

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
December 1, 2016

Chair Margaret C. McNeese, M.D., called the meeting to order at 10:15 a.m. Other members present were Julie K. Attebury, Allan Shulkin, M.D., Surendra K. Varma, M.D., Stanley Wang, M.D., and George Willeford III, M.D. Committee Members Michael Arambula, M.D., Pharm.D., David Baucom, Manuel Guajardo, M.D., James “Scott” Holliday, D.O., and Karl W. Swann, M.D. were not present.

Staff members present were Scott Freshour, Interim Executive Director, Robert Bredt, M.D., Medical Director, and various other staff.

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

Ms. Attebury moved, and Dr. Wang seconded that PHP Case #1 remain under the management of PHP. Motion carried.

Dr. Varma recused himself from any discussion and decision on this case.

Ms. Attebury moved, and Dr. Varma seconded that PHP Case #2 remain under the management of PHP. Motion carried.

Dr. Varma moved, and Ms. Attebury seconded that PHP Case #3 remain under the management of PHP. Motion carried.

Dr. Varma moved, and Dr. Willeford seconded that PHP Case #4 remain under the management of PHP. Motion carried.

Ms. Attebury moved, and Dr. Willeford seconded that PHP Case #5 remain under the management of PHP. Motion carried.

Dr. Varma moved, and Dr. Wang seconded that PHP Case #6 remain under the management of PHP. Motion carried.

Ms. Attebury moved, and Dr. Varma seconded that PHP Case #7 remain under the management of PHP. Motion carried.

Dr. Varma moved, and Dr. Wang seconded that PHP Case #8 remain under the management of PHP. Motion carried.

Dr. Varma moved, and Dr. Wang seconded that PHP Case #9 be returned to the jurisdiction of the Texas Medical Board. Motion carried.

Dr. Willeford moved, and Dr. Wang seconded that PHP Case #10 be returned to the jurisdiction of the Texas Medical Board and open an immediate investigation to determine if individual is still practicing. If still practicing, staff is to evaluate for a temporary suspension without notice as soon as possible. Motion carried.

It was announced by Dr. Fitzwater that PHP Case #s 11, 12, and 13 be withdrawn from the agenda.

Agenda Item #3. Reports and discussion regarding Texas Physician Health Program. (Dr. Fitzwater)

Direction was given to staff to develop a Memorandum of Understanding between TXPHP and TMB.

Dr. McNeese moved, and Ms. Attebury seconded; the motion passed at 10:57 am. 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 2:04 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: 16-1888, 16-2441, 16-2560, 16-3221, 16-3336, 16-3508, 16-3644, 16-3661, 16-4062, 16-4418, 16-4513, 16-4551, 16-4798, 16-5191, 16-5375, 16-5984, 16-6204 B. Jurisdictional-Not-Filed Complaints: 15-3142, 16-2533, 16-3166, 16-3509, 16-4458, 16-6764, 16-6999, 16-8040, 16-8080, 17-0014, 17-0055, 17-0091, 17-0218, 17-0278, 17-0329, 17-0419, 17-0449, 17-0450, 17-0621, 17-0943, 17-1077 C. Non-Jurisdictional Complaints: 16-3564, 16-3953, 16-4405

Ms. Southard arrived at 11:42 and was appointed to the committee to step in for Dr. Shulkin, who left the meeting.

Dr. McNeese moved, and Dr. Varma seconded that the appeal of Item 9.A.i, Log # 16-3644 be denied. Motion carried.

Dr. Willeford moved, and Dr. Varma seconded that the appeal of Item 9.A.i, Log #16-5191 be denied. Motion carried.

Ms. Attebury moved, and Dr. Varma seconded that the appeal of Item 9.A.i, Log #16-5984 be denied. Motion carried.

Ms. Attebury moved, and Dr. Varma seconded that all other appeals under Agenda Item 9.A.i. be denied. Motion carried.

