



# Texas Medical Board

BOARD MEETING

August 16, 2019

The meeting was called to order on Friday, August 16, 2019 at 8:09 a.m. by Board President Sherif Z. Zaafran, M.D. Board members present were: Sharon Bares; Michael E. Cokinos; George L. DeLoach, D.O.; Frank Denton; Kandace B. Farmer, D.O.; J. Scott Holliday, D.O., MBA; Jeffrey L. Luna, M.D.; Roberto D. Martinez, M.D.; Margaret McNeese, M.D.; LuAnn R. Morgan; Jayaram N. Naidu, M.D.; Manuel “Manny” Quinones, Jr., M.D.; David G. Vanderweide, M.D.; Surendra K. Varma, M.D.; and Timothy Webb, J.D. Linda Molina, J.D. and Robert Gracia did not attend. Staff members present were Stephen Brint Carlton, J.D.; Scott Freshour, J.D., General Counsel; Robert Bredt, M.D., Medical Director; Taurie Randermann, Governmental Affairs and Public Information Manager; and the Assistant General Counsels: Sarah Tuthill, J.D., Wendy Pajak, J.D., and Amy Swanholm, J.D.; and various other staff.

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

**Agenda item #2, Board Member Report.**

- a) **Moment of Silence.** A moment of silence was observed for the recent mass shootings in El Paso and Ohio.
- b) **Role in Credentialing – Trauma Response.** Mr. Carlton gave an overview on the Department of Health and Human Services has set up for Trauma Response and how the Texas Medical Board will be collaborating with them.
- c) **Board Rule 193.17 – Practicing without a License.** Dr. Zaafran gave an overview of the complaints we get regarding individuals practicing without a license and how they are handled. The board directed staff to review to see if the board has discretion to react without a complaint. After further discussion, the board directed staff to clearly define anonymous vs. confidential.

**Agenda item #3, Consideration and approval of Mediated Settlement Agreed Orders.** After discussion, **Dr. Zaafran moved, Dr. Holliday seconded and the motion passed to go into Executive session at 8:24 AM for deliberations concerning disciplinary action, investigative information, peer review information, and possible rehabilitation orders under the authority of The Medical Practice Act Sections 152.009, 160.006-160.008, 164.007(c), and 165.202-165.203, Occupations Code.** Open session resumed at 8:53 AM and it was announced that no action was taken.

After consideration, **Mr. Cokinos moved, Dr. McNeese seconded and the motion passed to approve the Mediated Settlement Agreed Orders for Theodore R. Hall, M.D.; Sunil**

**Shanker Naik, M.D.; Christie Denise Colbert, M.D.; Robert Kevin Lynch, D.O.; Hariharan Ramamurthy, M.D.; and Lawrence Broder, M.D.**

**Agenda item #4, Consideration and approval of Remedial Plans.** After consideration, **Dr. Vanderweide moved, Ms. Barnes seconded and the motion passed to approve the Remedial Plans for Rida Ashraf, M.D.; Cory Lynne Brame, M.D.; Edwing Aldo Cantreras, M.D.; Calenda A. Hacker, M.D.; Ravi H. Halaswamy, M.D.; Truett Anderson Hull, M.D.; William Brett Rogers, M.D.; Nabeel Hab El Romman, M.D.; Winfred Amer Sardar, M.D.; Dino Mario Del Pino, M.D.; James Shumate Ezelle, Jr., M.D.; J. Lowell Haro, M.D.; Tusida S. Kuruvanka, M.D.; Jaclyn Lee Ann Ganacias, M.D.; Fatima Sayeed, M.D.; Rajiv Sinha, M.D.; Wilberto G. Cortes, M.D.; Mona E. Iverson, M.D.; Bart Robbins, D.O.**

