

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
August 28, 2014

Chair Margaret C. McNeese, M.D. called the meeting to order at 10:10 a.m. Other members present were Julie K. Attebury, David Baucom, Manuel Guajardo, M.D., James “Scott” Holliday, D.O., Allan Shulkin, M.D., Karl W. Swann, M.D., George Willeford III, M.D., Stanley Wang, M.D. and Irvin E. Zeitler, Jr., D.O.

Staff members present were Mari Robinson, Executive Director, Robert Brecht, M.D., Medical Director, and various other staff.

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

The Executive Director, Dr. John B. Fitzwater, presented the status of PHP’s current caseload to the DPRC. Dr. Fitzwater discussed the different circumstances of cases the Texas Physician Health Program is currently working and requested additional guidance.

Dr. Zeitler moved, and Dr. Guajardo seconded that PHP Case # 1 remain under the management of PHP. Motion carried.

Mr. Baucom moved, and Dr. Zeitler seconded that PHP Case # 2 remain under the management of PHP with the understanding that if the evaluation comes back showing use of illicit substances, the licensee must cease practice and go to rehab. If the licensee refuses, the case will be referred to the TMB for further action. If the test comes back negative for illicit substances, the case may remain under the management of the PHP under their current agreement with zero tolerance for any future infractions. Motion carried.

Dr. Zeitler moved, and Ms. Attebury seconded that PHP Case # 3 be returned to the jurisdiction of the Texas Medical Board. Motion carried.

Dr. Zeitler moved, and Dr. Guajardo seconded that PHP Case # 4 be returned to the jurisdiction of the Texas Medical Board. Motion carried.

Dr. Zeitler moved, and Dr. Wang seconded that PHP Case # 5 be returned to the jurisdiction of the Texas Medical Board. Motion carried.

Dr. Zeitler moved, and Dr. Willeford seconded that PHP Case # 6 be returned to the jurisdiction of the Texas Medical Board. Motion carried.

Agenda Item #3. Discussion, recommendation, and possible action regarding renewals involving impaired licensees.

It was announced by Ms. Robinson that there weren't any renewal cases to be presented to the DPRC for consideration under Agenda Item 3.

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

Ms. Robinson presented the Enforcement Report for July 2014, 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. Chapter 190, Disciplinary Guidelines, §190.8. Violation Guidelines.

Dr. Zeitler moved, and Dr. Wang seconded that Agenda Item 5.A. §190.8 be approved for publication. Motion carried.

Agenda Item #6. Review, discussion, and possible action regarding review of probationer's appearances.

Dr. Zeitler moved, and Dr. Wang seconded that the waiver list on Agenda Item 6 be approved. Motion carried.

Agenda Item #7. Consideration and approval of membership of the Expert Physician Panel.

Dr. Holliday moved, and Dr. Willeford seconded that the appointments of members to the Expert Physician Panel be accepted as noted in the attachment. Motion carried.

Dr. Zeitler moved, and Dr. Guajardo seconded that the removal of the member from the Expert Physician Panel be accepted as noted in the attachment. Motion carried.

Agenda Item #8. 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. To date, all investigations over one year are in criminal courts for a resolution and the majority of the litigation cases are at SOAH. This was an informational item only and no vote was necessary.

Agenda Item #10. Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the DPRC for follow-up action, specifically including: 13-6223, 13-6504.

Dr. Holliday moved, and Dr. Willeford seconded that all follow-up files under Agenda Item 10 be dismissed, and that file # 13-6223 be referred to TDI Division of Workers' Comp. Motion carried.

A lunch recess was taken at 11:10 a.m., the committee returned at 1:01 p.m.

