



# Texas Medical Board

BOARD MEETING

FEBRUARY 8, 2013

333 GUADALUPE, TOWER 2, SUITE 225

AUSTIN, TEXAS

The meeting was called to order on February 8, 2013 at 8:03 a.m. by Irvin E. Zeitler, Jr., D.O., Board President. Board members present were Melinda McMichael, M.D., Vice-President; Paulette Southard, Secretary/Treasurer; Michael Arambula, M.D.; Julie Attebury; David Baucom; Manuel G. Guajardo, M.D.; J. Scott Holliday, D.O.; Allan H. Shulkin, M.D.; Wynne M. Snoots, M.D.; Stanley S. Wang, M.D., J.D.; and Timothy Webb, J.D. Margaret McNeese, M.D. and George Willeford, III, M.D. arrived a few minutes after roll call. Patricia S. Blackwell; John D. Ellis, Jr., J.D.; Carlos L. Gallardo; and W. Roy Smythe, M.D. were not present. Board staff present were Mari Robinson, Executive Director; Robert Bredt, M.D., Medical Director; Scott Freshour, J.D., General Counsel; Tonie Knight, Licensure Manager; Megan Goode, Public Information and Special Projects Manager; and various other staff.

Dr. Bredt read the board's mission statement into the minutes. *Our Mission is to protect and enhance the public's health, safety and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline, and education.*

## **Agenda item #2, Board Member Report.**

**Board Election Update.** Dr. Zeitler reported Dr. McMichael's term is expiring and will not be seeking reappointment; the Board will be accepting floor nominations for a new Vice-President, at the April meeting.

## **Agenda item #3, Executive Director Report.**

**Budget.** Ms. Robinson presented the budget and gave a brief update on two upcoming budget hearing dates and reviewed Exceptional Items the agency requested.

**Legislative Update.** Ms. Robinson gave an update on current legislation filed as it pertains to the Board.

**Outreach Update.** Ms. Robinson gave an update on the number of Outreach presentations completed throughout the State. Outreach presentations will resume in the summer.

**Audit Update.** Ms. Robinson reviewed the ongoing audits.

**Prescriptive Delegation.** Deferred to later in the meeting.

**Federation of State Medical Boards Update.** Ms. Robinson gave a brief update on the Federation meeting that she and Dr. Arambula attended in January related to National licensure. Dr. Arambula welcomed input on this matter that could be relayed at the next Federation Annual Meeting.

**Appointee Update.** Ms. Robinson provided an update on the upcoming reappointment process that several of the Medical Board members are up for in April.

**Agenda item #4, Medical Director Report.**

**Feedback to experts.** Dr. Bredt informed the Board that current expert panelists are requesting to know the outcomes of investigations and Informal Settlement Conferences that they reviewed. Dr. Bredt will be looking into this further.

**CME requirements difficult to fulfill.** Dr. Bredt discussed the difficulty probationers encounter when trying to complete specific CME requirements of an order.

**Agenda item #3, Executive Director Report (cont.)**

**Personnel Update.** Ms. Robinson introduced Scott Freshour, J.D., General Counsel; Robert Blech, J.D., Assistant General Counsel; and Christopher Palazola, J.D., Manager of Litigation.

**Agenda item #5, Public Information Update.** Ms. Hopper, Public Information Officer, discussed the redesigning of the agency's website as well as current topics in the media concerning TMB.

**Agenda item #6, Medical Board/Physician Assistant Liaison update.** Dr. Wang gave a brief update on the December 14, 2012 Physician Assistant Board meeting.

**Agenda item #7, Discussion, recommendation, and possible action regarding communicating with hospitals about board orders.** Ms. Robinson gave background on a standard paragraph that was previously included in board orders requiring licensees to provide a copy of their board order to all hospitals where the licensee had privileges. After discussion, **the board directed staff to include the presented language presented as a standard paragraph in board orders and ensure that it's not subject to modifications or edits.**

**Agenda item #8, Discussion, recommendation and possible action regarding emeritus retired licensure status.** Ms. Robinson discussed a previous board direction to review whether the Board could develop rules for the purpose of granting an honorary license to physicians who previously, practiced medicine outside of Texas, but have retired to Texas and would like to hold themselves out as "doctor". After discussion, the Board directed staff to draft rules for consideration regarding emeritus retired licensure status for physicians who have an active license and have no disciplinary history with the Board.

