



# Texas Medical Board

BOARD MEETING

JUNE 12, 2015

333 GUADALUPE, TOWER 2, SUITE 225

AUSTIN, TEXAS

The meeting was called to order on June 12, 2015 at 8:03 a.m. by Michael Arambula, M.D., Board President. Board members present were: George Willeford III, M.D., Vice-President; Frank S. Denton; Carlos L. Gallardo; Manuel G. Guajardo, M.D.; Margaret McNeese, M.D.; Allan Shulkin, M.D.; Robert B. Simonson, D.O.; Karl W. Swann, M.D.; Surendra K. Varma, M.D.; and Stanley S. Wang, M.D. Timothy Webb, J.D.; and Wynne Snoots, M.D., arrived a few minutes after roll call. John R. Guerra, D.O., arrived at 9:47 a.m. Julie Attebury; David Baucom; John D. Ellis, Jr., J.D.; Paulette Southard, Secretary/Treasurer; and J. Scott Holliday, D.O., were not present. Board staff present were Mari Robinson, J.D., Executive Director; Robert Bredt, M.D., Medical Director, Scott Freshour, J.D., General Counsel; Tonie Knight, Licensure Manager; and Megan Goode, Governmental Affairs & Communications Manager, and various other staff.

**Agenda item #1, Mission Statement.** Dr. Willeford 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.*

There were no items for Agenda item #2.

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

**Budget.** Ms. Robinson reported all projected expenditures continue to remain on target for the fiscal year.

**Outreach Update.** Ms. Robinson reviewed the Outreach presentation schedule and progress made.

**Audit Update.** Ms. Robinson briefly addressed the internal audit for fiscal year 2015; the audit will focus on the licensing of physicians.

**Board Training.** The Board considered potential dates for board member training. After discussion, the Board reached a consensus for December.

**Legislative Update.** Ms. Robinson reported on priority legislation passed during the 84<sup>th</sup> Regular Session. Ms. Robinson reported the interstate compact for medical licensure did not pass, however, the State may still consider this as an option in the future.

An appropriations summary for the upcoming fiscal year was reviewed. The summary outlined exceptional items granted to the agency.

**Personnel Update.** Ms. Robinson gave an update on space arrangements.

**Agenda item #4,** was deferred to later in the meeting.

**Agenda item #5, Medical Director Report.** Dr. Bredt reported on the positive effects since implementing the re-offering of Remedial Plans during the Quality Assurance meetings. Dr. Bredt encouraged the Board to continue to provide feedback on the quality of the Expert Panelists reports. Dr. Bredt also requested to forward any names of possible expert panelists to him, specifically in the pain management and neurosurgeon specialties.

**Agenda item #6, Public Information Update.** Ms. Goode and Mr. Schneider reported the next newsletter will highlight on the Legislative Session; additional licensee information and updates will also be included on the agency's homepage. An update on media requests was given.

There were no items for Agenda item #7.

**Agenda item #8, Consideration and approval of Modification Request/Termination Request Orders.** After discussion, **Dr. Guajardo moved, Mr. Webb seconded, and the motion passed to approve the Modification Granted Orders for: Jeffrey L. Butts, D.O.; Clarence G. King, Jr., M.D.; Craig T. Kopecky, M.D.; Loi P. Nguyen, M.D.; Charles L. Poteet, Jr., M.D.; Sergio Silva, M.D.; Carlos A. Herrera, M.D.; and Douglas Mailman, M.D.; the Termination Granted Orders for: Rosa A. Fuentes, M.D.; and Warren H. Looney, M.D.; the Termination Denied Orders for: Kang S. Lee, M.D.; Yusuf A. Mosuro, M.D.; John J. Pang, D.O.; Chris A. Sparkman, M.D.; and Navinchandra Parikh, M.D.**

**Agenda item #9, Consideration and possible action for Agreed Board Orders.** Dr. Shulkin recused from consideration of Agreed Order #13. After discussion, **Dr. Willeford moved, Mr. Gallardo seconded, to approve Agreed Order #13, with the addition of 12 cycles of chart monitoring. A hand vote was taken and the motion passed. Mr. Denton and Mr. Webb opposed.**

**The remaining Agreed Board Orders were deferred to later in the meeting.**

**Agenda item #4, Consideration and possible action regarding pending litigation.** **Dr. Willeford moved, Mr. Gallardo seconded, and the motion passed to go into Executive**

**Session at 9:00 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 10:05 a.m. and it was announced that no action was taken. A certified agenda was made.

