



Texas Medical Board

BOARD MEETING

MARCH 04, 2016

333 GUADALUPE, TOWER 2, SUITE 225

AUSTIN, TEXAS

The meeting was called to order on March 04, 2016 at 8:00 a.m. by Michael Arambula, M.D., Board President. Board members present were: Julie Attebury; Frank S. Denton; Carlos L. Gallardo; John R. Guerra, D.O.; Margaret McNeese, M.D.; Robert B. Simonson, D.O.; Karl W. Swann, M.D.; Surendra K. Varma, M.D.; and Stanley S. Wang, M.D. Timothy Webb, J.D.; arrived at 8:11 a.m. Allan Shulkin, M.D. arrived at 8:20 a.m. J. Scott Holliday, D.O., left at 9:17 a.m. Paulette Southard, Secretary/Treasurer; George Willeford III, M.D., Vice-President; David Baucom; John D. Ellis, Jr., J.D.; Manuel G. Guajardo, M.D.; and Wynne Snoots, M.D. were not present. Board staff present were Mari Robinson, J.D., Executive Director; Robert Bredt, M.D., Medical Director, Scott Freshour, J.D., General Counsel; Monique Johnston, Licensure Manager; and Megan Goode, Governmental Affairs & Communications Manager, and various other staff.

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

There were no items for Agenda item #2

Agenda item #3, Executive Director Report.

Budget. Ms. Robinson reported all projected expenditures continue to remain on target for the fiscal year.

Legislative Update. Ms. Robinson reported on the ongoing risk assessment to identify proposed FY 16 Internal Audit topics. An update on the implementation of SB202 was given and it was reported as of January the transfer was completed. It was also reported that in April 2016 staff would begin state strategic planning as well as undergo Sunset evaluation.

Outreach Update. Ms. Robinson reviewed the Outreach presentation schedule and the progress made.

Agenda item #4, Medical Director Report. Dr. Bredt gave an update on the registered nurse hired to review the medical expert reports. Dr. Bredt requested that the board members

contact him with suggestions of any names, for possible panelists, who might be interested in serving as experts. Dr. Bredt also gave information on matching rural practitioners with rural experts and will provide more information in the following months.

Agenda item #5, Public Information Update. Jarrett Schneider gave an update on agency Facebook page. The mid-February bulletin listed the Physician Assistant Board members and also included an update on the implementation of SB202 and updated rules. Publication of the next bulletin is anticipated in late April or early May.

Agenda item #6, Report Physician Assistant Liaison. Jenifer Clarner, PA, introduced herself as a new Physician Assistant member and a liaison for the Physician Assistant Board.

Agenda item #7, Discussion, recommendation, and possible action regarding FSMB Resolution. Ms. Robinson gave an update on the FSMB Resolution. The deadline to submit independent FSMB Resolutions had passed. If another state adopts a resolution, the Medical Board can still become a joint sponsor of that resolution. A resolution was filed by the State of Wyoming to become joint sponsors of this resolution. After consideration, **Dr. Varma moved, Mr. Webb seconded, and the motion passed to become joint sponsors with Wyoming in Advocacy Efforts in Response to Antitrust Concerns of State Medical Boards.** Mr. Denton abstained.

Agenda item #8, Discussion, recommendation, and possible action regarding the use of remedial plans related to registration. Ms. Robinson discussed authorizing staff to offer the option of a remedial plan within the first 45 days for licensees that are failing to provide the Board with the information that the Board has requested.

Agenda item#9, Consideration and possible action regarding pending litigation. Mr. Freshour gave an update that HB2 (Abortion Bill) heard by the Supreme Court has gone forward and been taken under consideration by the Supreme Court. There are only a few substantial evidence appeals going to the district court. Other cases will be discussed when more information is available. Currently there are three cases pending in State and two in Federal court. The Federal case has been appealed to the Fifth Circuit. **Mr. Denton moved, Dr. Shulkin seconded, and the motion passed to go into Executive Session at 8:40 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act Section 551.071, Government Code. Open session resumed at 9:15 a.m. and it was announced that no action was taken. A certified agenda was made.**

The board recessed at 9:17 a.m.

