

TEXAS PHYSICIANS ASSISTANT BOARD
MINUTES OF THE
DISCIPLINE AND ETHICS COMMITTEE
August 1, 2014

Chair Anna Arredondo Chapman called the meeting to order at 9:48 a.m. Other members present were Reginald C. Baptiste, M.D., Margaret K. Bentley, Linda Delaney, P.A., and Felix Koo, M.D.

Also present were Mari Robinson, Executive Director, and various other staff.

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

The Executive Director, Dr. John B. “Brad” Fitzwater, MD, discussed the circumstances of two cases the Texas Physician Health Program is currently working and requested additional guidance.

Dr. Koo moved, and Dr. Baptiste seconded that PHP Case #12-0198 be returned to the jurisdiction of the Texas Physician Assistant Board for further action. Motion carried.

Ms. Delaney moved, and Ms. Bentley seconded that PHP Case #11-0125 remain under the management of the PHP with the understanding that there will be zero tolerance for any future infractions.

Agenda Item #3. Reports and discussion regarding the Investigation, Litigation and Compliance Departments.

Ms. Robinson presented the Enforcement Report for June 2014, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #4. 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 185, Physician Assistants, §185.18. Discipline of Physician Assistants.

Ms. Bentley moved, and Dr. Koo seconded that Agenda Item 4.A. §185.18 be approved for publication. Motion carried.

Agenda Item #5. Review, discussion, and possible action regarding review of probationer’s appearances.

Dr. Koo moved, and Ms. Delaney seconded that the waiver list on Agenda Item #5 be approved. Motion carried.

Agenda Item #6. Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 13-5080. B. Jurisdictional-Not-Filed Complaints: 13-6989, 14-2744, 14-4093, 14-4587.

Ms. Delaney moved, and Ms. Bentley seconded that the appeal of Item 6.A.i., Log #13-5080 be denied. Motion carried.

Dr. Koo moved, and Dr. Baptiste seconded that the appeals of Item 6.B. be denied. Motion carried.

Agenda Item #7. Review, discussion, and possible action regarding selected files and cases.

Dr. Koo moved, and Ms. Bentley 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 #8. Adjourn.

Ms. Chapman moved, and Dr. Koo seconded that the meeting adjourn. Motion carried at 10:18 a.m.

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Case No. 1

Participant Details:

PHP #: 12-0198

Referral Reason: Substance

Referral Type: Self

Sobriety Date: 2/21/2012

Drug(s) of Choice: Hydrocodone

Drug Program Start Date: 11/27/2012

Drug Testing Frequency: 48 times /year

Agreement Term: 7/27/2012 – 7/26/2017

Reason(s) for Review:

1. Chronic non-compliance with submission of monitor reporting.
2. Chronic non-compliance with testing requirements.
3. Failure to meet therapist and 12-Step/Caduceus reporting requirements.
4. Failure to keep up with the annual participation fees.

Drug Testing:

RESULTS	Call-Ins	UDT	PEth	Nail	Hair	Soberlink
Call-Ins						
Total	457					
Missed	26					
Negative Tests	66					
Positive Tests						
True Positive						
Missed Test	11					
Expected Positive						
Dilute						
True Dilute						
Low Creatinine						
Other						
CCF Error						
Rejected						
Invalid	1					

**Participant's account with Recovery Trek has been "suspended" numerous times due to billing issues.*

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Meeting & Reporting Requirements

Monitor Type	Reporting Frequency	Status	Notes
Worksite Monitor	Quarterly	Non-compliant	Latest report received (photo), however missing a number of prior reports
CMS Recovery Monitor	Quarterly	Non-compliant	Latest report received (photo), however missing a number of prior reports
12-Step and log	Monthly	Non-compliant	Latest report received (photo), however missing a number of prior reports and required meeting attendance
Psychologist-Therapist	Quarterly	Non-compliant	No reports received
Caduceus (separate requirement)	Monthly	Non-compliant	Latest report received, however missing a number of prior reports and required meeting attendance

Narrative:

10/5/2012: Participant submitted the following:

"I also need to inform you that any caduceus meeting i can attend is at the same time i have aftercare. What would you like me to do? Also, i don't have a CMS in my town of 6000. What would you like me to do? I am in the process of finding a psychologist. I wasn't able to because of finances but now that i have a job I can."

Additional findings:

- 1) He believes he is under Board Order that includes AA twice weekly, UDT's and after-care;
- 2) He has a posted public Board Order that only includes restricting him from reapplying for DEA / DPS until he has gotten TMB approval;
- 3) There is no other active TMB order that I can find;
- 4) He acknowledges having a copy of his Agreement but does not know where it is at the present time and is unsure of the contents;
- 5) His current agreement includes a WSM quarterly, RM/CMS quarterly, 48 UDT's / year, Psychologist bi-weekly, 3x AA per week, 3x Caduceus / month;
- 6) His logs show he has attended AA 2x per week;
- 7) He does not have documentation of Caduceus meetings;
- 8) His RM and WSM reports appear to be up to date;
- 9) He was previously suspended from RT for lack of payment;
- 10) His screens have been negative but has missed multiple call-ins and tests;
- 11) He is not meeting the Therapist requirement;

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- 12) He was notified of his non-compliance in February, 2014;
- 13) His Palmetto report from last fall is concerning.
- 14) Participant recently requested a compliance letter for his PA Board Re-Certification.

