

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
June 11, 2015

Chair Margaret C. McNeese, M.D., called the meeting to order at 9:21 am. Other members present were Julie K. Attebury, Manuel Guajardo, M.D., James “Scott” Holliday, D.O., Allan Shulkin, M.D., Karl W. Swann, 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., and David Baucom were not present.

Staff members present were Mari Robinson, Executive Director, Robert Bredt, M.D., Medical Director, and various other staff.

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

The Executive Director, Dr. John B. Fitzwater, presented the status of certain cases in PHP’s current caseload to the DPRC for possible referral back to the Board and requested guidance.

Dr. Holliday moved, and Dr. Varma seconded that PHP Case #1 remain under the management of PHP with the understanding that there is zero tolerance for any future infractions. If any further violations occur the case will be returned to the jurisdiction of the Texas Medical Board for further action. Motion carried.

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

Dr. Willeford moved, and Dr. Wang seconded that PHP Case #3 remain under the management of PHP with the understanding that there is zero tolerance for any future infractions. If any further violations occur the case will be returned to the jurisdiction of the Texas Medical Board for further action. Motion carried.

Dr. Willeford moved, and Dr. Varma seconded that PHP Case #4 remain under the management of PHP with the understanding that there is zero tolerance for any future infractions. If any further violations occur the case will be returned to the jurisdiction of the Texas Medical Board for further action. Motion carried.

Dr. Wang moved, and Dr. Varma seconded that PHP Case #5 remain under the management of PHP and that the Respondent be asked to cancel the medical license, if the request for cancellation is not completed within 30 days of the request, the case will be returned to the jurisdiction of the Texas Medical Board for further action. Motion carried.

Dr. Varma moved, and Dr. Holliday seconded that PHP Case #6 remain under the management of PHP for further evaluation with the understanding that there is zero

tolerance for any future infractions. If any further violations occur the case will be returned to the jurisdiction of the Texas Medical Board for further action. Motion carried.

Ms. Attebury moved, and Dr. Willeford seconded that PHP Case #7 remain under the management of PHP with the understanding that there is zero tolerance for any future infractions. If any further violations occur the case will be returned to the jurisdiction of the Texas Medical Board for further action. Motion carried.

Dr. Willeford moved, and Dr. Varma seconded that for PHP Cases #12-0212 and #13-0339 the committee accept the interim referrals made returning the cases to the jurisdiction of the Texas Medical Board for action prior to this meeting. Motion carried.

Agenda Item #3. Discussion, recommendation, and possible action regarding renewals involving impaired licensees. (Ms. Robinson)

Dr. Willeford moved, and Dr. Varma seconded that Licensee #1 be informed that their options are either to agree to change their license status to retired or administrative, or to enter the investigation process, and if there is proof of impairment, proceed to ISC. Motion carried.

Agenda Item #4. Reports and discussion regarding the Investigation, Litigation, and Compliance Departments.

Ms. Robinson presented the Enforcement Report for May 2015, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #5. Discussion, recommendation, and possible action regarding proposed changes to the following chapters in Title 22 of the Texas Administrative Code:³

- A. Chapter 190, Disciplinary Guidelines, §190.8(2). Violation Guidelines, §190.14. Disciplinary Sanction Guidelines
- B. Proposed rule review and amendments to Chapter 197, Emergency Medical Service, §197.4. On-Line Medical Direction

Dr. Guajardo moved, and Ms. Attebury seconded that the amendments to rule §190.8(2) under Agenda Item 5.A. be approved for publication. Motion carried.

Dr. Willeford moved, and Dr. Guajardo seconded that the amendments to rule §190.14 under Agenda Item 5.A. be approved for publication with amendments as written, with one change to the violation category related to “prescribing controlled substances to oneself, family members, or others in which there is a close personal relationship absent immediate need, without taking an adequate history, performing a proper physical examination, or creating and maintaining adequate records”, adding the phrase: “If a single prescription and no evidence of pattern, the ISC Panel may consider a remedial plan.” Motion carried.

It was announced by Ms. Robinson that Agenda Item 5.B. §197.4 be stricken from the agenda.

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

Dr. Varma moved, and Dr. Guajardo seconded that the waiver list on Agenda Item #6 be approved. Motion carried.

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

Dr. Varma moved, and Dr. Guajardo seconded that the appointments of members to the Expert Physician Panel be accepted as noted in the attachment. Motion carried.

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

Ms. Robinson 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: 14-2843, 14-3375.

