

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
December 5, 2019

Chair, Manuel Quinones, Jr., M.D., called the meeting to order at 10:20 am. Other members present were Sharon Barnes, Devinder S. Bhatia, M.D., Robert Gracia, LuAnn Morgan, and David G. Vanderweide, M.D. Jason K. Tibbles, M.D., and Sherif Zaafran, M.D. were not in attendance.

Staff members present were Robert Bredt, M.D., Medical Director, Wendy Pajak, Assistant General Counsel and various other staff.

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

Ms. Barnes moved and Ms. Morgan seconded that TXPHP Case #1 remains under the management of PHP with zero tolerance. Motion carried.

Dr. Vanderweide moved and Ms. Barnes seconded that TXPHP Case #2 remains under the management of PHP with a five-year agreement. Motion carried.

Ms. Barnes moved and Ms. Morgan seconded that TXPHP Case #3 be returned to the jurisdiction of the Texas Medical Board. Motion carried.

Ms. Barnes moved and Ms. Morgan seconded that TXPHP Case #4 remains under the management of PHP with zero tolerance. Motion carried.

TXPHP Case #5 Emergent Referral to Texas Medical Board. This was an informational item only and no vote was necessary.

Agenda Item #3. Reports and discussion regarding Texas Physician Health Program.

This was an informational item only and no vote was necessary.

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

It was announced by Ms. Pajak 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.

Ms. Pajak presented the Enforcement Activity Report for the second meeting in FY2020, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #6. Discussion, recommendation, and possible action regarding Rule Review and proposed changes to the following chapters in Title 22 of the Texas Administrative Code:³

It was announced by Ms. Pajak that there were no rules to be presented to the DPRC under Agenda Item #6.

Agenda Item #7. Review, discussion, and possible action regarding review of probation's appearances.

It was announced by Ms. Pajak that there were no probation appearances to present to the DPRC under Agenda Item #7.

Agenda Item #8. Consideration and approval of membership of the Expert Physician Panel.

Dr. Bhatia moved and Ms. Morgan seconded to approve the appointments of the Expert Panel members as noted in the attachment. Motion carried.

Agenda Item #9. Reports and discussion regarding cases over one year old.

Mr. Palazola presented to the Committee the current status of cases that are over one year old. This was an informational item only and no vote was necessary.

At 11:01 a.m., Mr. Gracia moved and Ms. Barnes seconded, 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 160.008, 164.007(c), Texas Occupations Code. Open session resumed at 1:50 p.m., and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Sherif Zaafran, M.D., Brint Carlton, J.D., Executive Director and Scott Freshour, General Counsel were present.

Agenda Item #10. Review, discussion, and possible action regarding appeals of dismissed - complaints. A. Jurisdictional Complaints: i. Investigations: 19-0231, **19-1459***, 19-1832, 19-2302, 19-4526 ii. Legal Files - None B. Jurisdictional-Not-Filed Complaints: **19-3917***, **19-5177***, 19-6314, 19-6625, 19-6854, **19-7318***, 19-7893, 19-7899, 19-8137, 19-8261, 19-8466, 19-8534, 19-8600, 19-8678, 19-8687, 19-8723, 20-0139, 20-0319, 20-0367, 20-0521, 20-0605, 20-0974 C. Non-Jurisdictional Complaint: None

Ms. Barnes moved and Dr. Vanderweide seconded that the appeal of Item 10.A, Log #19-1459 be denied. Motion carried.

Dr. Quinones moved and Mr. Gracia seconded that the appeal of Item 10.A, Log #19-4526 be denied and send a custom letter to Respondent. Motion carried.

Dr. Vanderweide moved and Mr. Gracia seconded that all other appeals under Agenda Item 10.A.i not specifically granted above be denied. Motion carried.

Dr. Vanderweide moved and Dr. Bhatia seconded to deny the appeal. Without vote or objection, Dr. Vanderweide withdrew the motion. Dr. Quinones moved and Ms. Morgan seconded that the appeal of Item 10.B, Log #19-7318 be granted. Motion carried.

Dr. Quinones moved and Ms. Morgan seconded that the appeal of Item 10.B, Log #19-6314 be granted. Motion carried.

Dr. Quinones moved and Ms. Morgan seconded that the appeal of Item 10.B, Log #19-8137 be granted. Motion carried.

Dr. Quinones moved and Ms. Morgan seconded that the appeal of Item 10.B, Log #19-6854 be granted. Motion carried.

Dr. Quinones moved and Ms. Morgan seconded that the appeal of Item 10.B, Log #19-8687 be granted. Motion carried.

Ms. Morgan moved and Ms. Barnes seconded that all other appeals under Agenda Item 10.B not specifically granted above be denied with the exception of Investigation Log #20-0974, which is postponed until the March Meeting. Motion carried.

Agenda Item #11. Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the DPRC for follow-up action, specifically including:

Mr. Gracia moved and Ms. Barnes seconded that follow-up file #19-6846 be dismissed. Motion carried.

Mr. Gracia moved and Dr. Bhatia seconded that follow-up file #19-6847 be dismissed. Motion carried.