**Agenda item #9, Discussion, recommendation, and possible action regarding the practice of dental sleep medicine.** Ms. Robinson informed the board that the Dental Board is considering creating a rule/policy related to dentists diagnosing and treating sleep apnea. Dr. Willeford recused from the discussion. After discussion, the Board directed staff to draft a position statement to the Dental Board; Dr. Wang offered to help draft the statement.

**Agenda item #10, Discussion, recommendation, and possible action regarding impaired renewals.** Ms. Robinson discussed the current renewal process for physicians that report they are impaired. Ms. Robinson requested direction on how to handle the impaired renewals that are being brought forth to her attention that need further guidance and direction from the Board. After discussion, the Board directed staff to add a new agenda item to DPRC to review the impaired renewals the ED needs feedback on.

**Agenda item #11, Consideration and possible action regarding pending litigation.** Dr. McMichael moved, Dr. Arambula seconded, and the motion passed to go into Executive Session at 9:53 a.m. for private consultation and advice of counsel concerning pending or contemplated 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. Open session resumed at 10:28 a.m. and it was announced that no action was taken. A certified agenda was made.

There were no items for Agenda items #12-14.

**Agenda item #15, Consideration and Approval of Modification Request/Termination Request of Non-Public Rehabilitation Orders.** After consideration, Dr. Arambula moved, Mr. Webb seconded, and the motion passed to approve the Modification Denied of Rehabilitation Order #579; and Modified Agreed Rehabilitation Order #668.

**Agenda item #16, Consideration and possible action for Agreed Board Orders.** After discussion, Dr. Arambula moved, Dr. Wang seconded and the motion passed to approve the Agreed Order #25, with the modification to add a chart monitor for 12 cycles, due to the inadequate maintenance of medical records involving multiple patients.

After discussion, Dr. Wang moved, Dr. Arambula seconded and the motion passed to approve the Agreed Order #33, with the removal of the typographical error in the section "Order", #12.

Dr. Wang was recused for consideration of the Agreed Orders for Abdul S. Siddiqui, M.D. and Veena Surapaneni, M.D. After discussion, Dr. Arambula moved, Mr. Webb seconded, and the motion passed to approve the Agreed Orders en masse for Richard A. Benavides, M.D.; Michael A. McFarland, M.D.; Stephen F. Melcher, M.D.; Ira O. Murchison, D.O.; Cynthia Moran, M.D.; Thomas C. Perry, M.D.; Dennis D. Roberts, M.D.; Ernest T. Roman, M.D.; Charles T. Smith, M.D.; David A. Dunnington, M.D.; Razaak A. Eniola, M.D.; Stefan Konasiewicz, M.D.; David Morrison, M.D.; Robert R. Reyes, M.D.; Timothy Scroggins, M.D.; Abdul S. Siddiqui, M.D.; Bradley Walker, M.D.;

**George A. Brooks, M.D.; Gary N. Butka, M.D.; Tony T. Chuong, M.D.; Michael Fraser, D.O.; Paul A. Grant, M.D.; David M. Hitt, D.O.; Mohammad Hussain, M.D.; Charles R. Kopecky, M.D.; Kieth Landry, Jr., M.D.; James P. Locke, M.D.; Mario Nutis, M.D.; Gary A. Ogin, M.D.; Benedict Olusola, M.D.; John A. Osborne, M.D.; Gregory K. Phillips, M.D.; Bethany E. Powell, M.D.; Daniel E. Rousch, D.O.; Todd L. Samuels, M.D.; Veena Surapaneni, M.D.; David F. Villacres, M.D.; Mark J. Cwikla, M.D.; Ricardo Diaz, M.D.; Phu M. Do, M.D.; J. Mark McBath, M.D.; Julio C. Molina, M.D.; Eduardo S. Tanhui, M.D.; Harry T. Weaver, M.D.; Mohammed Attar, M.D.; Francis Cherian, M.D.; Akili Graham, M.D.; and Filiberto Rodriguez-Salinas, M.D.**

**Agenda item #17, Consideration and Approval of Modification**

**Request/Termination Request Orders.** After consideration, **Dr. Arambula** moved, **Dr. McNeese** seconded, and the motion passed to approve the **Modification Request Orders** for **Odette Campbell, M.D.; Howell E. Davis, D.O.; Jose Gil, M.D.; Nathaniel B. Patterson, M.D.; Daniel R. Theesfeld, M.D.; Julia R. Ward, M.D.; Mark L. Wright, M.D.; and James A. Paskow, M.D.;** and **Termination Granted Orders** for **Kalamani Dharma, M.D.; Terry L. Johnson, M.D.; Mateo Reyes, M.D.; and Javier A. Valadez, M.D.;** and **Termination Denied Orders** for **Marvin C. Cornette, M.D. and James A. Paskow, M.D.;** and the **Modification Denied Order** for **Bruce R. McFarland, M.D.**