**Agenda item #5, Consideration and possible action for Agreed Orders.** After consideration, **Dr. Varma moved, Dr. Vanderweide seconded and the motion passed to approve the Agreed Orders for Mariwether Lewis Frazier, Jr., M.D.; Anh My Do, M.D.; Anna R. Carlock, M.D.; Randy John Davis, D.O.; Mark Ettinger, M.D.; Kristina Michelle Howell, M.D.; Manuel Jose Martinez, M.D.; Andrea KZ Parde, M.D.; Adaiiah Abumeze Ezekiel, M.D.; Frank C. Hinds, M.D.; Kim Marie Zeh, M.D.; Cheor Jung Kim, M.D.; Arnold W. Mech, M.D.; Dorothy F. Merritt, M.D.; Cesar B. Pena-Rodriguez, M.D.; Marianne Johnna Pinkston, M.D.; Wayne C. Jones, M.D.; Anthony Phan Nikko, M.D.; Carlos Arturo Quiroz, M.D.; Gregory Skie, M.D.; Katherine H. Thompson, M.D.; Stanley K. Brown, M.D.; Dante P. Escalante, M.D.; Rajeshwar Kumar, M.D.; Jose R. Reyes, M.D.; Kenneth M. Alo, M.D.; Wade Neal Barker, M.D. ( Dr. Holliday recused); Edward J. Nuila Crouse, M.D.; Jorge A. De La Chapa, D.O.; John F. Gilmore, M.D.; Michael P. Klein, M.D.; Luke P. Le, M.D.; Ghyasuddin Syed, M.D.; Thomas R. Synek, M.D.; J.A. Villarreal, M.D.**

**Agenda item #6, Consideration and approval of Modification Request/Termination Request Orders.** After consideration, **Dr. Varma moved, Mr. Webb seconded and the motion passed to approve the Modification Request/Termination Request Orders for Craig C. Beasley, M.D.; Daniel L. Koppersmith, M.D.; Adolphus R. Lewis, D.O.; Wanda J. Michaels, M.D.; Raul P. Rodriguez, M.D.; Kenneth E. Baird, M.D.**

There were no items for agenda item #7.

**Agenda item #8, Consideration and approval of Cease and Desist Agreed Orders.** After consideration, **Ms. Barnes moved, Ms. Morgan seconded and the motion passed to approve the Cease and Desist Agreed Orders for Teresa Julia Fernandez; Ritter Von Ali Hernandez; Michael Posey; Jorge Braulio Romero; Jhon Whitaker.**

There were no items for agenda items #9-10.

**Agenda Item #14, Discussion and direction on Chapter 53 automatic revocation and suspension letters.** Mr. Carlton presented a brief summary on the process of the Chapter 53 automatic revocation suspension letters. The board directed staff to change the date used in the letter.

**Agenda item #11, Consideration and approval of Proposal for Decisions. (9:00AM)**

**a) Lawrence D. Broder, M.D., SOAH #503-17-5887.** Chris Palazola, Litigation Manager, was present and gave a brief presentation. Lawrence D. Broder, M.D. did not appear. Ms. Amy Welborn appeared on Dr. Broder's behalf. After consideration, **Mr. Webb moved, Mr. Martinez seconded and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Lawrence D. Broder, M.D., and to adopt the staff's suggested final order of dismissal.**

**Agenda item #13, Discussion, recommendation, and possible action regarding clinical requirements for licensure.** Dr. Zaafran discussed confusion regarding qualified clinical rotations for clerkship for foreign medical graduates applying for licensure. Ms. Johnston discussed the current standards and the challenges faced by foreign medical graduates applying for licensure.

The Board directed staff to review the current requirements and how to be more flexible while maintaining standards.

**Agenda Item #15, Medical Director Report.** Dr. Bredt reported that there are now 660 expert panelist, including 15 new experts approved by the DPRC. There are still some acute needs for experts including cardiologist, general surgeons and more chronic needs for experts in orthopedic spine surgeons and neurosurgeons. The Board directed staff to review statutes regarding expert specialist requirements.

**Agenda Item #16, Public Information Report.** Mr. Carlton introduced new Governmental Affairs and Public Information Manager Taurie Randermann. Ms. Randermann reported that the latest bulletin was posted on the home page this week.

**Agenda Item #17, Report Physician Assistant Liaison.** Dr. Zaafran reported that there was a YouTube video making disparaging remarks from a Physician Assistant. There was action taken by the employer of the provided and the Medical Board is looking at it as appropriate.

**Agenda Item #18, Consideration and possible action regarding pending litigation.** Mr. Freshour gave an update on pending litigation. No Action was taken.

