

DISCIPLINARY PROCESS REVIEW COMMITTEE (DPRC) & DECISIONS

Texas Physician Health Program (Probationer/Licensee Violated PHP Agreement & Cases of Concern)

November 29, 2012

	REMAIN WITH PHP	TMB ACCEPTED	CONTINUE
Refer back to TMB			
<p>1. 11-0250</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: Self • Agreement Term: 5/31/2011 - 5/31/2016 • Referral Reason: Substance • Sobriety Date: 2/26/2011 • Drug(s) of Choice: Alcohol <p><u>Issue(s):</u></p> <p>The participant has been discussed at DPRC on two other occasions (2/9/2012; 8/30/2012) regarding a relapse and compliance issues and whereby Zero Tolerance was recommended.</p> <p>On 9/26/12, at 7:14 a.m., the participant was instructed to test via the Recovery Trek daily check-in portal. The participant failed to notify TXPHP by email or telephone that he would not be able to test by the 3:00 protocol deadline.</p> <p>On 9/26/12 at 8:42 p.m. the clinical coordinator received the following in an email from the participant:</p> <p><i>I just wanted inform you of the details of my testing today. I was selected for testing and did test but was not able to meet the 3 o'clock deadline. I intended to test at 7 am when they open since my day in clinic was packed. They did not have a male observer at that time. I meant to go at lunch but the schedule did not allow.</i></p>		<p>X</p> <p>Interim referral and action taken prior to this meeting</p>	

I had no back up and by the time I got a chance to slip out it was past four. I tested the minute I left clinic. I will fax in my CCF in the morning. Please let me know if there is anything else I need to do.

The 9/26/12 drug screen was reported as negative. The Medical Director requested that a Hair Stat 14 be scheduled due to the late testing on 9/26/12.

A quarterly PEth test on 9/28/12 was reported as positive for Phosphatidylethanol (227 ng/mL).

When the participant was asked for an explanation for the positive test he stated there were issues with the collection site not having the proper PEth kit and feels the specimen may have been tainted.

Recovery Trek spoke with the collection site on 9/28/12 and the site ensured that proper protocol was met during the PEth test.

The Hair Stat 14 test and another PEth test were scheduled on 10/15/12. The participant was unable to leave a heavily scheduled clinic on that date and was given permission to test the following day.

On 10/16/12, the clinical coordinator received an email from the participant who stated he was unable to reschedule patients and felt the additional tests were unwarranted and would not submit to further testing without first seeking legal advice.

Case was urgently referred to TMB on 10/22/2012.

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

2. 12-0258

Background:

- Referral Type: Self
- Agreement Term: 6/8/2012 - 6/7/2017
- Referral Reason: Substance
- Sobriety Date: 11/30/2011
- Drug(s) of Choice: Alcohol

X
Cancel provisional license

Issue(s):

Multiple compliance issues:

- a. Several missing/outstanding reports (12-Step, WSM, RM, and Mental Health Provider);
- b. Excessive missed check-ins (30+)
- c. Multiple missed tests (10)

Participant did not respond to requests for explanation for missed check-ins and missed tests sent by TXPHP.

Medical Director increased drug testing frequency from 48 to 60 tests/year due to non-compliance on 9/27/2012.

14 total drug screens scheduled:

4 negative results
10 missed tests

Case was urgently referred to TMB on 10/23/2012.

Cases for Follow-up

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

X

3. 11-0137

Background:

- Referral Type: TMB
- Agreement Term: 9/24/2012 - 9/24/2013 (2nd Agreement)
- Referral Reason: DUI
- Sobriety Date: N/A
- Drug(s) of Choice: Alcohol

Issue(s):

2/10/2012 - 6/11/2012:

3 low creatine results;
3 dilute results;
3 positive EtG/EtS results;
1 positive PEth result.

Participant admitted to drinking and the TXPHP Medical Director recommended a 96-hour evaluation if there was any evidence of a relapse.

6/11/2012: Missed test during a 3 week RV road trip and First Advantage did not provide adequate alternate collection sites.

7/5/2012: Missed test during a 3 week RV road trip and First Advantage did not provide adequate alternate collection sites.

7/11/2012: TXPHP Medical Director spoke with participant and ordered a 96-hour evaluation.

7/16/2012: Missed called; however participant did provide an explanation and test specimen.

7/17/2012: Participant notified the TXPHP Medical Director of his initial research into prospective evaluation centers and has asked for an agreement modification (i.e. increased drug testing, extension of agreement term, ect) in lieu of the required 96-hour evaluation; however, participant was informed that there were no exceptions.

7/23/2012: Notified TXPHP that he had sustained a bicycle accident on 7/22/12 and was admitted to the hospital for rib fractures, clavicle fracture, scapula fracture; was prescribed medication for pain control and monitoring for bleeding or pneumothorax. In response, TXPHP Medical Director informed participant that he would allow an additional 3-4 week healing time in order to get the required 96-hour evaluation completed.

