

**TEXAS MEDICAL BOARD**  
**MINUTES OF THE**  
**DISCIPLINARY PROCESS REVIEW COMMITTEE**  
April 12, 2012

Chair Melinda McMichael, M.D., called the meeting to order at 10:55a.m. Other members present were Julie K. Attebury, David Baucom, James Scott Holliday, D.O., Margaret C. McNeese, M.D., Allan Shulkin, M.D., Stanley S. Wang, M.D., George Willeford III, M.D., and Irvin E. Zeitler, Jr., D.O. Committee Member Patricia S. Blackwell arrived late at approximately 10:57a.m. Committee Member Manuel Guajardo, M.D., was not present.

Also present was 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. Bill Nemeth presented six cases that the Texas Physician Health Program is currently working and requested additional guidance on.

**Dr. Willeford moved, and Dr. Holliday seconded that PHP case #11-0215 remain under the management of the PHP so long as the Respondent signs a PHP agreement in the next seven (7) days that stipulates that the Respondents license be suspended for a minimum of six (6) months and that the suspension will not be lifted until the licensee can prove that he is safe to return to the practice of medicine; if the PHP agreement is not signed, then the case will be returned to the jurisdiction of the Texas Medical Board for immediate disciplinary action. Motion carried.**

**Ms. Attebury moved, and Dr. Zeitler seconded that PHP cases #10-0369, 11-0223, 11-0152, and 11-0310, be returned to the jurisdiction of the Texas Medical Board for further disciplinary action. Motion carried.**

**Ms. Attebury moved, and Dr. Zeitler seconded that PHP case #12-0115 be returned to the jurisdiction of the Texas Medical Board and the case will be presented to the Discipline and Ethics Committee of the Board of Acupuncture Examiners in May 2012. Motion carried.**

**Agenda Item #5.** Review, discussion and possible action regarding single DWIs and potential referrals when a licensee is not on call.

Staff was directed to continue to refer these types of cases to the PHP; in the event that this type of case is later returned to the jurisdiction of the Texas Medical Board for an ISC, the Executive Director of the Texas Physician Health Program, Dr. Bill Nemeth, will be invited to attend the ISC of the Respondent given that the TX PHP was originally involved with the case, as well as in other PHP cases.

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

Ms. Robinson presented the Enforcement Report for March 2012, 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 proposed additions and modifications to Title 22 of the Texas Administrative Code:

A. Chapter 190, Disciplinary Guidelines, Section 190.8. Violation Guidelines

**Dr. Zeitler moved, and Dr. Willeford seconded that the revisions presented to the committee that pertain to Agenda Item 4 be approved. Motion carried.**

**Agenda Item #6.** Review, discussion, and possible action regarding review of probationers appearances.

**Ms. Attebury moved, and Dr. Zeitler seconded that the waiver list on Agenda Item 6 be approved. Motion carried.**

**Dr. Zeitler moved, and Ms. Blackwell seconded; the motion passed at 11:57 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 11:59 a.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

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

**Dr. Zeitler moved, and Ms. Blackwell seconded that all memberships on Agenda Item 7, except for the membership of License #H7242 be accepted and that this licensee be notified in writing that their interim appointment to the expert panel is no longer valid and that they may reapply after their current legal issues are concluded. 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, there are approximately 385 investigations that fall under this category; the majority being SOAH cases and then the backlog of pending expert panel review cases. Additionally, there are approximately 120 investigation cases that are over six months old. This was an informational item only and no vote was necessary.

A lunch recess was taken at 12:00 p.m. and the committee returned at 1:07 p.m.

**Dr. Zeitler moved, and Mr. Baucom seconded; the motion passed at 1:09 p.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 4:40 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made. **Dr.**

**Holliday and Dr. Shulkin recused themselves from any discussion and decision regarding Log #11-6556.**

It was announced by Mari Robinson that Agenda Items 9.B., Logs #12-1617, 12-2940, and 12-2941 will be moved to the June DPRC Agenda as a courtesy to the complainants. A custom letter will be sent to the Complainants to notify them that a decision will be made on their case in June 2012 whether the Complainants personally appear and/or submit additional documentation or not.