The board reconvened at 9:40 a.m.

Agenda item #21. Consideration and approval of Determinations of Default: Dung Lee. Ann Skowronski, J.D., staff attorney, was present and gave a presentation. Mr. Lee was not present and no one appeared representing Mr. Lee. After consideration, **Dr. Varma moved, Mr.**

Webb seconded, and the motion passed to adopt the Determination of Default Order for Dung Lee for revocation.

Agenda item #22 at 9:00 a.m., Consideration and approval of Proposal for Decisions: Thomas G. Easter, II, M.D., SOAH #503-14-2656, M.D. Scott Freshour, General Counsel, gave a procedural background. Heather Barham, J.D., staff attorney, was present and gave a brief statement. Thomas G Easter, II, M.D., was present with attorney Dan Lype, J.D. Ms. Barham, J.D. gave presentations. Mr. Lype gave a presentation. Ms. Barha gave a brief rebuttal statement. After consideration, **Mr. Webb, 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 approve the Final Order of Thomas G. Easter, II, M.D., with the following modification instead of revocation: a permanent restriction, no prescribing Scheduled II & III, public reprimand; chart monitor for 12 consecutive months; complete professional boundaries course with in one year; complete at least eight (8) hours of CME in risk management, JP exam and pay an administrative penalty of \$2000.00 within 60 days.**

Sarah Van Epp Kelly, M.D. SOAH #503-15-0920, MD. Scott Freshour, General Counsel, gave a procedural background. Heather Barham, J.D., staff attorney, was present and gave a presentation. Sarah Van Epp Kelly, M.D., was present with attorney Robert Simpson, J.D. Mr. Simpson gave a presentation. Ms. Barham, J.D. gave a brief rebuttal statement. **Dr. Shulkin moved, Dr. McNeese seconded, and the motion passed to go into Executive Session at 10:15 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act Section 551.071, Government Code. Open session resumed 10:33 a.m. and it was announced that no action was taken. A certified agenda was made.** After consideration, **Dr. Varma moved, Dr. Simonson 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 grant unrestricted license to include four hours professionalism and four hours of risk management based upon the behavior of the licensee of Sarah Van Epp Kelly, M.D.**

Agenda item #22, Srivathanakul Suraphandhu, M.D., SOAH #503-15-0241M.D., pulled from the agenda.

Arturo Martinez, M.D., SOAH #503-15-2098, MD. Scott Freshour, General Counsel, gave a procedural background. Hugh Spires, J.D., staff attorney was present and gave a presentation. Martinez Arturo, M.D., was present with attorney Louis Leichter, J.D. and Robert Simpson. Mr. Simpson gave presentation. Ms. Barham, J.D., gave statement. After discussion, **Dr. Shulkin moved, Ms. Attebury seconded, and the motion passed to go into Executive Session at 10:58 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act Section 551.071, Government Code. Open session resumed at 11:22 a.m. and it was announced that no action was taken. A certified agenda was made.** After consideration, **Mr. Denton moved, Dr. Shulkin seconded,**

and the motion to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Proposal for Decision and approve to grant and unrestricted license to Arturo Martinez, M.D., with the requirement to attend and complete the physician coaching program.

Agenda item #22, Consideration and approval of Proposal for Decisions #4, #5, #6 and #7 were deferred to later in the meeting

Agenda item #29 at 11:00 a.m., Discussion, recommendation, and possible action regarding the adoption of proposed amendments to 22 Texas Administrative Code Chapter 177, Business Organizations.