Dr. Wang moved, and Dr. Guajardo seconded that follow-up file #14-2843 be dismissed. Motion carried.

Dr. Wang recused himself from any discussion and decision regarding follow-up file #14-3375.

Dr. Guajardo moved, and Dr. Varma seconded that follow-up file #14-3375 be dismissed. Motion carried.

Dr. McNeese moved , and Ms. Attebury seconded; the motion passed at 10:59 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 2:30 pm, 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: 14-5140, 14-5370, 14-5456, 14-5720, 14-6566, 14-6692, 15-1011, 15-1520, 15-1993; B. Jurisdictional-Not-Filed Complaints: 14-6200, 14-6203, 14-6419, 14-6598, 14-6693, 14-6701, 15-0012, 15-1228, 15-2430, 15-2471, 15-2558, 15-2559, 15-2616, 15-2629, 15-2630, 15-2644, 15-2844, 15-3269, 15-3394, 15-3489, 15-3531, 15-3687, 15-3731, 15-3772, 15-3833, 15-3977, 15-3992, 15-4000, 15-4221, 15-4247, 15-4290. C. Non-Jurisdictional Complaints: 15-1641.

Dr. McNeese moved, and Dr. Shulkin seconded that the appeal of Item 9.A. Log #14-5370 be granted to continue the investigation and sent to a new expert panel with specific focus on the 2000 platelet count and the patient not being hospitalized. Motion carried.

Dr. Willeford moved, and Dr. Varma seconded that the appeal of Item 9.A. Log #14-5720 be granted and that the investigation be opened to conduct appropriate interviews from those involved. Motion carried.

Dr. Wang moved, and Dr. Guajardo seconded that the appeal of Item 9.A. Log #15-1011 and appeal Item 9.C. Log #15-1641 be denied. Motion carried.

Ms. Attebury moved, and Dr. Wang seconded that all other appeals under Agenda Item 9.A. not specifically granted above be denied. Motion carried.

Dr. Guajardo moved, and Dr. Varma seconded that the appeal of Item 9.B. Log #15-0012 be denied. Motion carried.

Dr. Willeford moved, and Dr. Guajardo seconded that the appeal of Item 9.B. Log #15-2629 be denied. Motion carried.

Dr. Willeford moved, and Ms. Attebury seconded that the appeal of Item 9.B. Log #15-2630 be granted and that an investigation be opened. Motion carried.

Ms. Attebury moved, and Dr. Willeford seconded that the appeal of Item 9.B. Log #15-3731 be denied. Motion carried.

Dr. Wang moved, and Dr. Guajardo seconded that the appeal of Item 9.B. Log #15-3687 be denied and that a custom letter sent reminding the Respondent of their responsibilities to inform the patient whose personal information was exposed of what occurred. Motion carried.

Dr. Shulkin moved, and Dr. Guajardo seconded that the appeal of Item 9.B. Log #15-4247 be granted and that an investigation be opened, specifically to investigate the standard of care regarding the potential inadequate assessment of the patients illness. Motion carried.

Dr. McNeese moved, and Dr. Wang seconded that the appeal of Item 9.B. Log #15-3833 be granted and the case be returned to a pending determination status for an additional 45-days to obtain an appropriate response from the physician and ensure that complete patient information is provided. 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 #14-5456, which

was scheduled to appear, has been moved to the August 2015 board meeting as a courtesy to the complainant. Motion carried.

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

Ms. Attebury moved, and Dr. Willeford 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 #12. Adjourn.

Ms. Attebury moved, and Dr. Willeford seconded that the meeting adjourn. Motion carried at 2:31 pm.

**TMB - Disciplinary Process Review Committee
(DPRC) TXPHP - Participant Case Review
June 11, 2015**

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

Expert Panel Members for Board Approval June 2015

LAST	FIRST	LIC #	CITY	SPECIALTY
Foroozan	Rod	L5738	Houston	Ophthalmology
Madan	Karan	P6453	Sugarland	Anesthesiology/ Pain Management
Reedy	Mark	H8348	Lubbock	Gynecologic Oncology

Interim Approval

Harris	Lindsey	L3328	Houston	Ophthalmology Vitreous Surgery
Sedrak	Joseph	N0447	Houston	Dermatologic Surgery
Tung	Celestine	M6922	Houston	OB/GYN Oncology

Removal

DISCIPLINARY COMMITTEE & DECISIONS REGARDING COMPLAINTS REVIEWED
ISC PANEL RECOMMENDATIONS – Texas Medical Board June 11, 2015