Mr. Freshour provided an update on pending litigation and requested direction in regards to the Texas State Board of Acupuncture Examiners interest in filing an amicus brief in support of the Acupuncture Association in the ongoing lawsuit against the Chiropractic Board. The Board declined to file an amicus.

**Agenda item #18, at 10:00 a.m., Consideration and approval of Proposal for Decisions for:**

**1. Douglas Ray Shelton, M.D. SOAH #503-13-4127.MD.** Scott Freshour, General Counsel, gave a procedural background. Barbara Jordan, J.D., staff attorney, was present and gave a presentation.

**After consideration, Mr. Gallardo moved, Dr. Snoots seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision and approve the staff's suggested Final Order for revocation of the license of Douglas Ray Shelton, M.D.**

**Agenda item #19, Consideration and approval of Determinations of Default.**

**1. Christopher Scott, S.A.** Hugh Spires, J.D., staff attorney, was present and gave a presentation. Mr. Scott was not present and no one appeared representing Mr. Scott. After consideration, **Dr. Varma moved, Mr. Gallardo seconded, and the motion passed to adopt the Determination of Default Order for Christopher Scott, S.A., for revocation.**

**Agenda item #26, at 11:00 a.m., Discussion, recommendation, and possible action regarding the adoption of proposed amendments and rule review to 22 Texas Administrative Code:**

1. Chapter 163, Licensure
  - a. §163.6. Examinations Accepted for Licensure

Ms. Pajak gave a brief summary. No written comments were received and no one signed-in to present oral comments. **Dr. Wang moved, Mr. Webb seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §163.6 Examinations Accepted for Licensure for adoption and publication in the Texas Register.**

2. Chapter 166, Physician Registration

a. §166.2. Continuing Medical Education

Ms. Pajak gave a brief summary. No written comments were received and no one signed-in to present oral comments. **Mr. Gallardo moved, Dr. Wang seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §166.2 Continuing Medical Education for adoption and publication in the Texas Register.**

3. Chapter 170, Pain Management

- a. §170.1. Purpose
- b. §170.2. Definitions
- c. §170.3. Guidelines

Ms. Tuthill gave a brief summary. Written comments were received and reviewed. No one signed-in to present oral comments. After discussion, **Mr. Denton moved, Mr. Gallardo seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §170.1. Purpose; §170.2. Definitions; and §170.3. Guidelines for adoption and publication in the Texas Register. The Board directed staff to provide additional information related to the use of a designated pharmacy.**

4. Chapter 180, Texas Physician Health Program and Rehabilitation Orders

- a. §180.4. Operation of the Program

Ms. Tuthill gave a brief summary. No written comments were received and no one signed-in to present oral comments. **Mr. Gallardo moved, Dr. Willeford seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §180.4 Operation of the Program for adoption and publication in the Texas Register.**

5. Chapter 184, Surgical Assistants

- a. §184.4. Qualifications for Licensure

Ms. Pajak gave a brief summary. Written comments were received and reviewed. No one signed-in to present oral comments. After discussion, **Mr. Denton moved, Dr. Snoots seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §184.4 Qualifications for Licensure for adoption and publication in the Texas Register.** The Board directed staff to add an agenda item to the Licensure Committee, to discuss non-accreditation programs.

6. Chapter 187, Procedural Rules

- a. §187.13. Informal Board Proceedings Relating to Licensure Eligibility
- b. §187.24. Pleadings
- c. §187.43. Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders
- d. §187.61. Ancillary Proceeding
- e. §187.70. Purpose and Construction
- f. §187.72. Decision of the Panel

g. Proposed Repeal of §187.73. Termination of Suspension

Ms. Pajak, Ms. Tuthill, and Mr. Blech gave a brief summary. No written comments were received and no one signed-in to present oral comments. **Mr. Webb moved, Dr. Simonson seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §187.13. Informal Board Proceedings Relating to Licensure Eligibility; §187.24. Pleadings; §187.43. Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders; §187.61. Ancillary Proceeding; §187.70. Purpose and Construction; §187.72. Decision of the Panel; and Proposed Repeal of §187.73. Termination of Suspension for adoption and publication in the Texas Register.**

7. Chapter 189, Compliance Program  
§189.7 Modification/Termination Hearings

Ms. Tuthill gave a brief summary. No written comments were received and no one signed-in to present oral comments. **Dr. Varma moved, Dr. McNeese seconded, and the motion passed to approve the proposed amendments and rule review to 22 T.A.C. §189.7 Modification/Termination Hearings for adoption and publication in the Texas Register.**

**Agenda item #29, at 11:30 a.m., Open forum for public comments.** Joy Rockwell, Texas Lyme Disease Association; Brad Rockwell; Tamara Chauncey, Texas Lyme Disease Association; Miriam Shannon; Haley Mack; and Margaret Estefan.