**Agenda item #18, Consideration and Approval of Mediated Settlement Agreed Orders.** After consideration, **Dr. McMichael** moved, **Mr. Webb** seconded, and the motion passed to approve the **Mediated Settlement Agreed Orders en masse** for **Stevane Cordas, D.O.; Robert Gross, M.D.; and Bassam A. Hamid, M.D.**

**Agenda item #19, Consideration and Approval of Remedial Plans.** **Dr. Wang** was recused for consideration of the **Remedial Plan** for **Steve Lewitton, M.D.** After discussion, **Dr. McMichael** moved, **Ms. Southard** seconded, and the motion passed to approve the **Remedial Plans en masse** for **Jeremias Abueme, M.D.; Joel L. Adams, M.D.; Alice A. Ajim, M.D.; Robert M. Battle, M.D.; Larry Chan, M.D.; Leonides G. Cigarroa, Jr., M.D.; Dean A. Cione, M.D.; Tamara Cox, M.D.; Christine D. Criscuolo-Higgins, M.D.; Khavar J. Dar, M.D.; Sriya De Silva, M.D.; John C. Dean, M.D.; Norma, Fuelberth, M.D.; April Gatson, M.D.; Ignacio Gonzalez-Rodriguez, M.D.; Kameswari S. Konduri, M.D.; Steve Lewitton, M.D.; Nathan P. Long, M.D.; Karen W. Malveaux, M.D.; Barry A. Martin, M.D.; Wilfredo, Munoz, M.D.; Harlan W. Nevin, M.D.; Vivian A. Okechukwu, M.D.; Olga M. Olivares-Herrera, M.D.; Cyril Owusu-Boakye, M.D.; Pinakin R. Patel, M.D.; Sachin P. Patel, M.D.; Sanjay P. Patel, M.D.; Paresh K. Rajajoshiwala, M.D.; Priscilla Ray, M.D.; Dale S. Reynolds, M.D.; Patricia L. Roberts, D.O.; Jeanne W. Ryan, M.D.; Benjamin A. Salinas, M.D.; Roberto A. Silva, M.D.; Jeffrey S. Smith, M.D.; Scott W. Spann, M.D.; Elvis Torres, D.O.; Damaris Y. Wright, M.D.; Juan C. Yabraian, M.D.; Imran Fayaz, M.D.; Joseph Varon, M.D.; Ravi Xavier, M.D.; Maximo Flores-Salazar, M.D.; Kevin T. Joyner, M.D.; Mahe T. Nadeem, M.D.; Paul B. Payne, M.D.; Luis Pineiro, M.D.; Saqib A. Siddiqui, M.D.; Andrea M. Alexander, M.D.; and Ajit Dave, M.D.**

There were no items for Agenda items #20-21.

**Agenda item #22, Report on Temporary Suspensions.** A report was given on the Temporary Suspension With Notice for Benjamin E. Wiseman, M.D.; Mirian Camati, M.D.; Ngoc X. Nguyen, M.D.; John A. Tafel, M.D.; Innad Hasan Husaini, M.D.; Kathryn Buskirk, M.D.; Linda Hyde, M.D.; Clyde Wilton Simmons, Jr., M.D.; Carl Rockett, M.D.; Subramaniam V. Ramanathan, M.D.; Warren Bertrand Dailey, M.D.; David Mark McClellan, M.D.; Darcey Gus Kobs, III, M.D.; Timothy N. Marks, M.D.; John Herman Focke, III, M.D.; Allan Dee Ahlschier, M.D.; John Wesley Dorman, M.D.; and Temporary Suspension Without Notice for Chau Doan Khuu, M.D.; and Barrett Doyle Whitefield, M.D.

**Dr. McMichael moved, Ms. Attebury seconded, and the motion passed to go into Executive Session at 10:58 a.m. for private consultation and advice of counsel concerning pending or contemplated 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.** Open session resumed at 11:19 a.m. and it was announced that no action was taken. A certified agenda was made.

**Agenda item #23, Report on Automatic Orders.** A report was given on the Automatic Suspension Order for Michael Dean Smith, M.D.

**Agenda item #24, Consideration and approval of Cease and Desist Orders.** After consideration, **Dr. Arambula moved, Ms. Southard seconded, and the motion passed to approve the Cease and Desist Order for Claudia Santillan.**

**Agenda item #25, Report on motions for rehearing.** A report was presented on the motions for rehearing.

There were no items for Agenda items #26-29.

