



Texas Medical Board

BOARD MEETING
Friday, June 12, 2020
Video Conference

The meeting was called to order on Friday, June 12, 2020 at 8:09 a.m. by Board President Sherif Zaafran, M.D. Board members present were: Kandace B. Farmer, D.O., Vice-President; Michael E. Cokinos, Sec/Treasurer; Arun Agarwal; Sharon Barnes; Devinder S. Bhatia, M.D.; George L. DeLoach, D.O.; Tomeka Herod; Roberto D. Martinez, M.D. (*logged on after roll call*); Linda Molina, J.D.; LuAnn R. Morgan; Jayaram N. Naidu, M.D.; Satish Nayak, M.D.; Manuel “Manny” Quinones, Jr., M.D.; Jason K. Tibbels, M.D. and David G. Vanderweide, M.D. Board members not present were Robert Gracia; J. Scott Holliday, D.O., MBA; Jeffrey L. Luna, M.D. Staff members present were Stephen Brint Carlton, J.D., Executive Director; Scott Freshour, J.D., General Counsel; Robert Bredt, M.D., Medical Director; 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.

Introduce New Member. Dr. Zaafran introduced new board member, Ms. Herod.

COVID-19 Update. Dr. Zaafran gave an overview and update on COVID-19 and how it has affected TMB: expansion of telemedicine; fast-tracked temporary licensure; emergency licensing rules; license renewal and continuing education extensions for all TMB license holders; telemedicine for chronic pain patients; prohibition on elective surgeries & procedures; final examination, supervision & PIT waivers. No action was taken.

FSMB Update. No update on FSMB was given.

Agenda Item #3, Consideration and approval of Mediated Settlement Agreed Orders.

After discussion, **Dr. Nayak moved, Dr. Farmer seconded and the motion passed to approve the Mediated Settlement Agreed Orders for Myrtle Oates, M.D.; Russ Deacon Birdwell, M.D.; and Michael Francis O’Brien, M.D.**

Agenda Item #4, Consideration and approval of Remedial Plans.

After consideration, **Ms. Molina moved, Dr. Vanderweide seconded and the motion passed to approve the Remedial Plans for Ataurabb Ahmad, M.D.; Ali Hosseini Alavi, D.O.; Robert Gene Bass, Jr., M.D.; Juan Marcos Garcia, M.D.; Ira Harrison More, M.D.; Marco Munoz, M.D.; Debra M. Osterman, M.D.; John Francis Bangston, Jr., M.D.; Adrienne Cones**

Browning, M.D.; William Rockwell Evans, M.D.; Odus Martin Franklin, D.O.; Ronald Richard Galfione, M.D.; Daniel Edward Jenkins, III, M.D.; Larry Charles Kravitz, M.D.; Charity Virginia Abreu Lawrence, M.D.; Dieu Rick Quang Ngo, M.D.; Maria De Los Angeles Palafox, M.D.; Digvijay Pratap Singh, M.D.; Ajay Kumar Aggarwal, M.D.; John Wayne East, M.D.; Michael C. Glassinger, M.D.; Steven Michael Hamilton, M.D.; Stephen Victor Hamn, M.D.; Lamia Kadir, M.D.; Yan Li, M.D.; Christopher Kennon Livingston, M.D.; Jorge Luis Maldonado, M.D.; Richard Jay Perry, D.O.; Paul William Richter, D.O.; and David Alan Slater, M.D.

