records. This suggests that she is attempting to hide aspects of her substance use disorder. In relation, it is of much concern that she has not informed the core members of her support system of the 2 relapses. She has presented herself to these individuals as a victim to false positives. Next, there is concern regarding her elevated BP since being at The Arbor. There has been question of alcohol withdrawal. She will need to medical follow-up. Lastly, there is concern as to her inability to see how her alcohol use and related behavior has impacted her family. She repeatedly denied any impact on her family. Because of her poor insight, denial, deception, and probable continued alcohol use, residential CD treatment is warranted. She is not fit to return to work at this time."

Participant is currently in the process of locating an Intensive Outpatient Program (IOP) to enter into.

Total = 2

TEXAS PHYSICIAN ASSISTANT BOARD
DISCIPLINARY & ETHICS COMMITTEE
Investigations Review List
March 7, 2014

<u>FILE#</u>	<u>ALLEGATION</u>	<u>CLOSE</u>	<u>CONTINUE</u>	<u>ISC</u>	<u>HOLD</u>
13-6287	204.304(A)(5)	X			
14-0544	204.302(4) (AUTO)	X			
14-0572	56.003	X			
14-0573	56.003	X			
14-1058	204.304(A)(1)	X			
14-1149	204.304(A)(3)	X			

TEXAS PHYSICIAN ASSISTANT BOARD
DISCIPLINARY & ETHICS COMMITTEE
Legal Dismissal
March 7, 2014

<u>FILE#</u>	<u>ALLEGATION</u>	<u>CLOSE</u>	<u>CONTINUE</u>	<u>ISC</u>	<u>HOLD</u>
14-0371	204.303(a)(1)	X			