TX PHP Medical Director Recommendation(s):

Referral to the Texas Physician Assistant Board.

PA Board D&E Review Decision:

REMAIN WITH PHP	PA BOARD ACCEPTED	CONTINUE
	X	

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Case No. 2

Participant Details:

PHP #: 11-0125

Referral Reason: Psychiatric (Bipolar I Disorder)

Referral Type: TMB

Sobriety Date: N/A

Drug(s) of Choice: N/A

Drug Program Start Date: N/A

Drug Testing Frequency: N/A

Agreement Term: 11/5/2010 – 11/5/2015

Reason(s) for Review:

1. Chronic non-compliance with submission of reports.
2. Failure to respond to TXPHP requests in a timely and consistent manner.

Drug Testing:

N/A

Meeting & Reporting Requirements

Monitor Type	Reporting Frequency	Status	Notes
Worksite Monitor	Semi-annual	Non-compliant	Multiple attempts made to bring participant into compliance
Psychiatrist	Semi-annual	Non-compliant	2 reports received from different Psychiatrists and both apparently quit their practice; Participant was scheduled to visit with another Psychiatrist, however no follow-up report was submitted; Multiple attempts made to bring participant into compliance
Psychologist-Therapist	Semi-annual	Non-compliant	No reports received as the participant felt this requirement was optional despite it being explicitly stated in the TXPHP Monitoring and Assistance Agreement; Multiple attempts made to bring participant into compliance

Narrative:

Participant has kept up with all participation fees to date.

Emails were sent on at least 7 occasions requesting status updates in an attempt to bring the participant into compliance.

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4/25/2014: Participant submitted the following in response to TXPHP status update request:

"I started a new job in November 2011. I have had my current medical director.....send in forms. I need to know which you have received and which are still needed.

My previous psychiatrist quit her practice and we also moved to be closer to family in the Fall of 2012. I have been being seen by a nurse practitioner.....since moving in 2012. Since moving, I have not followed up.....due to the long distance. I was under the impression that counseling.....was optional. If not, please let me know so I can find a counselor closer to home.

I am aware I am behind on my necessary documentation and want to take steps to become current.

I have been 100% compliant with outpatient psychiatric follow up since beginning the program in 2010. I have had new psychiatric issues, no emergent visits and no hospitalizations since being in the TXPHP program.

I have changed physician groups, but I have maintained employment continuously since beginning the TXPHP Program.

I would very much like to speak with you personally regarding my file and any outstanding requirements. Would you be able to discuss my case by phone on Monday? If so, please give me a time frame which is convenient for you and I will call Monday. Thank you very much and have a great weekend!"

5/22/2014: Participant was provided with an inventory of reports that have been received thus far, in addition to, clarification as to what is required of her going forward to establish and maintain compliance. No response was received.

7/17/2014: Request for a status update was sent. No response received.

7/24/2014: Request for a status update was sent, and participant submitted the following:

"I would very much appreciate the opportunity to speak with the Medical Director. I can assure you that I have been under constant care of a psychiatrist since starting the program. I have also had no additional issues or episodes since beginning the program. I have had no problems or issues at work either. I am available anytime and would very much like to speak to the Medical Director to resolve this issue and become current with my requirements. I am willing to do whatever is asked of me to remain in the program. Thank you."

TX PHP Medical Director Recommendation(s):

Referral to the Texas Physician Assistant Board.

PA Board D&E Review Decision:

REMAIN WITH PHP	PA BOARD ACCEPTED	CONTINUE
X With the understanding that there will be zero tolerance for future infractions.		

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Investigations Review List
August 1, 2014

<u>FILE#</u>	<u>ALLEGATION</u>	<u>CLOSE</u>	<u>CONTINUE</u>	<u>ISC</u>	<u>HOLD</u>
13-5664	204.304(A)(5)	X			
14-1128	204.304(A)(5)	X			
14-1319	204.302(3)	X			
14-1926	204.302(3)	X			
14-2631	204.303(A)(1)	X			
14-2773	204.305(4)	X			
14-2793	204.304(A)(1)	X			
14-2808	204.304(A)(9)	X			
14-3035	204.304(A)(1)	X			
14-3036	204.302(4) (AUTO)	X			
14-3385	204.304(A)(3)	X			
14-3537	151.002(A)(13)	X			
14-3689	204.304(A)(3)	X			
14-3914	204.304(A)(3)	X			
14-3995	164.052(A)(5)	X			
14-4031	204.302(4) (AUTO)	X			
14-4074	204.302(4) (AUTO)	X			
14-4283	204.302(4) (AUTO)	X			
14-4958	204.302(4) SEXUAL	X			

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Legal Dismissals
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<u>FILE#</u>	<u>ALLEGATION</u>	<u>CLOSE</u>	<u>CONTINUE</u>	<u>ISC</u>	<u>HOLD</u>
14-0443	204.305(2)	X			
14-0369	204.302(8)	X			
14-0559	204.302(4) (AUTO)	X			
14-0438	204.304(A)(5)	X			
14-0263	204.303(A)(3)	X			
14-0533	204.302(4) (AUTO)	X			
14-0471	151.002(a)(13)	X			
13-0540	204.304(A)(5)	X			

14-0612	204.304(A)(5)	X			
14-0290	204.302(4)	X			