Ms. Attebury moved, and Dr. Willeford seconded that the appeal of Item 9.B, Log #16-3166 be granted and additional information be gathered including a response and records from

the Respondent and the information be given to a physician investigator to determine if a violation has occurred. Motion carried.

Dr. Willeford moved, and Ms. Southard seconded that the appeal of Item 9.B, Log #16-6999 be denied. Motion carried.

Ms. Attebury moved, and Dr. Willeford seconded that the appeal of Item 9.B, Log #16-8040 be granted and additional information to be gathered including a response and records from the Respondent, as well as information from the hospital and other individuals who treated the patient and the information be given to a physician investigator. Motion carried.

Dr. Willeford moved, and Dr. Varma seconded that the appeal of Item 9.B, Log #17-0055 be granted and collect all hospital and rehabilitation records and re-evaluate. Motion carried.

Dr. Wang moved, and Dr. Varma seconded that the appeal of Item 9.B, Log #17-0449 be granted for further investigation. Motion carried.

Dr. Wang moved, and Ms. Southard seconded that the appeal of Item 9.B, Log #17-0450 be grant for further investigation. Direction was also given to staff to refer the hospice agency to the Department of Aging and Disability Services for further investigation. Motion carried.

Dr. Varma moved, and Ms. Attebury seconded that the appeal of Item 9.B, Log #17-0621 be granted. Motion carried.

Dr. Varma moved, and Dr. Willeford seconded that all other appeals under Agenda Item 9.B not specifically granted above be denied, with the exception of Log #17-1077 which has been moved to the March 2017 board meeting as a courtesy to the complainant. Motion carried.

Dr. Willeford moved, and Ms. Southard seconded that all appeals under Agenda Item 9.C be denied. Motion carried.

Agenda Item #4. Discussion, recommendation, and possible action regarding renewals involving impaired licensees.

It was announced by Dr. McNeese that there were no impaired renewals to be presented to the DPRC under Agenda Item #4.

Agenda Item #5. Reports and discussion regarding the Investigation, Litigation, and Compliance Departments.

Mr. Freshour presented the Enforcement Report for October 2016, a copy of which is attached. This was an informational item only and no vote was necessary.

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

Dr. Willeford moved, and Dr. Varma seconded that the waiver list on Agenda Item #06 be approved. Motion carried.

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

Ms. Southard moved, and Ms. Attebury seconded that the appointments of members to the Expert Panel be accepted as noted in the attachment. Motion carried.

Agenda Item #8. Reports and discussion regarding cases over one year old.

Mr. Freshour 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: 16-5082, 16-0733 (16-3143)

Dr. Willeford moved, and Dr. Varma seconded that follow-up file #16-5082 be dismissed. Motion carried.

Dr. Willeford moved, and Ms. Attebury seconded that follow-up file #16-0733 (log 16-3143) be referred back to the full Board with the recommendation of changing the Remedial Plan to an Agreed Order with the same terms as the previous Remedial Plan but changing the administrative fees to an administrative penalty and with delineation of mitigation related to Baylor's action. Motion carried.

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

Dr. Willeford moved, and Dr. Wang seconded that the QA rejected NSOC files be resolved as noted on the individual sign-off sheets. Motion carried.

Dr. Willeford moved, and Ms. Southard seconded that the QA rejected SOC files be resolved as noted on the individual sign-off sheets. Motion carried.

Dr. Willeford moved, and Ms. Southard seconded that the SOAH dismissals be approved for dismissal. Motion carried.

Ms. Southard moved, and Dr. Willeford seconded that the Legal Case 16-0979 dismissal be sent back to an ISC with a different panel. Motion carried.

Ms. Attebury moved, and Ms. Southard seconded that the NSOC files be resolved as noted on the individual sign-off sheets. Motion carried.

Dr. Varma moved, and Ms. Southard seconded that the SOC files be resolved as noted on the individual sign-off sheets. Motion carried.