The Board recessed at 12:34 p.m.

The Board reconvened at 1:06 p.m.

**Agenda item #9, (Continued) Consideration and possible action for Agreed Board Orders, continued.** After discussion, **Dr. Willeford moved, Dr. Simonson seconded, and the motion passed to approve Agreed Order #28, with the addition of 12 cycles of billing monitoring; these additional 12 cycles of billing monitoring are not to diminish the existing chart monitoring cycles.**

After consideration, **Dr. Varma moved, Mr. Webb seconded, approve Agreed Order #31, with the prohibition that the respondent not treat female patients.** After discussion, **Dr. Willeford moved, Dr. Wang seconded, to amend the motion to include a psychiatric evaluation. A vote was taken and the original motion as amended carried. Mr. Gallardo opposed to the original motion as amended.**

**Dr. Varma moved, Mr. Webb seconded, and the motion passed to approve the Agreed Orders en masse for: Eduardo Carrillo, M.D.; Peter D. Cohn, M.D.; Gustavo E. Villarreal, M.D.; Roberto Ruiz, Jr., M.D.; Amelia D. Gosuico, M.D.; Robert R. Granville, M.D.; Waleska D. Ortiz, M.D.; Ernesto P. Rhodes, M.D.; J. John Stasikowski, M.D.; David J. Glover, M.D.; Richard B. Karsh, M.D.; Richard A. Kellett, S.A.; Alisa A. Cross, M.D.; Ikedinobi U. Eni, M.D.; Mireya Hansen, M.D.; Jennifer Lee Motley, M.D.; Abiodun O.**

**Osibamowo, M.D.; Nick S. Pomonis, D.O.; Steven L. Sax, M.D.; Julie Sullivan, M.D.; Fernando J. Aviles, M.D.; Anil Bangale, M.D.; Michael G. Campbell, M.D.; John C. Ferrell, M.D.; Walid H. Hamoudi, M.D.; Barkat S. Hooda, M.D.; Owen Maat, M.D.; Boris J. Porto, M.D.; Jody L. Smith, M.D.; John S. Stone, M.D.; Charles C. Gay, M.D.; Timothy W. Anderson, M.D.; Kevin Pauza, M.D.; Cathryn J. Gonzales, M.D.; Rose M. Gonzalez-Weaver, D.O.; and Bruce R. McFarland, M.D.**

**Agenda item #10, Consideration and approval of Mediated Settlement Agreed Orders. Dr. Willeford moved, Dr. Guajardo seconded, and the motion passed to go into Executive Session at 1:30 p.m. 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), and 164.202 & .203, Occupations Code.**

Open session resumed at 1:50 p.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, **Dr. Snoots moved, Dr. Simonson seconded, and the motion passed to revise the findings of fact of Mediated Agreed Order #4, to include additional factors discussed in order to differentiate this case from the other pain management clinic cases reviewed by the Board. Dr. Wang opposed to the motion.**

After consideration, Dr. Varma moved, Mr. Webb seconded, and the motion passed to approve the Mediated Settlement Agreed Orders en masse for: **Mansour R. Sanjar, M.D.; Dale L. Messer, M.D.; Guruswami K. Ravichandran, M.D.; and Weldon E. Glidden, D.O.**

