

**TEXAS MEDICAL BOARD**  
**MINUTES OF THE**  
**DISCIPLINARY PROCESS REVIEW COMMITTEE**  
February 9, 2012

Chair Melinda McMichael, M.D., called the meeting to order at 9:01a.m. Other members present were Julie K. Attebury, David Baucom, Patricia S. Blackwell, James Scott Holliday, D.O., Margaret C. McNeese, M.D., Stanley S. Wang, M.D., and George Willeford III, M.D. Committee Member Allan Shulkin, M.D. arrived late at approximately 9:03a.m. Committee Member Manuel Guajardo, M.D. arrived late at 9:25a.m. Committee Member Irvin E. Zeitler, Jr., D.O. was not present.

Also present was Mari Robinson, Executive Director, Medical Director Linda Gage-White, M.D., 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. Bill Nemeth discussed seven cases that the Texas Physician Health Program is currently working and requested additional guidance on.

**The committee unanimously moved that PHP cases #10-0253, #11-0278, #11-0309, and #10-0363 be returned to the jurisdiction of the Texas Medical Board and that each Respondent be scheduled for an ISC. Motion carried.**

**Dr. Holliday moved that PHP case #11-0152 be returned to the jurisdiction of the Texas Medical Board and the Respondent be scheduled for an ISC. Motion failed for lack of a second. The committee unanimously moved that PHP cases #11-0152 and 11-0250 remain under the management of the PHP and that the next offense of any kind will result in the Respondents case being returned to the jurisdiction of the Texas Medical Board and an ISC be scheduled. Motion carried.**

**The committee unanimously moved that PHP case #11-0310 remains under the management of the PHP [with an update of the Respondents progress at the April 2012 DPRC meeting] and that the Respondent completes the recommended treatment; if not, an interim referral to return the case back to the jurisdiction of the Texas Medical Board will be made and immediate Board action will be taken against the Respondent. Motion carried.**

**Agenda Item #5.** Discussion, recommendation, and possible action regarding the protocol of a low urine creatinine test result.

**Dr. Wang moved, and Dr. Holliday seconded that the proposed language presented to the committee that pertains to Agenda Item 5 be accepted for use as protocol when working with a low urine creatinine test result with the exception of the word nonnegative and the substitution of the word unsatisfactory. Motion carried.**

A recess was taken at 10:05 a.m. and the committee returned at 10:15 a.m.

**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: 10-3524, 10-6595, 10-7153, 11-1567, 11-1988, 11-3760, and 11-5467. **Dr. Wang recused himself from any discussion and decision regarding Log #11-1988.**

**Dr. McNeese moved, and Ms. Blackwell seconded that all routine follow-up files be dismissed. Motion carried.**

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

Ms. Robinson presented the Enforcement Report for December 2011, 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 178, Complaints, Section 178.3. Complaint Procedure Notification

**Ms. Attebury moved, and Dr. McNeese seconded that the revisions presented to the committee that pertain to Agenda Item 4.A. be accepted for publication in the Texas Register. Motion carried.**

**Agenda Item #6.** Discussion, recommendation, and possible action regarding the amount of time a complainant has to file an appeal.

Staff was directed not to enforce a time limit on the submission of an appeal from a complainant.

**Agenda Item #7.** Review, discussion, and possible action regarding review of probationers appearances.

**Dr. Guajardo moved, and Dr. Wang seconded that the waiver list on Agenda Item 7 be approved. Motion carried.**

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

**Dr. Wang moved, and Dr. Willeford seconded that the memberships to the Expert Physician Panel on Agenda Item 8 be approved. Motion carried.**

**Agenda Item #9.** 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, there are approximately 450 investigations that fall under this category; the majority being SOAH cases. This was an informational item only and no vote was necessary.

A recess was taken at 11:01 a.m. and the committee returned at 11:14 a.m.

