



Texas Medical Board

BOARD MEETING

MAY 1, 2014

333 GUADALUPE, TOWER 2, SUITE 225

AUSTIN, TEXAS

The meeting was called to order on May 1, 2014 at 2:41 p.m. by Irvin E. Zeitler, Jr., D.O., Board President. Board members present were Michael Arambula, Vice-President; Julie Attebury; David Baucom; Devinder S. Bhatia, M.D.; Frank S. Denton; John D. Ellis, Jr., J.D.; Carlos L. Gallardo; Manuel G. Guajardo, M.D.; J. Scott Holliday, D.O.; Margaret McNeese, M.D.; Allan Shulkin, M.D.; Robert B. Simonson, D.O.; Wynne M. Snoots, M.D.; Karl W. Swann, M.D.; Stanley S. Wang, M.D., J.D.; Timothy Webb, J.D.; and George Willeford III, M.D. Paulette Southard was not present. Board staff present were Mari Robinson, Executive Director; Robert Bredt, M.D., Medical Director; Scott Freshour, J.D., General Counsel; Tonie Knight, Licensure Manager; and Megan Goode, Governmental Affairs and Public Information Manager, and various other staff.

Agenda item #2, Consideration and approval of Proposal for Decisions at 2:30 p.m.

David Allen, MD, SOAH #503-11-8433.

Barbara Jordan, J.D., staff attorney, was present. David Allen, M.D., was present. No one was present representing Dr. Allen. Ms. Jordan gave a presentation. Dr. Allen presented a written presentation and gave an oral presentation. Ms. Jordan gave a brief rebuttal presentation. Dr. Allen was granted approval to give a second brief presentation. Ms. Jordan gave a second brief rebuttal statement. After discussion, **Mr. Gallardo moved, Mr. Baucom 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 David Daniel Allen, M.D., and to adopt the staff's suggested final order for revocation.**

Reginald C. Buford, M.D., SOAH #503-11-8751.

Barbara Jordan, J.D., staff attorney, was present. Reginald C. Buford, M.D., was present. Delta S. Best, J.D. and Allison L. Spruill, J.D., signed-in and appeared representing Dr. Buford. Ms. Jordan gave a presentation. Ms. Best gave a presentation. Dr. Buford presented oral comments. Ms. Jordan gave a brief rebuttal presentation. After discussion, **Dr. Willeford moved, Dr. Gallardo 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 Reginald C. Buford, M.D., and to adopt the staff's suggested final order for a public reprimand, \$7,000 penalty, chart monitor for 8 cycles, 25 hours of continuing medical education, and with the addition of the listing all of the Findings of Fact and Conclusions of Law of the Administrative Law Judge.**

Garry Wayne Killyon, M.D., SOAH #503-11-8759.

Barbara Jordan, J.D., staff attorney, was present. Garry Wayne Killyon, M.D., was present. Allison L. Spruill, J.D., and Delta S. Best, J.D., signed-in and appeared representing Dr. Killyon. Ms. Jordan gave a presentation. Ms. Spruill gave a presentation. Dr. Killyon presented oral comments. Ms. Jordan gave a brief rebuttal presentation. After discussion, **Dr. Bhatia moved, and Mr. Webb seconded, a motion to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Garry Wayne Killyon, M.D., and to adopt a Final Order with a \$5,000 penalty, 25 hours of continuing medical education, and a chart monitor for 4 cycles with the addition of listing all of the Findings of Fact and Conclusions of Law of the Administrative Law Judge.**

Mr. Gallardo moved and Dr. Arambula seconded a proposed amendment to include the public reprimand, a \$7,000 penalty and a chart monitor for 8 cycles. The motion failed.

Dr. Bhatia's original motion was restated to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision, and to adopt a Final Order with a \$5,000 penalty, 25 hours of continuing medical education, and a chart monitor for 4 cycles with the addition of listing all of the Findings of Fact and Conclusions of Law of the Administrative Law Judge. A vote was taken and motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Garry Wayne Killyon, M.D., and to adopt a Final Order with a \$5,000 penalty, 25 hours of continuing medical education, and a chart monitor for 4 cycles with the addition of listing all of the Findings of Fact and Conclusions of Law of the Administrative Law Judge.

After discussion, **Mr. Webb moved, Dr. Bhatia seconded, and the motion passed to reconsider the Proposal for Decision for Reginald C. Buford, M.D., SOAH #503-11-8751.**

Reconsideration of Reginald C. Buford, M.D., SOAH #503-11-8751.

Dr. Bhatia moved, Dr. Snoots seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Reginald C. Buford, M.D., with a \$5,000 penalty, 25 hours of continuing medical education, and a chart monitor for 4 cycles, and to include listing all of the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the order. The motion passed. Mr. Gallardo, Dr. Arambula, Dr. Holliday, Dr. McNeese, and Dr. Willeford voted against the motion.

Don O'Neal, M.D., SOAH #503-13-2206.MD.