**Agenda Item #9.** Review, discussion, and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 11-1370, 11-4893, 11-5463, 11-6067, 11-6425, 11-7299, 11-7486, 11-7520, 11-7917, 11-8136, 11-8206, 12-0161, and 12-1192, ii. Legal Files: 12-0145 (11-7094). B. Jurisdictional Not Filed Complaints: 10-3861, 11-6223, 11-6550, 11-6551, 11-6553, 11-6897, 12-1018, 12-1198, 12-1357, 12-1452, 12-1550, 12-1825, 12-2242, 12-2558, 12-2657, 12-2791, 12-2792, 12-2793, 12-2918, 12-2998, 12-3425, 12-3597, 12-3795, 12-3911; and C. Non-Jurisdictional Complaints: 10-5470, 10-5472, and 11-6556.

**Dr. Wang moved, and Ms. Attebury seconded that the appeal of Item 9.A.i., Log #11-4893 be granted and that an investigation be returned to the original panel for further investigation. Motion carried.**

**Dr. McNeese moved, and Dr. Shulkin seconded that the appeal of Item 9.A.i., Log #11-6425 be granted and that a new investigation be opened. Motion carried.**

**Dr. Zeitler moved, and Ms. Blackwell seconded that the appeal of Item 9.A.i., Log #11-8136 be denied and that a custom letter be sent to the Respondent regarding patients understanding of informed consent. Motion carried.**

**Dr. Holliday moved, and Dr. Wang seconded that the appeal of Item 9.A.ii., Log #12-0145 (11-7094) be denied. Motion carried.**

**Dr. Willeford moved, and Dr. Shulkin seconded that the appeal of Items 9.B., Log #11-6550, 11-6551, 11-6553 be denied. Motion carried.**

**Dr. Shulkin moved, and Dr. Wang seconded that the appeal of Item 9.B., Log #12-1198 be granted and that an investigation be opened. Motion carried.**

**Ms. Attebury moved, and Dr. Zeitler seconded that the appeal of Item 9.B., Log #12-2657 be granted and that an investigation be opened. Motion carried.**

**Dr. Zeitler moved, and Dr. McNeese seconded that the appeal of Item 9.B., Log #12-2918 be granted and that an investigation be opened. Motion carried.**

**Dr. Zeitler moved, and Ms. Attebury seconded that the appeal of Item 9.C., Log #11-6556 be denied. Motion carried.** Dr. Shulkin and Dr. Holliday recused themselves from any discussion and decision regarding Log #11-6556.

**Dr. Zeitler moved, and Dr. McNeese seconded that the appeal of Item 9.A.i., Log #11-5463 be granted and that the investigation be returned to the original panel for further investigation; based on the additional findings a new panel may be assigned if necessary. Motion carried.**

**Dr. Shulkin moved, and Dr. Willeford seconded that the appeal of Item 9.B., Log #12-1357 be granted and that an investigation be opened. Motion carried.**

**Dr. Willeford moved, and Dr. McNeese seconded that the appeal of Item 9.B., Log #12-2242 be granted and that an investigation be opened. Motion carried.**

**Dr. Wang moved, and Ms. Blackwell seconded that the appeal of Item 9.B., Log #12-3597 be granted and that an investigation be opened. Motion carried.**

**Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 9.B., Log #12-3795 be granted and that an investigation be opened. Motion carried.**

**Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 9.B., Log #12-3911 be granted and that an investigation be opened. Motion carried.**

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

**Dr. Wang moved, and Dr. Zeitler seconded that all other appeals under Agenda Item 9.B. not specifically granted above be denied. Motion carried.**

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

**Dr. Zeitler moved, and Dr. Shulkin seconded; the motion passed at 4:55 p.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.**

**Agenda Item #10.** Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from DPRC for follow-up action, specifically including: 09-6226 and 11-8343.

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

Open session resumed at 5:12 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

**Discussion continued on Agenda Item #10.** Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from DPRC for follow-up action, specifically including: 09-6226 and 11-8343.

**Dr. Zeitler moved, and Dr. Willeford seconded that Log #09-6226 be closed. Motion carried. Dr. Shulkin moved, and Dr. McNeese second that the designated panelist who wrote the final panel report for this case be removed for the expert physician panel. Motion carried.**

**Dr. Zeitler moved, and Ms. McNeese seconded that Log #11-8343 be closed. Motion carried.**

**Discussion continued on Agenda Item #11. Review, discussion, and possible action regarding selected files and cases.**

**Ms. Attebury moved, and Dr. Wang 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.**

**Dr. Zeitler moved, and Ms. Blackwell seconded that the meeting adjourn. Motion carried at 5:15 p.m.**