ISC Dismissal's

CASE # Close Continue To ISC

15-0323	X		
15-0501	X		
15-0420	X		
15-0449	X		
15-0284	X		
15-0290	X		
15-0181	X		
15-0122	X		
15-0620	X		
15-0208	X		
15-0285	X		
15-0515	X		
15-0491	X		
15-0456	X		
15-0304	X		
15-0295	X		
15-0439	X		
15-0324	X		
15-0518	X		
15-0464	X		
15-0352	X		
15-0477	X		
15-0409	X		
15-0433	X		
15-0531			X
15-0252	X		
15-0306	X		
15-0234	X		
15-0391	X		
15-0445	X		

15-0436	X		
15-0479	X		
15-0237	X		
15-0071	X		
15-0393	X		
15-0463	X		
15-0440	X		
15-0011	X		
15-0385	X		
15-0296	X		
15-0291	X		
15-0417	X		
15-0507	X		
15-0510	X		
15-0316	X		
15-0227	X		
15-0388	X		
15-0527	X		
15-0263	X		
15-0418	X		
15-0322	X		

Total = 51

COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

15-0414	X		
15-0383	X		
15-0701		X	
15-0609	X		
15-0678	X		
15-0311	X		
15-0341	X		

Total = 7

Pre-Approved for Submission/COMPLAINTS REVIEWED PURSUANT TO STAFF

CASE # CLOSE CONTINUE TO ISC

15-0493	X		
15-0472	X		

Total = 2

SOAH Case Dismissals

CASE # CLOSE CONTINUE TO ISC

12-0893	X		
14-0426	X		
15-0173	X		

Total = 3

PHP Resolved Dismissals

CASE # CLOSE CONTINUE TO ISC

15-0603	X		
14-0851	X		

Total = 2

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

Total : 171

Log Number	Allegation	Close	Continue	ISC	Hold	Name
133907	105.002(B)	✓				
142843	164.051(A)(6)	✓				
143375	164.051(A)(6)	✓				
144060	164.052(A)(5)	✓				
146352	164.052(A)(5)	✓				
146673	164.051(A)(6)	✓				
150135	164.051(A)(6)	✓				
150245	164.051(A)(6)	✓				
150484	164.053(A)(8)	✓				
150613	164.051(A)(3)	✓				
150623	164.051(A)(6)	✓				
150826	164.051(A)(9)	✓				
150845	101.351	✓				
150967	164.052(A)(5)	✓				
151055	164.051(A)(6)	✓				
151072	164.051(A)(6)	✓				
151120	164.051(A)(6)	✓				
151181	164.052(A)(5)	✓				
151203	164.051(A)(9)	✓				
151221	164.052(A)(17)	✓				
151222	164.052(A)(17)	✓				
151250	164.051(A)(6)	✓				
151265	164.053(A)(6)	✓				
151285	164.052(A)(5)	✓				
151370	164.051(A)(6)	✓				
151372	164.051(A)(6)	✓				
151390	164.051(A)(6)	✓				
151393	164.051(A)(8)	✓				
151400	164.051(A)(6)	✓				
151423	164.051(A)(6)	✓				
151430	164.051(A)(6)	✓				
151440	164.051(A)(6)	✓				
151453	164.053(A)(6)	✓				
151461	164.052(A)(5)	✓				
151469	164.052(A)(5)	✓				
151515	164.051(A)(8)		✓			
151521	164.052(A)(5)	✓				
151528	164.051(A)(6)	✓				
151540	164.051(A)(6)	✓				
151564	164.051(A)(6)	✓				
151592	164.052(A)(5)	✓				
151617	164.052(A)(5)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
151647	164.051(A)(6)	✓				
151676	164.051(A)(6)	✓				
151679	164.051(A)(6)	✓				
151692	164.051(A)(6)	✓				
151697	159.006	✓				
151720	164.052(A)(5)	✓				
151736	164.051(A)(6)	✓				
151740	164.053(A)(6)	✓				
151783	164.053(A)(5)	✓				
151810	164.051(A)(6)	✓				
151903	164.051(A)(6)	✓				
151906	164.052(A)(5)	✓				
151908	164.052(A)(5)	✓				
151910	164.051(A)(6)	✓				
151915	164.051(A)(6)	✓				
151928	164.051(A)(6)	✓				
151944	164.051(A)(6)	✓				
151945	164.051(A)(6)	✓				
151973	164.051(A)(6)	✓				
151984	164.051(A)(4)	✓				