**Ms. Attebury moved, and Ms. Blackwell seconded; the motion passed at 11:16 a.m. to go into Executive Session 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 3:37 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made. Dr. McNeese and Dr. Wang recused themselves from any discussion and decision regarding Log #09-5253. Dr. McMichael and Dr. Wang recused themselves from any discussion and decision regarding Log #12-1310; Dr. McNeese was the temporary chair for Log #12-1310. Dr. Wang recused himself from any discussion and decision regarding Logs #12-1071 thru #12-1075 consecutively.**

**Agenda Item #10.** Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 07-3214, 09-5253, 10-4572, 11-1372, 11-2714, 11-5086, 11-5087, 11-5305, and 11-5949, ii. Legal Files: 11-0462 (10-7327), 11-0479 (09-2766), and 11-1025 (10-2702); and B. Jurisdictional Not Filed Complaints: 11-1254, 11-3420, 11-5652, 11-6138, 11-6951, 11-7070, 11-7277, 11-7320, 11-7540, 11-7545, 11-7606, 12-0033, 12-0043, 12-0167, 12-0527, 12-0739, 12-0858, 12-0863, 12-0873, 12-1071, 12-1072, 12-1073, 12-1074, 12-1075, 12-1310, 12-1311, 12-1420, 12-1536, 12-1684, 12-1704, 12-1786, 12-1881, 12-1905, 12-2230, 12-2437, and 12-2616.

**Dr. Willeford moved, and Dr. Shulkin seconded that the appeal of Item 10.A.i., Log #07-3214 be denied. Motion carried.**

**Dr. Shulkin moved, and Dr. Guajardo seconded that the appeal of Item 10.A.i., Log #09-5253 be denied. Motion carried. Dr. Wang and Dr. McNeese recused themselves from this case.**

**Dr. Willeford moved, and Dr. Shulkin seconded that the appeal of Item 10.A.ii., Log #11-0479 (09-2766) be denied and that a new case be opened against the cardiologist in this case and a case reopened against the internal medicine specialist in this case. Motion carried.**

**Dr. McNeese moved, and Ms. Attebury second that the appeal of Item 10.B., Log #11-7320 be granted and that an investigation be opened. Motion carried.**

**Dr. Guajardo moved, and Ms. Blackwell seconded that the appeal of Item 10.B., Log #12-0033 be denied and although there was not a standard of care violation in this case, a custom letter be sent to the respondent informing them that it would be greatly appreciated if they could help the complainant achieve an appropriate resolution in this case. Motion carried.**

**Dr. Holliday moved, and Ms. Attebury seconded that the appeal of Item 10.B., Log #12-1310 be denied and that a custom letter be sent to the respondent concerning effectively**

**communicating labs finding, diagnosis, and treatment plans with patients. Motion carried. Dr. Wang and Dr. McMichael both recused themselves from this case.**

**Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 10.B., Log #12-1420 be granted and that an investigation be opened. Motion carried.**

**Dr. Wang moved, and Dr. Willeford seconded that all other appeals under Agenda Item 10.A.i. not specifically granted above be denied. Motion carried.**

**Dr. Willeford moved, and Dr. Shulkin seconded that all other appeals under Agenda Item 10.A.ii. not specifically granted above be denied. Motion carried.**

**Dr. Guajardo moved, and Mr. Baucom seconded that the appeal of Item 10.B., Log #11-1254 be granted and that an investigation be opened. Motion carried.**

**Dr. Guajardo moved, and Dr. McNeese seconded that the appeal of Item 10.B., Log #12-0858 be granted and that an investigation be opened. Motion carried.**

**Dr. McMichael moved, and Dr. Guajardo seconded that the appeal of Item 10.B., Log #12-0873 be granted and that an investigation be opened. Motion carried.**

**Dr. Guajardo moved, and Dr. McNeese seconded that the appeal of Item 10.B., Log #12-1704 be granted and that an investigation be opened. Motion carried.**

**Dr. McMichael moved, and Dr. Guajardo seconded that the appeal of Item 10.B., Log #12-2230 be granted and that an investigation be opened. Motion carried.**

**Mr. Baucom moved, and Ms. Blackwell seconded that all other appeals under Agenda Item 10.B. not specifically granted above be denied. Motion carried.**

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

**Dr. McNeese moved, and Ms. Attebury 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. Dr. McNeese recused herself from any discussion and decision regarding Log #11-1113. Dr. Wang recused himself from any discussion and decision regarding Log #11-8394.**

**Agenda Item #13. Adjourn.**

**Ms. Blackwell moved, and Ms. Attebury seconded that the meeting adjourn. Motion carried at 3:50p.m.**