Agenda Item #12. Adjourn.

With there being no other items to discuss, the committee adjourned at 2:45 pm.

**TMB - Disciplinary Process Review Committee
(DPRC) TXPHP - Participant Case Review
December 1, 2016**

Case #	Remain with PHP	TMB Accepted	Continue
1	X		
2	X		
3	X		
4	X		
5	X		
6	X		
7	X		
8	X		
9		X	
10		X	
11	WITHDRAWN		
12	WITHDRAWN		
13	WITHDRAWN		

Expert Panel Members for Board Approval December 2016

LAST	FIRST	LIC #	CITY	SPECIALTY
Beck	Rachel	M2559	San Antonio	Cardiovascular Disease
Bergfeld	Deborah	P3608	Austin	Physical Medicine & Rehabilitation

Interim Approval

DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED**ISC PANEL RECOMMENDATIONS –** Texas Medical Board December 1, 2016**ISC Dismissal's**

CASE # CLOSE CONTINUE TO ISC

17-0002	X		
17-0003	X		
17-0014	X		
16-0525	X		
16-0978	X		
16-0774	X		
16-0724	X		
16-0979			X
16-0941	X		
16-0811	X		
16-0815	X		
16-0956	X		
16-0729	X		
16-0935	X		
17-0035	X		
16-0931	X		
16-0692	X		
15-0830	X		
16-0841	X		
16-0816	X		
16-0497	X		
16-0973	X		
16-0917	X		

Total = 23

COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

17-0047	X		
16-0582	X		
15-0568	X		
16-0878	X		

Total = 4

Pre-Approved for Submission/COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

16-0869	X		
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Total = 1

SOAH Case Dismissals (To be reviewed by full committee) Also, to have Formal complaint in LF

CASE # CLOSE CONTINUE TO ISC

16-0083	X		
16-0195	X		
14-0234	X		
15-0703	X		
15-0370	X		
15-0286	X		
15-0270	X		
15-0798	X		
12-0509	X		

Total = 9

TXPHP Dismissals

CASE # CLOSE CONTINUE TO ISC

16-0693	X		
16-0798	X		
16-0930	X		

Total = 3

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

Total : 102

Log Number	Close	Continue	ISC	Name
162020	X			
162954	X			
163376	X			
163392	X			
163735	X			
163775	X			
163781	X			
163977	X			
164205	X			
164318	X			
164434	X			
164477	X			
164512	X			
164530	X			
164540			X	
164571	X			
164572	X			
164699	X			
164763	X			
164764	X			
164769	X			
164785	X			
164926	X			
164970	X			
164989	X			
165013	X			
165027	X			
165066	X			
165082	X			
165096	X			
165137	X			
165159	X			
165160	X			
165161	X			
165272		X		
165288	X			
165321	X			
165345	X			
165361	X			
165421	X			
165460	X			
165464	X			
165468	X			
165479	X			

Log Number	Close	Continue	ISC	Name
165531	X			
165538	X			
165670	X			
165838	X			
165930	X			
165959	X			
165970	X			
166014	X			
166044	X			
166081	X			
166096	X			
166099	X			
166174	X			
166177	X			
166209	X			
166233	X			
166296	X			
166308	X			
166341	X			
166347	X			
166350	X			
166368	X			
166427	X			
166602	X			
166679	X			
166699	X			
166728	X			
166789	X			
166820	X			
166838	X			
166839	X			
166847	X			
166873	X			
166926	X			
166928	X			
166929	X			
166950	X			
166951	X			
167011	X			
167021	X			
167123	X			
167125	X			
167192	X			
167256	X			
167284	X			
167322	X			

Log Number	Close	Continue	ISC	Name
167354	X			
167595	X			
167632	X			
167744	X			
167917	X			
168031	X			
170002	X			
170074	X			
170172	X			
170377	X			
170378	X			
170556	X			