**Agenda Item #19, Report of Temporary Suspension Hearings.** A report on Temporary Suspensions was presented.

**Agenda Item #20, Report on Motions for Rehearing Requests.** A report on Motions for Rehearing Requests was presented.

**Agenda Item #21, Report of Suspension by Operation of Law.** A report on Suspension by Operation of Law was presented.

**Agenda Item #22, Report on Cease and Desist Orders approved by Executive Director.** A report on Cease and Desist Orders approved by Executive Director was presented.

**Agenda Item #23, Report on Automatic Orders.** A report on Automatic Orders was presented.

There were no items for Agenda Item #24.

**Agenda Item #25, Consideration and approval of Revised, Vacated or Amended Orders.**

a) **Jones, Wayne Charles, M.D.** Mr. Freshour gave a brief overview of the order. After consideration, **Mr. Cokinos moved, Ms. Morgan seconded and the motion passed to vacate the order.**

**Agenda Item #26, Discussion, recommendation, and possible action regarding a possible opioid workgroup.** Dr. Zaafran discussed putting an opioid workgroup together and the parties that should be involved. The Board directed staff to put this group together.

**Agenda Item #27, Discussion, recommendation and possible action regarding proposed rule amendments and rule review to 22 T.A.C.**

- Chapter 166, Physician Registration  
§166.2 Continuing Medical Education

Mr. Freshour presented a brief summary and review of the proposed rule amendments and rule review to §166.2 Continuing Medical Education. After discussion, **Mr. Denton moved, Dr. Swann seconded and the motion passed to not publish the proposed rule amendments and rule review to §166.2 Continuing Medical Education.**

- Chapter 194, Medical Radiology Technology  
Subchapter A Certificate Holders, Non-Certified Technicians, and Other Authorized Individuals or Entities  
§194.2 Definitions

Ms. Tuthill presented a brief summary and review of the proposed rule amendments and rule review to §194.2 Definitions. After discussion, **Mr. Webb moved, Mr. Cokinos seconded and the motions passed to approve for publishing in the Texas Register.**

- Chapter 199, Public Information  
§199.1 Public Information Committee  
§199.2 Requests to Speak

Ms. Tuthill presented a brief summary and review of the proposed rule amendments and rule review to §199.1 Public Information Committee and §199.2 Requests to Speak. After discussion, **Dr. Holliday moved, Mr. Webb seconded and the motion passed to publish in the Texas Register for comment.**

**Agenda Item #28, Discussion, recommendation, and possible action regarding adoption of proposed rule amendments to 22 T.A.C.**

- Chapter 165, Medical Records  
§165.5 Transfer and Disposal of Medical Records

Ms. Pajak presented a brief summary and review of the proposed rule amendments to §165.5 Transfer and Disposal of Medical Records. There was one comment posted by Texas Medical Association. After discussion, **Mr. Webb moved, Dr. Farmer seconded and the motion passed to adopt the proposed rule amendments to §165.5 Transfer and Disposal of Medical Records as published, but with non-substantive changes.**

- Chapter 193, Standing Delegation Orders  
§193.8 Prescriptive Authority Agreements: Minimum Requirements (Repeal)

Mr. Freshour presented a brief summary and review of the proposed repeal of rule 193.8. After discussion, **Dr. Holliday moved, Mr. Webb seconded and the motion passed to adopt the proposed appeal of rule §193.8 Prescriptive Authority Agreements: Minimum Requirements (Repeal).**

§193.17 Nonsurgical Medical Cosmetic Procedures

Mr. Freshour presented a brief summary and review of the proposed rule amendments. There was one comment from Texas Aesthetic Coalition. After discussion, **Dr. Varma moved, Ms. Barns seconded and the motion passed to adopt the proposed rule amendments to §193.17 Nonsurgical Medical Cosmetic Procedures.** Mr. Denton Abstains.

**Agenda Item #12, Executive Director Report.**

- a) **Budget Update.** Mr. Carlton reported that the budget is on track for the remainder of the year.