1. Chapter 177, Business Organizations

§§177.18-177.20

- a. §177.18 Purpose and Scope
- b. §177.19 Definitions
- c. §177.18 Call Coverage Minimum Requirements

Ms. Robinson gave a brief summary of proposed amendments to Chapter 177. Written comments were received. No one signed in for oral comments. After discussion, **Dr. Wang moved, Dr. Varma seconded, and the motion passed to pull the proposed amendments to 22 T.A.C. Chapter 177, Business Organization, §177.18 Purpose and Scope, §177.19 Definitions and §177.20 Call Coverage Minimum Requirements and send to the stakeholders group.**

Agenda item #22 (continued) Consideration and approval of Determinations of Default. Felipe Mendoza, NCT, SOAH #503-15-5484. Scott Freshour, General Counsel, gave a procedural background. Ketan Patel, J.D., staff attorney, was present and gave a presentation. Felipe Mendoza, NCT, did not appear. No one appeared representing Mr. Mendoza. After consideration, **Dr. Varma moved, Mr. Webb 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 approve the staff's suggested Final Order for revocation of the license of Felipe Mendoza, NCT.**

Willie J. Hawkins, M.D., SOAH #503-13-5325. Scott Freshour, General Counsel, gave a procedural background. Christopher Palazola, J.D., staff attorney, was present and gave a presentation. Willie J. Hawkins, M.D., was not present, Louis Leichter, J.D., appeared representing Willie J. Hawkins, M.D. and gave presentation. Mr. Palazola gave brief rebuttal statement. After consideration, **Dr. McNeese moved, Dr. Varma 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 approve the staff's suggested Final Order suspending and restricting the practice of the license of Willie J. Hawkins, M.D., with the correction on page 6 that the order is for 5 years instead of 3 years.**

David M. McClellan, M.D., SOAH #503-14-0243, MD. Scott Freshour, General Counsel, gave a procedural background. Ketan Patel, J.D., staff attorney, was present and gave a presentation. David M. McClellan, M.D., was not present. After consideration, **Dr. McNeese moved, Dr. Shulkin 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 approve the Final Order for revocation of the license of David M. McClellan, M.D**

Agenda item #32, at 11:30 a.m., Open forum for public comments Louis Leichter, J.D., signed in and presented public comments.

The Board recessed at 12:20 p.m.
The Board reconvened at 12:40 p.m.

There were no items for Agenda item #10

Agenda item #11, Consideration and approval of Modification Request/Termination Request Orders. After discussion, Mr. Gallardo moved, Dr. Arambula seconded, and the motion passed to pend the Termination Granted Order for #12. After consideration, **Mr. Webb moved, Ms. Attebury seconded, and the motion passed to approve the Modification Request Granted Orders for Ajay Aggarwal, M.D.; Gregory B. Cartwright M.D.; Julian K. Mardock M.D. and Jack C. Smith III M.D.; the Termination Request Orders Granted for Rick A. Boyles M.D.; Robert J. Hernandez Jr. M.D.; Charles E. Longmoor M.D.; Troy L. Miller: Armand Rodriguez MD; Nick J. Patzakis, DO.; and Kelly J. Turner M.D.; and the Termination Denied Orders for Jaime D. Murcia M.D.**

Agenda item #12, Consideration and possible action for Agreed Board Orders. After consideration, Mr. Webb moved, Dr. McNeese seconded, and the motion passed to approve the Remedial Plan for #14 with the modification to delete “apply for a pain management certification”. After consideration, Ms. Attebury moved, Mr. Webb seconded, and the motion passed to approve the Agreed Orders en masse for: **Manaf Alroumoh M.D.; Ray Altamirano M.D.; Victor R. Alvarez M.D.; Abimbola M. Banjo M.D.; George B. Boyd III D.O.; Mark B. Buckner M.D.; Eduardo Carrillo M.D.; Richard T. Ethridge M.D.; Sameer A. Fino M.D.; Jose Flores M.D.; Jewel A. Giacona M.D.; Jaime R. Gomez M.D.; Anibal R. Hadad M.D.; Barry T. Hill M.D.; Robert G. Jakubowski M.D.; James K. Kaufman M.D.; Michael Kelly II M.D.; Jeffrey S. Krantz D.O.; Rodion A. Kunynetz M.D.; Thomas E. Lavake M.D.; Michael E. Moloney M.D.; Patrick C. Obasi M.D.; Jo Pollack M.D.; Charles B. Pruitt D.O.; Carl A. Recine M.D.; Morgen M. Rozenboom M.D.; Carl L. Russell M.D.; Robert P. Ryan M.D.; Phillip D. Smith M.D.; Novarro C. Stafford M.D.; Anil P. Thaker M.D.; Fan Wang M.D.; James C. Wheeler M.D.; Syed J. Zaheer M.D. ;Walter J. Zawislak M.D.; John T. Port M.D.; Deno B. Barroga M.D.; Izzeldeen B. Elhage M.D.; Andrew L. Timmons M.D.; Ismael Diaz M.D.; Joseph M. Long M.D.; Joseph M. Long M.D.; Merlin D. Lugo-Faria M.D.; Andrew Psyk M.D.; Michael F. Schultz M.D.; Carlos Venegas M.D.; Christopher R. Mann D.O.; and Orlando J. Terneny M.D.**