The board recessed at 11:23 a.m.

The board reconvened at 11:30 a.m.

**Agenda item #30 at 11:30 a.m. Discussion, recommendation, and possible adoption of proposed amendments and rule review to 22 Texas Administrative Code:**

- a. Chapter 161. General Provisions  
§161.3. Organization and Structure.

Ms. Robinson gave a brief summary of proposed amendments to Chapter 161. No written comments were received. No one signed-in to present oral comments. After discussion, **Ms. Southard moved, Dr. Wang seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 161. General Provisions, §161.3 Organization and Structure for publication.**

- b. Chapter 163. Licensure  
§163.2 Full Texas Medical Chapter

Ms. Robinson gave a brief summary of proposed amendments to Chapter 163. Written comments were received and reviewed. Jennifer Rangel signed-in and did not present oral comments. After discussion, **Ms. Southard moved, Dr. Arambula seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 163. Licensure, §163.2 Full Texas Medical Chapter, to read under “(5) This subsection shall not be interpreted to apply to: (A) Applicants for full licensure under this chapter that have been offered employment at an institution that maintains a graduate medical education program in this state, and:”**

c. Chapter 187. Procedural Rules  
§187.44 Probationer Show Compliance Proceeding

Ms. Robinson summarized the proposed rule review and amendments to Chapter 187. No written comments were received. No one signed-in to present oral comments. After discussion, **Dr. Arambula moved, Ms. Southard seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 187. Procedural Rules, §187.44 Probationer Show Compliance Proceeding for publication.**

d. Chapter 192. Office-Based Anesthesia Services  
§192.1 Definitions  
§192.2 Provision of Anesthesia Services in Outpatient Settings

Ms. Robinson gave a brief summary of proposed amendments to Chapter 192. Written comments were received and reviewed. No one signed-in to present oral comments. This item was deferred to later in the meeting.

e. Chapter 195 Pain Management Clinics  
§195.2 Certification of Pain Management Clinics

Ms. Robinson gave a brief summary of proposed amendments to Chapter 195. No written comments were received. No one signed-in to present oral comments. After discussion, **Dr. Arambula moved, Dr. McMichael seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 195. Pain Management Clinics, §195.2 Certification of Pain Management Clinics for publication.**

### **Agenda item #3, Executive Director Report (cont.)**

**Prescriptive Delegation.** Ms. Robinson discussed Senate Bill 406 and the possible changes it may have on a prior directive from the Board; allowing physicians to backdate their prescriptive delegation registration for up to 30 days. After discussion, the Board directed staff to not accept any backdating of prescriptive delegation registrations more than 30 days and implement new changes as required after the legislative session ends.

## **Consent Agenda**

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

1. Consideration and approval of the November 30, 2012 Board Meeting Minutes. **Dr. McNeese moved, Ms. Attebury seconded, and the motion passed to approve the November 30, 2012 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. McMichael gave a report of the Disciplinary Process Review Committee meeting. **Dr. McMichael moved, Ms. Attebury seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items.**

Dr. Snoots gave a report of the Electronic Medical Records and Communication Ad Hoc Committee. **Dr. Snoots moved, Ms. Southard seconded, and the motion passed to approve the Ad Hoc Electronic Medical Records and Communication Committee.**

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 minutes.**

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

Dr. McNeese gave a report of the Standing Orders Committee meeting. **Dr. McNeese moved, Mr. Baucom seconded, and the motion passed to approve the minutes and action items with the correction that Ms. Blackwell be deleted as she did not attend.**

### **Agenda item #30 at 11:30 a.m. Discussion, recommendation, and possible adoption of proposed amendments and rule review to 22 Texas Administrative Code:**

- d. Chapter 192. Office-Based Anesthesia Services
  - §192.1 Definitions
  - §192.2 Provision of Anesthesia Services in Outpatient Settings

Ms. Robinson gave a brief summary of proposed amendments to Chapter 192. Written comments were received and reviewed. Additional comments were handed out. Jennifer Garza signed-in and presented oral comments. After discussion, **Dr. Arambula moved, Dr. Willeford seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 192. Office-Based Anesthesia Services, §192.1 Definitions, and §192.2 Provision of Anesthesia Services in Outpatient Settings for publication.**

**Agenda item, #33, Open forum for public comments.** Debra McGregor, RN signed-in to present public comments.

There being no further agenda items, the meeting adjourned at 12:30 p.m.