Ms. Barnes moved and Mr. Gracia seconded that follow-up file #19-6849 be dismissed. Motion carried.

Agenda Item #12. Review, discussion, and possible action regarding selected files and cases.

Ms. Barnes moved and Dr. Bhatia seconded that all files under Agenda Item 12 QA rejected Non Standard of Care and Standard of Care files be resolved as noted on the individual sign-off sheets. Motion carried.

There were no Legal SOAH case dismissals for review.

Ms. Morgan moved and Ms. Barnes seconded that all files under Agenda Item 12 Non Standard of Care files for review be resolved as noted on the individual sign-off sheets. Motion carried.

Ms. Barnes moved and Ms. Morgan seconded that all files under Agenda Item 12 Standard of Care files for review be resolved as noted on the individual sign-off sheets. Motion carried.

Agenda Item #13 Adjourn.

Ms. Morgan moved and Dr. Bhatia seconded that the meeting adjourn.

Motion carried at 2:20 p.m.

TEXAS MEDICAL BOARD
Disciplinary Process Review Committee
TXPHP - Participant Case Review
December 5, 2019

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

TMB - 2nd Meeting Enforcement Activity Report FY 2020**October 2019 Work load**

<u>Investigations/Complaints</u>	<u>Oct-19</u>	<u>FY 2020</u>	<u>FY2019</u>	<u>FY2018</u>
Initiated	233	388	2,127	2,201
SOC	54	152	1,015	
Completed	185	387	2,226	2,000

Litigation

ISCs	63	126	728	673
Contested Hearings	2	2	29	29
Complaints Filed at SOAH	0	0	82	94
Mediations	2	2	11	22
Temp. Suspensions	10	17	41	39

Compliance

Probationers	657		687	669
Drug/Alcohol screens	257	529	3,037	2,984

<u>Medical Board Actions</u>	<u>Oct-19</u>	<u>FY 2020</u>	<u>FY 2019</u>
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Final Orders	2	2	10
Defaults	1	1	2
Agreed Orders	31	36	171
Exec. Dir. Suspensions	0	0	1
Susp. by Operaton of Law	0	0	12
Exec. Dir. Cease & Desist	2	3	3
Mediations	3	3	36
Remedial Plans	14	14	108
Terminations	6	6	45
Modifications	1	1	15

Expert Panel Members for Board Approval December 2019

LAST	FIRST	LIC #	CITY	SPECIALTY
Hollmig	Stanley	R2876	Austin	Dermatology
Jabor	Miled	H4434	Lubbock	Gastroenterology
Onaiwu	Cherry	R5303	Houston	Internal Medicine
Vanik	Richard	G7365	Houston	Hand Surgery/Plastic Surgery
Vogel	Susan	H4769	Houston	Internal Medicine/Palliative Medicine

Interim Approval

DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED

ISC PANEL RECOMMENDATIONS – Texas Medical Board December 5, 2019

CASE #	CLOSE	CONT.	TO ISC
19-0913	X		
19-0997	X		
19-1069	X		
19-0981	X		
19-0910	X		
19-0930	X		
19-0921	X		
19-0968	X		
19-1113	X		
19-1098	X		
19-0911	X		
19-0576	X		
19-0999			X
19-1075	X		
19-0989	X		
20-0032	X		
19-1002	X		
19-0932	X		
19-1029	X		
19-0929	X		
19-0918	X		
19-0916	X		
19-1099	X		
19-0892	X		
19-1053	X		
19-1038	X		
19-0917	X		

Total = 27

COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE #	CLOSE	CONT.	TO ISC
19-1108	X		
19-0290	X		
19-0466	X		
19-0899	X		
20-0125	X		
20-0007	X		
19-0324	X		
19-1124	X		
19-0946	X		

Total = 9

TXPHP Dismissals

CASE #	CLOSE	CONT.	TO ISC
19-0945	X		
19-1000	X		
19-0881	X		
19-0536	X		
19-0985	X		
19-0754	X		
19-1111	X		
19-1003	X		
19-1004	X		