151989	164.051(A)(6)	✓				
152002	164.051(A)(6)	✓				
152041	164.051(A)(6)	✓				
152043	151.002(A)(13)	✓				
152051	164.052(A)(5)	✓				
152068	164.051(A)(6)	✓				
152098	164.052(A)(5)	✓				
152107	164.051(A)(6)	✓				
152110	164.052(A)(5)	✓				
152112	164.053(A)(6)	✓				
152145	164.051(A)(6)	✓				
152147	164.051(A)(6)	✓				
152170	164.051(A)(6)	✓				
152184	164.051(A)(6)	✓				
152188	164.051(A)(6)	✓				
152196	164.051(A)(6)	✓				
152199	164.052(A)(5)	✓				
152204	151.002(A)(13)	✓				
152220	164.052(A)(5)	✓				
152228	164.052(A)(5)	✓				
152233	164.051(A)(6)	✓				
152247	164.051(A)(6)	✓				
152268	164.051(A)(6)	✓				
152277	164.051(A)(6)	✓				
152290	164.052(A)(17)	✓				
152292	164.051(A)(6)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
152305	164.051(A)(6)	✓				
152344	164.051(A)(6)	✓				
152358	164.051(A)(6)	✓				
152375	164.051(A)(7)	✓				
152376	164.051(A)(9)	✓				
152380	164.051(A)(6)	✓				
152399	164.052(A)(5)	✓				
152444	159.002	✓				
152445	164.051(A)(6)	✓				
152470	164.051(A)(6)	✓				
152474	164.051(A)(6)	✓				
152478	164.051(A)(6)	✓				
152500	164.053(A)(5)	✓				
152507	164.051(A)(6)	✓				
152511	164.051(A)(6)	✓				
152513	164.052(A)(5)	✓				
152520	164.051(A)(6)	✓				
152524	164.053(A)(6)	✓				
152578	164.052(A)(5)	✓				
152589	164.051(A)(6)	✓				
152636	164.053(A)(8)	✓				
152671	164.052(A)(5)	✓				
152674	164.052(A)(5)	✓				
152675	164.051(A)(6)	✓				
152676	164.051(A)(6)	✓				
152729	164.051(A)(6)	✓				
152738	164.051(A)(3)	✓				
152754	159.002	✓				
152795	206.302(4)	✓				
152808	101.351	✓				
152820	164.051(A)(4)	✓				
152824	164.052(A)(5)	✓				
152843	164.052(A)(17)	✓				
152858	164.051(A)(6)	✓				
152864	101.201	✓				
152868	151.002(A)(13)	✓				
152883	164.051(A)(6)	✓				
152889	164.052(A)(5)	✓				
152891	164.053(A)(8)	✓				
152892	164.052(A)(5)	✓				
152943	164.052(A)(1)	✓				
152947	164.051(A)(6)	✓				
152961	164.051(A)(6)	✓				
152983	164.053(A)(1)	✓				
152985	151.002(A)(13)	✓				
152993	164.052(A)(5)	✓				

Log Number	Allegation	Close	Continue	ISC	Hold	Name
152999	164.052(A)(5)	✓				
153029	164.052(A)(5)	✓				
153056	164.051(A)(4)	✓				
153067	101.351	✓				
153071	164.053(A)(6)	✓				
153083	164.051(A)(4)	✓				
153118	102.001	✓				
153122	164.052(A)(5)	✓				
153123	164.053(A)(1)	✓				
153134	164.051(A)(6)	✓				
153135	164.051(A)(6)	✓				
153156	164.051(A)(4)	✓				
153157	164.052(A)(5)	✓				
153159	164.052(A)(5)	✓				
153172	151.002(A)(13)	✓				
153213	164.053(A)(1)	✓				
153247	164.051(A)(6)	✓				
153286	164.051(A)(6)	✓				
153300	164.052(A)(5)	✓				
153306	164.051(A)(4)	✓				
153329	164.052(A)(5)	✓				
153349	164.053(A)(8)	✓				
153351	164.052(A)(5)	✓				
153419	164.053(A)(6)	✓				
153532	164.051(A)(6)	✓				
153576	101.351	✓				
153577	101.351	✓				
153646	164.053(A)(1)	✓				
153774	151.002(A)(13)	✓				
153857	151.002(A)(13)	✓				
153898	164.052(A)(5)	✓				
153910	164.052(A)(4)	✓				
153959	159.006	✓				
153985	164.053(A)(8)	✓				
153991	164.052(A)(5)	✓				
154021	164.051(A)(4)	✓				
154066	101.351	✓				