Agenda item #13, Consideration and approval of Mediated Settlement. After consideration, Mr. Denton moved, Dr. Shulkin seconded, and the motion passed to approve **Mediated Settlement Agreed #4** with the modification to add six cycles of chart monitoring. After discussion, Mr. Webb moved, Dr. Simonson seconded, and the motion passed to approve the **Mediated Settlement Agreed Orders en masse** for: Mohammed R. Alnajjar M.D.; Ernest C. Alsop M.D.; Samuel F. Barker M.D.; Richard A. Evans M.D.; Anthony F. Garcia M.D.; Innad H. Husaini M.D.; Christopher McColskey M.D.; Rahn G. Hall M.D.; David W. Spinks M.D. ; Stephen C. White M.D.; and Stanley W. Whisenant M.D.

Agenda item #14, Consideration and approval of Remedial Plans. Dr. Wang recused from consideration of Remedial Plans #15 and #29. Dr. Simonson recused from consideration and approval of Remedial Plans #18. After consideration, Dr. Willeford moved, Dr. Wang seconded, and the motion passed pull and schedule and ISC for #59. After further discussion, Mr. Webb moved, Dr. Varma seconded, and the motion passed to approve the following Remedial Plans en masse except #11 for: Ajai Agarwal M.D.; Bernadette Auricht, M.D.; Robert J. Babuji, M.D.; Neysan Bayat M.D.; Adolfo L. Benitez M.D.; Jense Benjamin, M.D.; Tiffany J. Berry M.D.; Carl Blond, M.D.; Farshid Bozorgi, M.D.; Cynthia D. Brown M.D.; Victor J. Cardenas M.D.; Diana Casanova M.D.; Anthony D. Davis, M.D.; David R. Duhon, M.D.; Christopher A. Durham M.D.; Gary P. Fazio M.D.; Mark Frohman Elliot, M.D.; Frank R. Glatz, III, M.D.; Geoffrey G. Glidden M.D.; Maria R. Guajardo, M.D.; Frantz Guignard, M.D.; Nicole Hoenicke, M.D.; Robert Johnson, M.D.; Keli Jones, M.D.; Michael E. Jones M.D.; Kerry A. Kirkman, M.D.; Norwood W. Knight-Richardson, M.D.; Susan L. Kraemer M.D.; Bharat B. Lathe, M.D.; Alex E. Lechin, M.D.; Daniel Lockard, Jr., M.D.; Shadan Mansoor, M.D.; Jose Marina, Jr., D.O.; John Moran, M.D.; Chandramohan G. Mudaliar, M.D.; Sriram S. Nathan M.D.; Brent Alan Parker M.D.; Florencia Perez, M.D.; Steven M. Pounders M.D.; Parvez A. Qureshi M.D.; Leonard S. Raphael M.D.; Morton L. Rubin D.O.; Jorge Saenz, M.D.; Pedro Sepulveda M.D.; Pragnesh R. Shah M.D.; Ulka Kishor-Niraj Shah M.D.; Kenneth R. Smart, Jr. M.D.; Kevin J. Soden M.D.; Daniel L. Stahl M.D.; Kelly W. Stephenson, M.D.; Darren R. Tate M.D.; Jill A. Taylor, D.O.; Fred C. Thomas M.D.; Quoc-Hung Tran M.D.; Mary P. Van Hal M.D.; Miguel A. Vazquez M.D.; Michael A. Velasquez D.O.; Kelly J. Warren M.D.; Edgar H. Yee M.D.; Joshua C. Demke M.D.; Ryan D. Ford M.D.; Stephen R. Griggs M.D.; Marilyn J. Mora M.D.; James L. Thomison II, M.D.; Rafath Quraishi M.D.; and Lance A. Dell, M.D.