**Agenda item #11, Consideration and approval of Remedial Plans. After consideration, Mr. Webb moved, Dr. Guajardo seconded, and the motion passed to approve the Remedial Plans en masse for: Donald T. Donovan, M.D.; Andrea Duchini, M.D.; Michael G. Ellman, M.D.; Russell G. Fisher, D.O.; Madiha Ghayas, M.D.; John R. Griffin, M.D.; Beverly S. Gutierrez, M.D.; Jerome K. Hemmert, M.D.; Andrew G. Hickl, M.D.; Kim J. Horn, M.D.; Demetrios G. Leiloglou, M.D.; Michael L. McMahon, II, M.D.; Erum Naqvi, M.D.; James C. Pettit, D.O.; Joseph A. Pranulis, Jr., M.D.; Carlos A. Ricaldi, M.D.; Sheila E. Schmidt, M.D.; Ernst R. Schwarz, M.D.; Rodney J. Simonsen, M.D.; Chad B. Stephens, D.O.; Walter Walthall, IV, M.D.; Ronald D. Wong, M.D.; Jun Zhang, M.D.; Mark Samaan, M.D.; Mario M. Gross, M.D.; Christina E. Gutierrez, M.D.; Mark G. Hubert, M.D.; David G. Kaiser, M.D.; Adean A. Kingston, M.D.; Kimberly J. Lefholz, D.O.; Christopher E. Olson, M.D.; Bharat Pothuri, M.D.; Boris Rubashkin, M.D.; Saroch Saleemi, M.D.; Grant W. Tarbox, M.D.; Kenneth M. Unger, M.D.; Paul A. Vaughan, M.D.; Terri L. Kirn, M.D.; and Albert Mosqueda, M.D.**

There were no items for Agenda items #12-16.

**Agenda item #17, Consideration and approval of Cease and Desist Agreed Orders. Dr. McNeese moved, Dr. Wang seconded, and the motion passed to approve the Cease and Desist Agreed Orders for: Omar Chavez-Rodriguez; and Kared Jawhair, D.C.**

**Agenda item #20, Report on Cease and Desist Orders approved by Executive Director.** A report was given on the Cease and Desist Orders approved by the Executive Director.

**Agenda item #21, Report on Motions for Rehearing Requests.** A report was given on the Motions for Rehearing Requests for Walter J. Zawislak, M.D.

**Agenda item #22, Report on Temporary Suspensions.** A report was given on the Temporary Suspension hearings for Abdussamed Kose, M.D., without notice; Abbie Ewell, M.D., without notice; and Abdussamed Kose, M.D., with notice; and the Temporary Restriction with notice for Stanton C. Packard, M.D.; and Donald W. Ferguson, II, M.D.

There were no items for Agenda item #23.

**Agenda item #24, Report on Automatic Orders.** A report was given on the Automatic Order for Erika I. Zimmerman, M.D.

**Agenda item #25, Discussion, recommendation, and possible action regarding proposed amendments and rule review to the following in 22 Texas Administrative Code:**

**1. Chapter 175, Related to Fees**

Ms. Robinson gave a brief summary of proposed amendments. After discussion, **Mr. Webb moved, Dr. Simonson seconded, and the motion passed to approve proposed amendments to 22 T.A.C. Chapter 175, Related to Fees, for publication in the Texas Register.**

**Agenda item #27, Discussion, recommendation, and possible action regarding adoption of proposed rule changes to 22 T.A.C. Chapter 183, Acupuncture.**

**a. §183.4. Licensure**

**b. §183.6 Denial of License, Discipline**

Mr. Blech gave a brief summary of proposed amendments to **§183.4, Licensure**. No written comments were received. No one signed in to present oral comments. After discussion, **Mr. Denton moved, Dr. Varma seconded, and the motion passed to adopt proposed amendments to 22 T.A.C. Chapter 183, Acupuncture, §183.4, Licensure, as recommended by the Texas State Board of Acupuncture Examiners.**

Mr. Blech gave a brief summary of proposed amendments to **§183.6 Denial of License, Discipline**. No written comments were received. No one signed in to present oral comments. After discussion, **Dr. Varma moved, Mr. Webb seconded, and the motion passed to adopt**

**proposed amendments to 22 T.A.C. Chapter 183, Acupuncture, §183.6 Denial of License, Discipline, as recommended by the Texas State Board of Acupuncture Examiners.**

**Consent Agenda**

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

- 1. Consideration and approval of the April 10, 2015 Board Meeting Minutes. Dr. McNeese moved, Dr. Varma seconded, and the motion passed to approve the April 10, 2015 Board Meeting Minutes.**
- 2. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.**

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

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

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

Dr. McNeese gave a report of the Disciplinary Process Review Committee meeting. **Dr. McNeese moved, Dr. Wang seconded, and the motion passed to approve the Disciplinary Process Review Committee meeting minutes and action items.**

**Agenda item #30, Adjourn. Mr. Gallardo moved, Dr. Wang seconded, and the motion passed to adjourn the meeting at 2:12 p.m.**