8/3/2012: Expected positive for Hydrocodone (329 ng/mL).

8/20/2012: Expected positive for Hydrocodone (336 ng/mL).

8/30/2012: DPRC recommended follow-up update at next scheduled meeting.

Update:

9/10/2012: Entered Palmetto Recovery Center for a 96-hour evaluation. Participant was recommended for a 5-year monitoring agreement with TXPHP, complete a long-term residential treatment program, and temporarily stop practicing until such time as allowed by TXPHP.

9/24/2012: New 5-year monitoring agreement entered into by participant.

10/8/2012: Entered treatment at Origins Recovery Center located in South Padre Island, TX.

11/7/2012: Discharged from Origins Recovery Center.

Currently awaiting the Discharge Summary and Final Report.

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

X

4. 12-0153

Background:

- Referral Type: Self
- Agreement Term: 1/16/2012 1/15/2017
- Referral Reason: Substance
- Sobriety Date: 12/9/2011
- Drug(s) of Choice: Alcohol

Issue(s):

6/11/2012: Tested positive for Marijuana (64 ng/mL).

6/20/2012: Participant was notified of the positive test result for marijuana and an explanation was requested.

6/21/2012: Participant responded and questioned whether TXPHP has legal permission to test for anything other than alcohol and that testing for other metabolites should require an informed release.

6/21/2012: TXPHP staff responded by referring the participant to the Substance Use Disorder Section of the Monitoring and Assistance Agreement, where it specifically states that the participant is to abstain from "all mood-altering substance, unless prescribed," which includes marijuana.

6/26/2012: TXPHP Medical Director was notified of the participant's positive marijuana result and explanation.

6/27/2012: TXPHP Medical Director conducted phone conversation with participant who indicated that she did not know that she was not to use THC. Furthermore, it was ordered by the TXPHP Medical Director that participant undergo a 96-hour evaluation and report back to TXPHP by 7/31/2012.

7/23/2012: Participant entered Sante Center for Healing to undergo a 96-hour evaluation.

7/26/2012: Sante's Preliminary Findings report recommended that participant immediately enter residential or inpatient level treatment at a TXPHP approved treatment center with capacity to treat addiction and substance abuse for no less than ninety (90) days.

8/2/2012: Participant entered 90-day residential treatment at Sante Center for Healing.

8/30/2012: DPRC recommended follow-up update at next scheduled meeting.

Update:

11/28/2012: Discharged from residential treatment at Sante Center for Healing.

Currently awaiting the Discharge Summary and Final Report.

New Cases for Discussion

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

X

5. 12-0191

Background:

- Referral Type: Self
- Agreement Term: 2/22/2012 2/21/2017
- Referral Reason: Substance
- Sobriety Date: 1/6/2012
- Drug(s) of Choice: Alcohol

Issue(s):

8/23/2012: Tested positive for Propofol Glucuronide (51 ng/mL).

10/11/2012: Received official drug test results from Texas Medical Association.

10/18/2012: TXPHP Medical Director spoke with participant and his treating addiction psychiatrist, who feels participant is in good recovery. Furthermore, participant denies using and was recommended for undergo an evaluation and lie detector test.

10/26/2012: Entered into Sante Center for Healing for a clinical interview and polygraph examination.

10/30/2012: Received Santes Preliminary Findings and Recommendation whereby the participant was recommended to immediately enter residential or inpatient level treatment for no less than 90 days.

10/30/2012: TXPHP Medical Director spoke with Dr. Pirinelli and recommended that the participant undergo a 72-hour evaluation.

11/6/2012 11/9/2012: Underwent a 72-hour evaluation at Talbott Recovery Campus and was recommended to enter into residential treatment and temporarily cease practicing.

11/13/2012: Entered residential treatment (Impaired Professionals Program) at Talbott Recovery Campus.

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

X

6. 12-0264

Background:

- Referral Type: TMB
- Agreement Term: 6/15/2012 6/14/2013
- Referral Reason: DUI
- Sobriety Date: N/A
- Drug(s) of Choice: Unknown

Issue(s):

Participant was placed in the DIVERT Program in Houston as a result of his DUI.

9/11/2012: Participant tested positive for EtG (1387 ng/ml) and EtS (402 ng/ml).

9/20/2012: Participant tested positive for EtG (349 ng/ml) and EtS (182 ng/ml).

9/19/2012: Participant was notified of positive test result for EtG/EtS and an explanation was requested.

9/24/2012: Second request for explanation regarding the two positive test results for EtG/EtS was sent.

9/26/2012: Received a call from participant stating that before he submits his explanation for the two positive test results for EtG and EtS, he wants to allow his attorney to review it. TXPHP Medical Director was notified and ordered an immediate PEth test, including an explanation for the positive test results.