Agenda Item #5, Consideration and possible action for Agreed Orders. After consideration, Mrs. Barnes moved, Mrs. Morgan seconded and the motion passed to approve the Agreed Orders for Mobeen Naeem Choudhri, M.D.; Paul H. Coleman, M.D.; Charles T. Maxvill, D.O.; Robert A. Moreno, M.D.; James Lawrence Fleckenstein, M.D.; Oscar Francisco Quintana, M.D.; Mahammad Farooq, M.D.; Herbert William Jones, M.D.; Paul Dennis Lifland, M.D.; Stephen Ross Smith, M.D.; Dennis David Cantu, M.D.; Dan Kelly Eidman, M.D.; Chistopher Aaron Hughes, M.D.; Alfredo Luis Marti, M.D.; J Mark McBath, M.D.; Mark Menefee Mettaufer, M.D. (Dr. Zaafran and Dr. Bhatia recused); Joseph Otto Muscat, IV, M.D.; Ali Mohamed Nasur, M.D.; Victor M. Rodriguez, M.D.; Gregory Skie, M.D.; David Wayne Spinks, M.D.; Srinivas Sunkavally, M.D.; Ronald K. Garcia, M.D. (Dr. Quinones recused); Mario G. Gonzalez, M.D.; Muhammad Farhan Habib, M.D.; Gary Michael Horndeski, M.D.; Marc Albert Ibanez, M.D.; Michael Woolf Morris, M.D.; Edward Hurtado Ortiz, M.D.; Lyle David Weeks, M.D.; Robert Foster Yerrington, M.D. (Dr. Quinones recused); Hiep Andrew Cao, M.D.; Francisco J. Fiallo, M.D.; Rafael Fermin Garcia, M.D.; John A. Lanius, M.D.; Joseph Agage Ouma, M.D.; Wilberto G. Cortes, M.D.; and Rany Antony Cherian, M.D.

Agenda Item #6, Consideration and approval of Modification Request/Termination Request Orders. After consideration, Dr. Quinones moved, Mrs. Barnes seconded and the motion passed to approve the Modification Request/Termination Request Orders for William Brandt Garner, M.D.; Rolando Hinojosa, M.D.; Richard Todd Husby, M.D.; David A. Jolivet, M.D.; Kirk Reese Lee, M.D.; Owen Surgent Maat, M.D.; Earl Martin Stenger, M.D.; James Michael Wilson, M.D.; and Roberto Zayas, Jr., M.D.

There were no items for agenda item #7.

Agenda Item #8, Consideration and Approval of Cease and Desist Orders. After discussion, Mr. Cokinos moved, Dr. Tibbels and Dr. Martinez seconded and the motion passed to approve the Cease and Desist Orders for Brett Baer, DPT; Roger Borbon, DC; Victoria Garza; Mark Martinez; Dawda Pouncy; Ning Qian, AC; Cynthia Ramos; Rex Anthony Yannis, M.D.; and Michele West, M.D.

There were no items for agenda item #9.

Agenda Item #10, Consideration and Approval of Agreed Resolution orders. After discussion, Dr. Nayak moved, Dr. Vanderweide seconded and the motion passed to approve the Agreed Resolution order for Whitney Donald Behr, PF.

Agenda Item #11, Consideration and Approval of Consent Orders. After discussion, Mrs. Barnes moved, Mrs. Morgan seconded and the motion passed to approve the Consent Order for Jacob John Novak, M.D.

There were no items for agenda item #13

Agenda Item # 14 Executive Director Report.

Budget Update. Mr. Carlton reported that the state is anticipating a change in terms of funding and has asked the agency to come up with a 5% reduction in the biennium budget. The budget is currently on track, and the agency is saving money with virtual ISC and Board meetings, and travel expenses. No furlough or cutting of positions is expected. No action was taken on this agenda item.

Internal Audit Update. Mr. Carlton reported that the Registrations Process is the topic for the FY2020 Internal Audit. No action was taken on this agenda item.

COVID-19 Update. Mr. Carlton gave update on agency processes and procedures given the global pandemic. Outreach presentations are now in webinar format until further notice. The vast majority of staff are working 100% from home. ISCs scheduled in April were cancelled and set for reschedule. The agency started virtual ISCs via teleconference or video via TEAMS in May. Masks are available for staff who report to the office. No action was taken on this agenda item.

FSMB Update. Mr. Carlton gave an update on FSMB USMLE process. A notice was put out that they are suspending the USMLE Step 2 Clinical Skills portion of the exam for at least the next 18 months. No action was taken on this agenda item.