Mr. Baucom was recused. Susan Rodriguez, JD, staff attorney. Don O'Neal, M.D., was present. Jeff Henry, J.D., appeared representing Dr. O'Neal. Ms. Rodriguez gave a presentation. Mr. Henry gave a presentation. Mr. O'Neal presented oral comments. Ms. Rodriguez gave a brief rebuttal statement. **Dr. Arambula moved, Mr. Gallardo seconded, a motion to approve the Findings of Facts, and the Conclusions of Law of the Administrative Law Judge in the**

Proposal for Decision and adopt the staff recommended order for revocation. The motion failed.

After discussion, **Dr. Willeford moved, Mr. Webb seconded, and the motion passed to adopt Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision with a public reprimand and a \$10,000 for Don O’Neal, M.D.**

Ms. Attebury moved, Mr. Gallardo seconded, and the motion passed to approve an amendment to add sixteen (16) hours of ethics continuing medical education to the original motion.

Dr. Holliday moved, Ms. Attebury seconded, and the motion passed to approve an amendment to add the requirement to pass the JP exam within one year to the original motion.

Ms. Robinson restated the original motion to adopt Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Don O’Neal, M.D., with a public reprimand and a \$10,000, including the amendments to add sixteen hours of ethics continuing medical education and to add the requirement to pass the JP exam within one year. **A voted was taken and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for Don O’Neal, M.D., with a public reprimand, a \$10,000 penalty, requirement to pass the JP exam within one year, and to complete sixteen (16) hours of ethics continuing medical education within one year.**

Tommy E. Swate, M.D., SOAH #503-12-1938;

Susan Rodriguez, JD, staff attorney gave a presentation. Tommy Swate, M.D., did not appear and no one appeared representing Dr. Swate. Ms. Rodriguez gave a presentation. **Dr. Arambula moved, Mr. Gallardo seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision and the staff’s suggested final order for revocation of the license of Tommy Swate, M.D.**

Joel Alvear, M.D., SOAH #503-12-1405.

Dr. McNeese was recused. Patrick “Brian” Coats, JD, board staff attorney; was present. Joel Alvear, M.D., was present. Charles S. Nichols, J.D., signed-in and appeared representing Dr. Alvear. Mr. Coats gave a presentation. Mr. Nichols gave a presentation. Dr. Alvear gave oral comments. Mr. Coats gave a brief rebuttal presentation. **Mr. Gallardo moved, Dr. Arambula seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision and to adopt the staff’s suggested final order for revocation of the license of Joel Alvear, M.D.**

David J. Shin, M.D., SOAH #503-13-6087.

Amy Swanholm, board staff attorney, was present. David J. Shin, M.D., was present. Kevin R. Schleicher signed-in and appeared representing Dr. Shin. Ms. Swanholm gave a presentation. Mr. Schleicher gave a presentation. Dr. Shin gave oral comments. Ms. Swanholm gave a brief rebuttal presentation. **Dr. Arambula moved, Mr. Gallardo seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision and to adopt the staff suggested final order for revocation of the license of David J. Shin, M.D.**

David A. Mosig, D.O., SOAH #503-14-0147.

Susan Rodriguez, board staff attorney, was present. David A. Mosig, D.O., was present. No one appeared representing Dr. Mosig. Ms. Rodriguez gave a presentation. Dr. Mosig gave a presentation. **Ms. Attebury moved and Mr. Webb seconded a motion to adopt the Findings of Fact, and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision for revocation and to immediately stay the revocation for 5 years, with the additional requirement to pass the JP exam within one year, and complete 16 hours of continuing medication education within one year.**

Dr. Willeford moved, Mr. Webb seconded, and the motion passed to amend the motion to add a public reprimand.

After discussion, Mr. Ellis called the Question for a vote. Ms. Robinson restated the motion and the motion passed to adopt the Findings of Fact, and Conclusions of Law of the Administrative Law Judge for revocation and to immediately stay the revocation for 5 years, and to include the requirement to pass the JP exam within one year, and to complete 16 hours of continuing medication education within one year with a public reprimand.

Emmanuel M. Nwora, M.D., SOAH #503-13-3851.

Lee Bukstein; Darrin Dest, J.D. Lee Bukstein, board staff attorney, was present. Emmanuel M. Nwora, M.D., was not present. No one appeared representing Dr. Nwora. Mr. Bukstein gave a presentation. **Ms. Attebury moved, Dr. Shulkin seconded, and the motion passed to adopt the Findings of Fact and Conclusion of Law of the Administrative Law Judge in the Proposal for Decision and to adopt the staff suggested order for revocation.**

Barrett D. Whitefield, D.O., SOAH #503-13-5970.

Barbara Jordan, JD, board staff attorney, was present. Barrett D. Whitefield, D.O., was not present. No one appeared representing Dr. Whitefield. **Mr. Gallardo moved, Dr. Arambula seconded, and the motion passed to adopt the Findings of Fact and Conclusion of Law of the Administrative Law Judge in the Proposal for Decision and to adopt the staff suggested order for revocation.**

The meeting was recessed at 6:18 p.m.