Ms. Attebury moved, and Dr. Guajardo seconded; the motion passed at 1:03 p.m. 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 .008, 164.007(c), Texas Occupations Code. Open session resumed at 3:01 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 #9. Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 13-0277, 13-6062, 14-0624, 14-0642, 14-0736, 14-0893, 14-1790, 14-2047, 14-2392, 14-2760, 14-3136, 14-3686; ii. Legal Files: 14-0305 (13-5994). B. Jurisdictional-Not-Filed Complaints: 14-0153, 14-0155, 14-0930, 14-2139, 14-2768, 14-3654, 14-4092, 14-4121, 14-4122, 14-4248, 14-4249, 14-4500, 14-4635, 14-4636, 14-4750, 14-4878, 14-4918, 14-4938, 14-4961, 14-5064, 14-5116, 14-5198, 14-5333, 14-5368, 14-5369, 14-5432, 14-5437, 14-5548, 14-5779, 14-6021. C. Non-Jurisdictional Complaints: 14-5299.

Dr. Swann moved, and Dr. Willeford seconded that the appeal of Item 9.A.i, Log # 13-0277 be granted and that it be sent to the same expert panelists to address if they had looked at the films and did they document proper positioning of the electrodes; if not, the panelists will be asked to look at the films and comment specifically on if the leads were placed in the proper position. Motion carried.

Dr. Wang moved, and Dr. Shulkin seconded that the appeal of Item 9.A.i, Log # 14-0893 be denied. Motion carried.

Ms. Attebury moved, and Dr. Shulkin seconded that the appeal of Item 9.A.i, Log # 14-3136 be denied, and to direct staff to refer the complaint to the proper authority for investigating HIPAA violations. Motion carried.

Dr. Shulkin moved, and Dr. Guajardo seconded that the appeal of Item 9.B., Log # 14-4636 be denied. Motion carried. Dr. Wang and Dr. Willeford recused themselves from any discussion and decision regarding 14-4636.

Dr. Holliday moved, and Dr. Guajardo seconded that all other appeals under Agenda Item 9.A.i. not specifically granted be denied. Motion carried.

Dr. Guajardo moved, and Dr. Zeitler seconded that all other appeals under Agenda Item 9.A.ii. not specifically granted be denied. Motion carried.

Dr. Guajardo moved, and Dr. Zeitler seconded that the appeal of Item 9.B., Log # 14-2139 be granted and that an investigation be opened to obtain medical records to confirm if the patient had gestational diabetes. Motion carried.

Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 9.B., Log # 14-5064 be granted. Motion carried. Dr. Wang recused himself from any discussion and decision regarding 14-5064.

Dr. Zeitler moved, and Dr. Guajardo seconded that all other appeals under Agenda Item 9.B. not specifically granted be denied. Motion carried.

Dr. Holliday moved, and Dr. Wang seconded that all appeals under Agenda Item 9.C. be denied. Motion carried.

Agenda Item #11. Review, discussion, and possible action regarding selected files and cases.

Ms. Attebury moved, and Dr. Zeitler 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 #12. Adjourn.

Dr. Zeitler moved, and Dr. Holliday seconded that the meeting adjourn. Motion carried at 3:15 p.m.

**TMB - Disciplinary Process Review Committee
(DPRC) TXPHP - Participant Case Review
August 28, 2014**

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

Expert Panel Members for Board Approval August 2014

LAST	FIRST	LIC #	CITY	SPECIALTY
Freet	Daniel	K2021	Houston	Plastic Surgery
Hobeika	Mark	P2870	Houston	Transplant Surgery
Parsa	Michael	L1690	El Paso	Emergency Medicine

Interim Approval

Removal

Enf. # 1720

DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED

ISC PANEL RECOMMENDATIONS – Texas Medical Board August 28, 2014

ISC Dismissal's

CASE # Close Continue To ISC

14-0586	X		
14-0672	X		
14-0575	X		
14-0344	X		
14-0602	X		
14-0600	X		
14-0653	X		
14-0651	X		
14-0572	X		
14-0695	X		
14-0619	X		
14-0568	X		
14-0732	X		
14-0625	X		
14-0477	X		
14-0604	X		
14-0419	X		
14-0632	X		
14-0643	X		
14-0577	X		
14-0428	X		
14-0617	X		
14-0217	X		
14-0393	X		
14-0644	X		
14-0607	X		
14-0520	X		
14-0514	X		
14-0707	X		
14-0670	X		
14-0629	X		
14-0647	X		
14-0532	X		
14-0648	X		
14-0548	X		
14-0569	X		
14-0601	X		
14-0530	X		
14-0621	X		
14-0347	X		
14-0547	X		
14-0567	X		
14-0677	X		
14-0624	X		