Agenda Item #15, Medical Director Report. Dr. Bredt reported that there are currently 708 expert panelists. DPRC approved 25 more experts on June 11. There is still need for experts in chronic neurosurgery, orthopedic spine surgery, psychiatrists, pulmonary care specialists, and endocrinologists. Recommendations from the board are welcome. No action was taken on this agenda item.

Agenda Item #16, Public Information Update. Ms. Randermann reported there is a dedicated page on the TMB website related directly to COVID-19. There have been dozens of media releases and Facebook posts. There has been 50+ FAQs posted on COVID-19 alone on the TMB website. The customer service survey stated that customers are largely satisfied with the customer service provided by TMB. The latest strategic plan is posted on the website and has the survey results. No action was taken on this agenda item.

Agenda Item #17, Report Physician Assistant Liaison. Ms. Gottschalk provided information regarding her attendance at the FSMB HOD meeting via Zoom. She will also attend sessions in the summer. No action was taken on this agenda item.

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 provided.

Agenda Item #20, Report on Suspension by Operation of Law. A report on Suspension by Operation of Law was provided.

There were no items for agenda item #21-27.

Break at 9:20 a.m.

Agenda Item #12, 9:37 a.m., Consideration and approval of Determinations of Default.

- a) **Alison Berry, M.D., SOAH #503-19-6972.MD** Samer Shobassy, J.D., Staff Attorney, was present and gave a brief presentation. Mr. Shobassy corrected SOAH case# from #503-19-6967.MD to #503-19-6972.MD. Dr. Berry was not present, and no one appeared on her behalf. After discussion, **Mrs. Barnes moved, Dr. Vanderweide seconded and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Determination for Default for Alison Berry, M.D., and to adopt the staff's suggested Default Order for revocation. Dr. Quinones recused from vote.**
- b) **Thomas G. Easter, M.D., SOAH #503-19-6973.MD** Susan Rodriguez, J.D., Staff Attorney Supervisor, was present and gave a brief presentation. Dr. Easter was not present, and no one appeared on his behalf. After discussion, **Dr. Naidu moved, Dr. Martinez seconded, and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Determination for Default for Thomas G. Easter, M.D., and to adopt the staff's suggested Default Order for revocation.**
- c) **Manuel Hernandez, M.D., SOAH #503-20-2038.MD** Susan Rodriguez, J.D., Staff Attorney Supervisor, was present and gave a brief presentation. Dr. Hernandez was not present, and no one appeared on his behalf. After discussion, **Dr. Nayak moved, Dr. Quinones seconded and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Determination for Default for Manuel Hernandez, M.D., and to adopt the staff's suggested Default Order for revocation.**
- d) **Chase Lancaster, D.O., SOAH #503-20-2018.DO** Susan Rodriguez, J.D., Staff Attorney Supervisor, was present and gave a brief presentation. Dr. Lancaster was not present, and no one appeared on his behalf. After discussion, **Dr. Quinones moved, Mr. Cokinos seconded, and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Determination for Default for Chase Lancaster, D.O., and to adopt the staff's suggested Default Order for revocation of PIT permit.**

Agenda Item #28, Consideration, discussion, recommendation, and possible action regarding petition for rule change:

- Rule 190.8 – Violation Guidelines

After discussion, **Dr. Quinones moved, Mrs. Barnes seconded, and the motion passed to approve staff recommendation to deny petition for rule change.** Mrs. Sheila Hemphill provided oral and written comments to the Board in support of her petition for rule change for the utilization of ozone on COVID-19 patient.

There were no items for agenda item #29.

Ms. Herod logged off the meeting at 10:07 a.m.

Agenda Item #30, Discussion, Recommendation, and possible action regarding adoption of proposed rule amendments to 22 T.A.C.