9/27/2012: Participant provided the following explanation:

Rather than offer any excuses or try to justify why I have tested positive for EtG and EtS, instead, I will tell you that the results are likely positive due to my consumption of alcohol at some point prior to submitting to a urine test. Although I have never considered myself to be a person who has a problem with alcohol, my inability to take this process as seriously as I should have has now threatened my ability to practice medicine, and I have had to reflect upon my conduct and determine the best course of action for myself, my patients and my profession. In

entering into the DIVERT program after my DWI arrest, I was assured an opportunity to avoid a criminal conviction. By entering into the Monitoring and Assistance Agreement with your office, I was assured an opportunity to avoid any professional consequences that might affect my ability to practice medicine. In hindsight, this get-out-of-jail-free approach to my problems only served to promote my own belief that alcohol was not a problem for me in my life. Accordingly, whether my problems are alcohol-related, or judgment-related, it has become clear to me at this point that my use of alcohol has certainly created problems in my life that need to be addressed so that I can move forward in a positive and productive manner. While I am conceding to you that I have violated the Monitoring and Assistance Agreement I began with your office in June of this year, I understand that if you simply refer my case back to the Texas Medical Board for a formal hearing, it is likely that I would be placed on a supervised probation for several years. While I understand that I have made a mistake, and that my non-compliance with our Agreement will come with consequences, rather than simply acquiesce to punitive measures from the TMB, I respectfully request an opportunity to explore alternative measures with you prior to your simply referring me back to the Board. Specifically, if you would be willing to consider a Modification to our agreement, I would be willing to accept and undergo much more extensive rehabilitative measures than were incorporated into our original contract. I have considered the possibility of initiating professional counseling, as well as out-patient therapy, and these are two examples of corrective measures I am willing to participate in should it allow me to keep my case before the Physician Health Program rather than the Board.

9/28/2012: TXPHP Medical Director recommended a 96-hour evaluation.

10/15/2012 10/17/2012: Underwent an evaluation at Sante Center for Healing and admitted to drinking alcohol. Furthermore, it was recommended that the participant enter into residential treatment.

10/25/2012: Entered into residential treatment at Memorial Hermann Prevention & Recovery Center (PaRC) in Houston, TX.

	REMAIN WITH PHP	TMB ACCEPTED	CONTINUE
<p>7. 12-0185</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: Self • Agreement Term: 5/21/2012 5/20/2017 • Referral Reason: Substance • Sobriety Date: 2/5/2012 • Drug(s) of Choice: Alcohol <p><u>Issue(s):</u></p> <p>2/5/2012: Entered into residential treatment for alcoholism at Hazelden Springbrook in Newberg, OR.</p> <p>5/3/2012: Discharged from Hazelden Springbrook.</p> <p>9/6/2012: Tested positive for EtG (1514 ng/mL) and EtS (847 ng/mL).</p> <p>9/17/2012: Tested positive for EtG (9382 ng/mL) and EtS (4391 ng/mL).</p> <p>9/19/2012: Tested positive for EtG (1092 ng/mL) and EtS (901 ng/mL).</p> <p>9/19/2012: Participant was notified of the positive test result for both EtG/EtS and an explanation was requested.</p> <p>9/20/2012: Tested positive for EtG (602 ng/mL) and EtS (338 ng/mL).</p> <p>9/21/2012: Participant admits to being نا جمبي when it comes to drug testing, however does know there can be other triggering factors. Approximately 5 weeks after entering the program participant states that at a Caduceus meeting there was talk about bug spray for mosquitos, cologne, etc. Participant was a little anxious about that but had already had been using them. The participant stated he uses Deep Woods Off in the evenings prior to evening walks at approximately 9 PM and it has high</p>	X		

alcohol content. Mosquitos are bad. Salado creek is just behind his backyard. The participant uses cologne prior to work, after he showers after work, always has, he likes it, and everything had been fine until this point. Participant occasionally works with absolute ethyl alcohol. They had not triggered a positive result, now he is breaking HIPAA rules.

9/21/2012: TXPHP Medical Director was notified of the participant's positive EtG/EtS result and explanation and recommended a 96-hour evaluation.

10/8/2012 10/11/2012: Underwent a 72-hour evaluation at Talbott Recovery Campus and was recommended to enter into residential treatment and temporarily cease practicing.

10/16/2012: Entered into residential treatment at Talbott Recovery Campus.

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

8. 12-0200

Background:

- Referral Type: Self
- Agreement Term: 3/27/2012 3/26/2017
- Referral Reason: 2nd DUI
- Sobriety Date: 8/20/2011
- Drug(s) of Choice: Alcohol

Issue(s):

09/20/2012: Missed check-in. Participant reportedly had problems logging into RecoveryTrek. Left a message with RecoveryTrek but did not follow up.