Total = 9

DPRC DECEMBER 2019

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

Total : 152

Log Number	Allegation	Close	Continue	ISC	Hold	Name
175237	164.052(A)(5)	X				
175959	164.052(A)(4)	X				
176016	164.051(A)(4)(D)	X				
186503	164.052(A)(5)	X				
187183	164.053(A)(1)	X				
188311	164.052(A)(5)	X				
190472	164.051(A)(6)	X				
190933	164.052(A)(5)	X				
191042	164.052(A)(5)	X				
191090	164.051(A)(6)	X				
191224	164.051(A)(6)	X				
191358	164.053(A)(1)	X				
191784	164.053(A)(8)	X				
191877	164.051(A)(6)	X				
191907	164.051(A)(6)	X				
192135	164.051(A)(6)	X				
192242	164.051(A)(6)	X				
192292	164.051(A)(6)	X				
192603	164.051(A)(6)	X				
192612	164.051(A)(6)	X				
192663	164.052(A)(5)	X				
192672	164.051(A)(6)	X				
192715	164.051(A)(6)	X				
192793	105.002(B)	X				
192797	164.051(A)(6)	X				
192949	105.002(B)	X				
193000	164.052(A)(5)	X				
193418	164.051(A)(6)	X				
193537	164.051(A)(6)	X				
193584	164.051(A)(6)	X				
193763	164.052(A)(5)	X				
193905	164.051(A)(6)	X				
193920	164.051(A)(6)	X				
193986	164.052(A)(5)	X				
194055	164.051(A)(6)	X				
194096	164.051(A)(6)			X		
194162	164.053(A)(5)	X				
194187	164.051(A)(6)	X				
194238	164.053(A)(5)	X				
194372	164.051(A)(6)	X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
194484	164.051(A)(6)	X				
194488	151.002(A)(13)	X				
194549	164.051(A)(6)	X				
194550	164.051(A)(6)	X				
194809	105.002(B)	X				
194901	164.051(A)(7)	X				
194904	164.051(A)(3)	X				
194917	164.053(A)(5)	X				
194924	164.051(A)(6)	X				
194931	164.052(A)(5)	X				
194936	164.052(A)(5)	X				
194959	164.051(A)(6)	X				
194965	164.051(A)(6)	X				
195005	151.002(A)(13)	X				
195015	105.002(B)	X				
195030	164.051(A)(6)	X				
195093	164.051(A)(6)	X				
195111	164.053(A)(3)	X				
195218	164.051(A)(3)	X				
195270	164.051(A)(6)	X				
195272	164.051(A)(6)	X				
195274	164.051(A)(6)	X				
195337	164.051(A)(9)	X				
195409	164.053(A)(8)	X				
195486	164.051(A)(6)	X				
195581	164.051(A)(6)	X				
195634	164.052(A)(5)	X				
195721	164.051(A)(7)	X				
195737	164.052(A)(5)	X				
195760	164.051(A)(6)	X				
195764	164.052(A)(5)	X				
195785	164.051(A)(6)	X				
195788	164.051(A)(8)	X				
195969	164.051(A)(4)(C)	X				
196020	164.051(A)(6)	X				
196028	164.051(A)(6)	X				
196031	164.051(A)(6)	X				
196099	164.051(A)(6)	X				
196124	164.051(A)(6)	X				
196125	164.051(A)(6)	X				
196136	164.051(A)(6)	X				
196171	164.051(A)(6)	X				
196230	164.051(A)(6)	X				
196233	164.051(A)(6)	X				
196237	164.051(A)(6)	X				
196238	164.051(A)(6)	X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
196239	164.051(A)(6)	X				
196315	164.052(A)(5)	X				
196319	164.051(A)(6)	X				
196335	164.051(A)(6)	X				
196394	164.051(A)(6)	X				
196587	164.051(A)(6)	X				
196589	164.051(A)(6)	X				
196597	164.051(A)(6)	X				
196599	164.051(A)(9)	X				
196633	164.051(A)(6)	X				
196639	164.053(A)(5)	X				
196644	164.051(A)(6)	X				
196647	164.051(A)(6)	X				
196677	164.051(A)(6)	X				
196764	164.051(A)(6)	X				
196768	164.051(A)(6)	X				
196795	164.051(A)(6)	X				
196846	164.052(A)(5)	X				
196847	164.051(A)(6)	X				
196849	164.051(A)(6)	X				
196852	164.051(A)(6)	X				
196862	164.051(A)(6)	X				
196869	164.051(A)(6)	X				
196901	105.002(B)	X				
196903	101.351	X				
196908	164.052(A)(5)	X				
196990	164.051(A)(6)	X				
196995	164.052(A)(5)	X				
197001	164.051(A)(6)	X				
197079	151.002(A)(13)	X				
197120	164.051(A)(6)	X				
197132	164.051(A)(6)	X				
197176	164.052(A)(5)	X				
197180	164.052(A)(5)	X				
197191	164.052(A)(5)	X				
197193	159.006	X				
197260	164.051(A)(4)(B)	X				
197313	164.051(A)(6)	X				
197317	151.002(A)(13)	X				
197333	164.051(A)(6)	X				
197429	164.052(A)(5)	X				
197461	164.053(A)(1)	X				
197499	164.051(A)(6)	X				
197592	164.052(A)(5)	X				
197661	164.051(A)(9)	X				
197708	164.052(A)(17)	X				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
197709	151.002(A)(13)	X				
197772	164.052(A)(5)	X				
197922	105.002(B)	X				
198090	105.002(B)	X				
198219	164.051(A)(3)	X				
198223	151.002(A)(13)	X				
198227	105.002(B)	X				
198302	164.052(A)(5)	X				
198457	164.052(A)(5)	X				
198502	164.051(A)(9)	X				
198518	151.002(A)(13)	X				
198542	164.052(A)(5)	X				
198612	164.053(A)(1)	X				
198614	101.201	X				
198634	164.052(A)(5)	X				
198696	164.052(A)(17)	X				
198815	206.302(4)	X				
200059	164.052(A)(5)	X				
200236	164.052(A)(5)			X		
200326	164.053(A)(1)	X				