- Chapter 166, Physician Registration
§166.2 - Continuing Medical Education
After discussion, **Mrs. Barnes moved, Dr. Quinones seconded, and the motion passed to adopt proposed rule amendment to Chapter 166, Physician Registration, §166.2, Continuing Medical Education, as published.**
- Chapter 170, Pain Management is amended to: Prescription of Controlled Substances
§170.2 – Definitions
§170.3 – Minimum Requirements for the Treatment of Chronic Pain
§170.9 – New Subchapter C – Prescription Monitoring Program Check and Rule 170.9 – Prescription Monitoring Program Check
After discussion, **Mr. Cokinios moved, Dr. De Loach seconded, and the motion passed to adopt proposed rule amendments to Chapter 170, §170.2 - Definitions, §170.3 - Minimum Requirements for the Treatment of Chronic Pain, and New Subchapter C - Prescription Monitoring Program Check and new §170.9 - Prescription Monitoring Program Check, as recommended by staff.**
- Chapter 172, Temporary and Limited Licenses, Subchapter C, Limited Licenses
§172.13 – Conceded Eminence
After discussion, **Dr. Bhatia moved, Dr. Farmer seconded, and the motion passed to adopt proposed rule amendment to Chapter 172, §172.13 - Conceded Eminence, as recommended by staff.**
- Chapter 175, Fees and Penalties
§175.1 – Application and Administrative Fees
§175.2 – Registration and Renewal Fees
After discussion, **Dr. Vanderweide moved, Mrs. Barnes seconded, and the motion passed to adopt proposed rule amendments to Chapter 175, §175.1 - Application and Administrative Fees, and §175.2 - Registration and Renewal Fees, as published.**
- Chapter 178, Complaints
§178.8 – Appeals
After discussion, **Dr. Bhatia moved, Dr. Tibbels seconded, and the motion passed to adopt proposed rule amendment to Chapter 178, §178.8 – Appeals, as published.**

- Chapter 180 Title – Texas Physician Health Program and Rehabilitation Orders is amended to “Texas Physician Health Program”
 - §180.1 – Purpose
 - §180.2 – Definitions
 - §180.3 – Texas Physician Health Program
 - §180.4 – Operation of Program
 - §180.7 – Rehabilitation Orders (Repeal)After discussion, **Dr. Bhatia moved, Mrs. Barnes seconded, and the motion passed to adopt proposed rule amendments to Chapter 180, §180.1 - Purpose, §180.2 - Definitions, §180.3 - Texas Physician Health Program, §180.4 - Operation of Program, and §180.7 - Rehabilitation Orders (Repeal), as published.**
- Chapter 195, Pain Management Clinics
 - §195.1 – Definitions
 - §195.4 – Operation of Pain Management ClinicsAfter discussion, **Dr. Bhatia moved, Mr. Cokinis seconded, and the motion passed to adopt proposed rule amendments to Chapter 195, §195.1 - Definitions and §195.4 - Operation of Pain Management Clinics, as published.**

Ms. Herod logged back in to the meeting at 11:15 a.m.

There were no items for agenda item #31-35.

Agenda Item #36 11:23 a.m., Open Forum for Public Comment. Sheila Hemphill gave a public comment.

Dr. C. M. Schade gave a public comment.

Agenda Item #37, Discussion, recommendation, and possible action relating to personnel matters. No action was taken.

CONSENTAGENDA

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

1. Consideration and approval of the March 6, 2020 Medical Board Meeting Minutes and action items.
2. Consideration and approval of the March 13, 2020, March 23, 2020, April 17, 2020, April 20, 2020; and April 27, 2020, Emergency Executive Committee minutes and action items.
3. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.

After Consideration, **Mrs. Barnes moved, Dr. Martinez seconded, and the motion passed to approve the Consent Agenda items:**

1. **Consideration and approval of the March 6, 2020 Medical Board Meeting Minutes and action items.**

- 2. Consideration and approval of the March 13, 2020, March 23, 2020, April 17, 2020, April 20, 2020; and April 27, 2020, Emergency Executive Committee minutes and action items.**
- 3. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.**

Agenda Item #38, Adjourn. There being no further agenda items, **Dr. De Loach moved, Dr. Vanderweide seconded, and the motion passed to adjourn the meeting at 11:39 a.m.**