Agenda item #15, Consideration and approval of Nunc Pro Tunc Orders. After consideration, Ms. Attebury moved, Dr. McNeese seconded, and the motion passed to approve the **Nunc Pro Tunc Orders** for: William N. Hawkins M.D.; and Robert E. Vasquez M.D.

There were no Agenda items for #16-19.

Agenda item #20, Consideration and approval of Cease and Desist Agreed Orders. After consideration, Ms. Attebury moved, Dr. Wang seconded, and the motion passed to approve the **Agreed Cease and Desist Order** for Stephen Duncan; Julio Jiminez D.C.;

Pedro J. Lozano D.C.; John Madden; Kirk Merrikh; Ky Carlson; and Stuart Strausberg D.O.

Agenda item #23, Report on Temporary Suspension Hearings. A report was given on the Temporary Suspension hearings for Ricky Haywood-Watson, M.D., without notice; Andrew Psyk, M.D. without notice; William Huff, M.D. without notice; Darnel Durand, M.D., with notice; Jose G. Monsalvez, M.D. with notice; and Robert Van Boven, M.D., Temporary Restriction with notice.

Agenda item #24, Report on Cease and Desist Orders approved by Executive Director. A report was given on the Cease and Desist Orders approved by the Executive Director for William Mercer and Ana Rocio-Rodriguez

There were no Agenda items for #25-26

Agenda item #27, Report on Automatic Orders. A report was given on the Automatic Rescinding Temporary Suspension Order for Robert J. Yetman M.D.; and Automatic Suspension Order for Robert E. Vasquez M.D.

There were no Agenda items for #28

There were no Agenda items for #30-31

Consent Agenda

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

1. Consideration and approval of the December 3-4, 2015 Board Meeting Minutes. **Dr. Varma moved, Dr. Guerra seconded, and the motion passed to approve the December 3-4, 2015 Board Meeting Minutes.**
2. Consideration and approval of the December 15, 2015 Executive Committee meeting minutes and action item. **Dr. Arambula moved, Dr. Varma seconded, and the motion passed to approve the December 15, 2015 Executive Committee Meeting Minutes.**
3. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.

Ms. Attebury gave a report of the Finance Committee meeting. **Ms. Attebury moved, Dr. Simonson seconded, and the motion passed to approve the Finance Committee meeting minutes and action items.**

Dr. Arambula gave a report of the Executive Committee meeting. **Dr. Arambula moved, Ms. Attebury seconded, and the motion passed to approve the Executive Committee meeting minutes and action items.**

Dr. McNeese gave report of the DPRC meeting. **Dr. McNeese moved, Dr. Varma seconded, and the motion passed to approve the DPRC Committee meeting minutes and action items with a correction indicating that five expert physicians and two respiratory care experts' membership were approved, instead of seven expert physicians.**

Mr. Webb gave a report of the Advertising Board Certification Ad Hoc Committee. **Mr. Webb moved, Dr. McNeese seconded, and the motion passed to approve the Advertising Board Certification Ad Hoc Committee meeting minutes and action items.**

Mr. Webb gave a report of the Licensure Committee. **Mr. Webb moved, Dr. Guerra seconded, and the motion passed to approve the Licensure Committee meeting minutes and action items.**

Agenda item #34, Adjourn. There being no further agenda items, **Mr. Webb moved, Dr. Guerra seconded, and the motion passed to adjourn the meeting at 1:48 p.m.**