Mr. Carlton reported that two staff members, Dr. Katherine Musemeche and Belinda West, are retiring and recognized them for their time with the Texas Medical Board. Mr. Carlton introduced Debbi Henneke, new manager of investigations.

b) **Conceded Eminence.** Mr. Carlton gave a background on the board's interpretation of the law regarding conceded eminence and the intent of the law. After discussion, Dr. Zaafran **directed staff to revise the rule to clarify in order to be consistent with the intent of the law and bring such proposed rule to the next board meeting for consideration.**

- c) **PHP Update.** An update was provided regarding PHP.

**Agenda Item #29, Discussion, recommendation, and possible action regarding adoption of proposed rule amendments to 22 T.A.C.**

- Chapter 185, Physician Assistants.  
§185.4 Procedural Rules for Licensure Applicants  
§185.6 Biennial Renewal of License  
§185.28 Retired License

Ms. Tuthill presented a brief summary of the rules adopted by the PA board in July. No written comments were received and no one signed-in to present oral comments. After discussion, **Ms. Morgan moved, Mr. Webb seconded and the motion passed to adopt the proposed rule amendments to Chapter §185, Physician Assistants.**

**Agenda Item #30, Discussion, recommendation, and possible action regarding adoption of proposed rule amendments to 22 T.A.C. Chapter 183. Acupuncture.**

**Agenda Item #31, Discussion, recommendation, and possible action regarding adoption of proposed rule amendments to 22 T.A.C. Chapter 194, Medical Radiologic Technology.**

**Agenda Item #32, Discussion, recommendation, and possible action regarding adoption of propose rule amendments to 22 T.A.C. Chapter 186, Respiratory Care.**

**Agenda Item #33, Discussion, recommendation, and possible action regard rule review to 22 T.A.C., Part 9, Texas Medical Board.**

- Chapter 161, General Provisions

Mr. Freshour presented a brief summary and review of the proposed rule amendments. After consideration, **Dr. McNeese moved, Ms. Barnes seconded and the motion passed to publish the proposed rule review for Chapter 161 for comment in the Texas Register.**

**Agenda Item #34, Discussion, recommendation, and possible action regard rule review to 22 T.A.C. Chapter 185, Physician Assistants.**

**Agenda Item #35, Discussion, recommendation, and possible action regarding rule review to 22 T.A.C. Chapter 183, Acupuncture.**

**Agenda Item #36, Discussion, recommendation, and possible action regarding rule review to 22 T.A.C. Chapter 194, Medical Radiologic Technology.**

**Agenda Item #37, Discussion, recommendation, and possible action regarding rule review to 22 T.A.C. Chapter 186, Respiratory Care.**

**Agenda Item #38, Open Forum for Public Comment.** Quentin L. Van Meter, M.D., American College of Pediatrics; Sharon Armke, Concerned Parents of Texas; Laura Thetford, Texas Medical Association; Kristin McGarity; Mark Eagleton; Damaris McCalby; Sheila Hemphill, Texas Right to Know; Rosanne Nikolaidis, Westlake Dermatology; and Karole Fedrick signed in and gave public comment. Dr. Heinz Aeschbach provided written comments.

**Mr. Webb moved, Mr. Cokinos seconded, and the motion passed to go into Executive Session at 1:29 PM for deliberations concerning personnel matters under the authority of the Open Meetings Act Section 551.074, Government Code. While in executive session, the Board will not take any action, make any decision, or vote with regard to any matter that may be considered or discussed.** Open session resumed at 2:22 PM and it was announced that no action was taken.

**Agenda Item #39, Discussion, recommendation, and possible action relating to personnel matters.** After consideration, **Dr. Varma moved, Dr. Quinones seconded and the motion passed to accept the recommendation by the Executive Committee members in regards to the Executive Director's evaluation, which included a salary increase to \$156,145.44 as delineated by Senate Bill 1.**

#### **CONSENTAGENDA**

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

1. Consideration and approval of the June 14, 2019 Medical Board Meeting Minutes and action items.
2. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.

After consideration, **Dr. McNeese moved, Mr. Webb seconded and the motion passed to approve the consent agenda.**

**Agenda item #40, Adjourn.** There being no further agenda items, **Dr. Varma moved, Mr. Holliday seconded, and the motion passed to adjourn the meeting at 2:24 p.m.**