09/24/2012: Tested positive for Codeine (690 ng/mL). Participant reports that the positive test was expected. Furthermore, she states that it was on a list of medications provided when she entered into an agreement. TXPHP could not verify that and per the TXPHP Medical Director, participant was advised she will have to forego active practice if she tests positive for opiates again.

X
PA in this case will be presented to the PA Board for further action

10/10/2012: Participant called to advise that Hairstat 14 test was taken and also to notify TXPHP of a possible expected positive due to her still taking opiates and also now benzodiazepines. Participant stated opiates were only taken on the weekend for pain. Hairstat 14 test was rejected due to not enough hair specimen. Re-test pending.

10/16/2012: Tested positive for Hydrocodone (376 ng/mL) and 7-Aminoclonazepam (780 ng/mL).

11/02/2012: Tested positive for Hydrocodone (>2000 pg/mg) and Codeine (331 pg/mg) on Hairstat 14 test. Participant stated that the Codeine was from a cough syrup that she took and that prescription would be provided.

11/15/2012: Tested positive for 7-Aminoclonazepam (133 ng/mL).

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

X

9. 12-0292

Background:

- Referral Type: Self
- Agreement Term: 7/11/2012 7/10/2015
- Referral Reason: Substance
- Sobriety Date: 10/21/2010
- Drug(s) of Choice: Hydrocodone

Issue(s):

09/14/2012: Missed check-in reportedly due to issues with RecoveryTrek log in. Participant said several messages were left with RecoveryTrek but no return call was received.

09/17/2012: Missed check-in, and subsequently missed test. Reported issues with RecoveryTrek log in. Participant left multiple messages left with RecoveryTrek but no return call was received. Participant also reports he did not have COC forms either. Excused from testing.

09/18/2012: Missed check-in reportedly due to issues with RecoveryTrek log in. Participant said several messages were left with RecoveryTrek but no return call was received.

09/25/2012: Selected to test but unable due to so due to lack of COC forms. Excused from testing.

09/28/2012: Selected to test but unable to do so due to lack of COC forms. Excused from testing.

Hairstat 14 ordered due to excused tests. Results were reported as negative.

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

X

10.12-0303

Background:

- Referral Type: Self
- Agreement Term: 10/30/2012 11/30/2012
- Referral Reason: Substance
- Sobriety Date: 4/26/2012
- Drug(s) of Choice: Alcohol

Issue(s):

09/17/2012: Participant missed check in. He advised he slept through the alarm because he had been up and down all night with wife who was sick.

10/01/2012: Tested positive for opiates (Codeine - 2409 ng/mL; Morphine 396 ng/mL) and Methadone/Methadone Metabolite (1957 ng/mL; 1612 ng/mL). Participant advised that these are the medications he takes for his peripheral neuropathy. In addition, participant stated that he listed these medications on his intake form. Participant was informed that the intake form did not mention the Tylenol w/codeine and that per the TXPHP Medical Director, participant was told at intake that he would have to get off the opiates. Furthermore, participant stated that the one he took was a leftover and that it was the last one.

10/04/2012: Tested positive for Methadone/Metabolites (1326

ng/mL; 1161 ng/mL).

10/08/2012: Participant missed check-in. Participants wife said he was feverish and not feeling well and was later hospitalized for pneumonia.

10/18/2012: Tested positive for Methadone/Metabolites (1120 ng/mL; 584 ng/mL).

10/30/2012: New Monitoring Agreement was issued to participant whereby he would be required to retire his Texas Medical license no later than 11/30/2012.

11/26/2012: Participant spoke with TXPHP Medical Director and advised that he is currently weaning off Methadone. Furthermore, participant states he does wish to retire his Texas medical license.

REMAIN WITH PHP

TMB ACCEPTED

CONTINUE

11. 10-0222-A

Background:

- Referral Type: Self
- Agreement Term: 10/31/2012 10/30/2017 (2nd Agreement)
- Referral Reason: Substance
- Sobriety Date: 9/23/2012
- Drug(s) of Choice: Demerol

Issue(s):

Treated at Starlite Recovery Center on 2 separate occasions for alcohol and hydrocodone dependency (1987 and 2005).

Initially referred to TXPHP by TMB due to substance abuse and psychiatric history (major depressive disorder, stress management, etc.).

Entered into a 4-year Monitoring and Assistance Agreement with TXPHP on 5/20/2010.

X
Zero tolerance for any future infractions

Granted early termination from TXPHP, effective 9/6/2011, due to continued compliance and over 5 years of monitoring with the Bexar County Medical Society and TMB.

Due to critically ill wife and pending legal issues, participant relapsed on opiates (largely Hydrocodone and Demerol) and subsequently self-reported to TXPHP.

9/29/2012 10/29/2012: Treated at La Hacienda.

Total = 11