Total = 44

COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

14-0674	X		
14-0543	X		
13-0786	X		
14-0025	X		
14-0746	X		
14-0587	X		
14-0678	X		
14-0562	X		
14-0687	X		
14-0829	X		
14-0518	X		
14-0556	X		
14-0800	X		
14-0766	X		
14-0656	X		

Total = 15

PHP Resolved Dismissals

CASE # CLOSE CONTINUE TO ISC

14-0529	X		
14-0484	X		
14-0181	X		

Total = 3

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

Total : 169

Log Number	Allegation	Close	Continue	ISC	Hold	Name
132041	164.052(A)(4)	✓				
134882	164.052(A)(5)	✓				
136223	164.052(A)(5)	✓				
136504	164.051(A)(6)	✓				
140493	164.051(A)(6)	✓				
140513	151.002(A)(13)	✓				
141061	164.051(A)(6)	✓				
141151	164.051(A)(6)	✓				
141222	159.006	✓				
141403	164.051(A)(6)	✓				
141444	164.051(A)(6)	✓				
141607	101.351	✓				
141608	101.351	✓				
141609	101.351	✓				
141612	164.051(A)(6)	✓				
141620	164.052(A)(5)	✓				
141621	164.052(A)(5)	✓				
141624	164.051(A)(6)	✓				
141672	164.051(A)(6)	✓				
141798	164.051(A)(6)	✓				
141868	164.051(A)(6)	✓				
141869	164.051(A)(6)	✓				
141921	164.052(A)(5)	✓				
141936	164.052(A)(5)	✓				
141987	164.052(A)(5)	✓				
142065	164.051(A)(6)	✓				
142115	164.051(A)(6)	✓				
142200	164.051(A)(6)			✓		

Log Number	Allegation	Close	Continue	ISC	Hold	Name
142289	164.051(A)(6)	✓				
142446	164.051(A)(6)	✓				
142451	164.051(A)(6)	✓				
142564	164.052(A)(5)	✓				
142607	164.051(A)(6)	✓				
142662	164.052(A)(5)	✓				
142673	164.051(A)(6)	✓				
142679	164.051(A)(6)	✓				
142825	164.051(A)(6)	✓				
142828	164.051(A)(6)	✓				
142924	164.053(A)(6)	✓				
142952	164.052(A)(5)	✓				
143034	164.052(A)(17)	✓				
143042	164.051(A)(6)	✓				
143070	164.051(A)(6)	✓				
143111	164.052(A)(5)	✓				
143129	164.051(A)(6)	✓				
143165	164.052(A)(5)	✓				
143181	164.051(A)(6)	✓				
143184	101.201	✓				
143215	164.051(A)(6)	✓				
143252	164.053(A)(6)	✓				
143276	164.052(A)(5)	✓				
143281	164.052(A)(5)	✓				
143287	164.051(A)(3)	✓				
143296	164.051(A)(6)	✓				
143322	164.053(A)(6)	✓				
143341	164.051(A)(6)	✓				
143342	164.051(A)(6)	✓				
143364	164.051(A)(6)	✓				
143365	164.052(A)(5)	✓				
143376	164.051(A)(6)	✓				
143395	164.051(A)(6)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
143415	164.051(A)(6)	✓				
143421	164.053(A)(1)	✓				
143428	164.051(A)(6)	✓				
143432	164.053(A)(1)	✓				
143437	164.051(A)(6)	✓				
143445	164.051(A)(6)	✓				
143460	164.053(A)(6)	✓				
143469	151.002(A)(13)	✓				
143474	164.051(A)(6)	✓				
143519	164.051(A)(6)	✓				
143572	164.051(A)(6)	✓				
143597	164.051(A)(6)	✓				
143605	164.051(A)(6)	✓				
143615	164.053(A)(8)	✓				
143660	164.051(A)(6)	✓				
143668	164.051(A)(6)	✓				
143682	164.051(A)(6)	✓				
143687	164.051(A)(6)	✓				
143702	164.051(A)(6)	✓				
143703	164.053(A)(5)	✓				
143710	164.051(A)(6)	✓				
143732	164.051(A)(6)	✓				
143740	164.051(A)(6)	✓				
143782	164.052(A)(5)	✓				
143784	164.052(A)(5)	✓				
143788	101.351	✓				
143794	164.052(A)(5)	✓				
143795	164.051(A)(6)	✓				
143803	164.053(A)(8)	✓				
143834	164.051(A)(6)		✓			
143846	164.052(A)(5)	✓				
143853	164.051(A)(3)	✓				
143881	164.051(A)(6)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
143884	164.051(A)(6)	✓				
143911	151.002(A)(13)	✓				
143929	164.051(A)(6)	✓				
143934	159.006	✓				
143942	164.051(A)(6)	✓				
143943	164.051(A)(6)	✓				
143944	164.051(A)(6)	✓				
143946	164.052(A)(17)	✓				
143955	164.051(A)(6)	✓				
143969	164.051(A)(6)	✓				
143973	164.053(A)(6)	✓				
143988	164.051(A)(6)	✓				
143990	164.052(A)(5)	✓				
144003	164.051(A)(4)(D)	✓				
144012	164.051(A)(6)	✓				
144032	101.201	✓				
144076	164.052(A)(5)	✓				
144095	164.053(A)(6)	✓				
144140	164.053(A)(5)	✓				
144146	164.052(A)(5)	✓				
144151	164.053(A)(1)	✓				
144209	164.051(A)(6)	✓				
144212	159.006	✓				
144227	164.052(A)(5)	✓				
144228	159.006	✓				
144235	164.053(A)(9)	✓				
144236	164.053(A)(9)	✓				
144257	164.052(A)(5)	✓				
144260	164.053(A)(1)	✓				
144277	206.302(4)	✓				
144293	164.053(A)(1)	✓				
144319	204.302(4)	✓				
144326	164.051(A)(6)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
144346	159.006	✓				
144351	164.053(A)(1)	✓				
144353	164.053(A)(1)	✓				
144360	164.051(A)(6)	✓				
144374	164.052(A)(5)	✓				
144377	164.051(A)(6)	✓				
144403	164.051(A)(6)	✓				
144408	164.052(A)(5)	✓				
144425	164.052(A)(5)	✓				
144532	164.052(A)(5)	✓				
144536	101.351	✓				
144537	164.053(A)(1)	✓				
144552	164.053(A)(5)	✓				
144561	164.052(A)(5)	✓				
144580	164.053(A)(8)	✓				
144606	159.006	✓				
144629	164.052(A)(5)	✓				
144664	164.053(A)(6)	✓				
144693	105.002(B)	✓				
144695	164.051(A)(6)		✓			
144698	151.002(A)(13)	✓				
144730	164.051(A)(6)	✓				
144788	164.052(A)(5)	✓				
144822	164.052(A)(5)	✓				
144823	164.051(A)(6)	✓				
144989	151.002(A)(13)	✓				
144996	101.351	✓				
145021	164.052(A)(4)	✓				
145078	159.002	✓				
145087	164.052(A)(4)	✓				
145094	164.053(A)(1)	✓				
145142	164.052(A)(5)	✓				
145224	164.052(A)(5)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
145272	101.351	✓				
145304	151.002(A)(13)	✓				
145406	601.302(6)	✓				
145450	164.053(A)(8)	✓				
145507	101.351	✓				
145526	101.351	✓				
145630	105.002(B)	✓				
145825	204.302(4)	✓				
145827	164.052(A)(5)	✓				