



Texas Medical Board

BOARD MEETING

December 6, 2019

The meeting was called to order on Friday December 6, 2019 at 8:02 a.m. by Board President Sherif Zaafran, M.D. Board members present were: Arun Agarwal; Sharon Barnes; Devinder S. Bhatia, M.D.; Michael E. Cokinos; George L. DeLoach, D.O.; Robert Gracia; Vanessa F. Hicks-Callaway; Jeffrey L. Luna, M.D.; Roberto D. Martinez, M.D.; Linda Molina, J.D.; LuAnn R. Morgan; Jayaram N. Naidu, M.D.; Satish Nayak, M.D.; Manuel “Manny” Quinones, Jr., M.D.; and David G. Vanderweide, M.D. Kandace B. Farmer, D.O. and Jason K. Tibbels, M.D. did not attend. Staff members present were Stephen Brint Carlton, J.D.; Scott Freshour, J.D., General Counsel; Robert Bredt, M.D., Medical Director; Taurie Randermann, Governmental Affairs and Public Information Manager; 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 #28, Discussion, recommendation, and possible action regarding adoption of proposed rule amendments to 22 T.A.C.

Dr. Zaafran moved, Dr. Quinones seconded and the motion passed to go into Executive Session at 8:03 am 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 8:34 am.

- Chapter 163, Licensure
§163.13 – Expedited Licensure

Mr. Freshour gave a brief summary and review of the proposed amendments. After consideration, **Dr. Quinones moved, Ms. Barnes seconded and the motion passed to adopt the proposed rule amendments to 22 T.A.C Chapter 163, Licensure §163.13 – Expedited Licensure as published.**

- Chapter 182, Use of Experts
§182.1 – Purpose
§182.3 – Definitions
§182.5 – Expert Reviewer Qualifications
§182.8 – Expert Physician Reviewers
The repealed 182 rules are as follows:

- §182.2 – Board's Role.
- §182.4 – Use of Consultants.
- §182.6 – Use of expert witnesses.
- §182.7 – Interim Appointment.

Mr. Freshour gave a brief summary and review of the proposed amendments. After consideration, **Dr. DeLoach moved, Dr. Quinones seconded and the motion passed to adopt the proposed rule amendments to 22 T.A.C Chapter 182, Use of Experts §182.1 – Purpose; §182.3 – Definitions; §182.5 – Expert Reviewer Qualifications; §182.8 – Expert Physician Reviewers** The repealed 182 rules are as follows: **§182.2 – Board's Role; §182.4 – Use of Consultants; §182.6 – Use of expert witnesses; and §182.7 – Interim Appointment as published in the Register.**

- Chapter 165 Medical Records
§165.7 – Out-of-Network Provider Notice and Disclosure Requirements (New Rule)

After consideration, **Dr. Bahtia moved, Dr. Vanderweide seconded and the motion passed to withdraw the rule and take no further action at this time.**

- Chapter 193, Standing Delegation Orders
§193.5 – Physician Liability for Delegated Acts and Enforcement

After consideration, **Dr. Zaafran motioned, Ms. Barnes seconded and the motion passed to pend action and have staff continue to evaluate comments and possible revisions.**

Agenda Item #2, Board Member Report.

Opioid Task Force. Dr. Zaafran reported that the Opioid Task Force meeting. It was very helpful and effective.

Out of Network Billing. Dr. Zaafran reported on the Out of Network billing issue. Texas Medical Board will work with other state regulating agencies to make rules regarding Out of Network Billing.

Stem Cell Clarification. Dr. Zaafran reported and clarified when and where stem cells can and cannot be used..

Law Enforcement Outreach. Dr. Zaafran reported on Texas Medical Board's work with law enforcement to better understand TMB board rules.

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

After discussion, **Mr. Cokinos moved, Ms. Morgan seconded and the motion passed to approve the Mediated Settlement Agreed Orders for Maeem Ullah Khan, MD; Joshua Hay, MD; Sami Shehzad, MD; James Leland Strickland, MD; Rose A. Fuentes, MD; Joe Wayne Morrow, DO; Francisco I. Pena, MD; and Seshagiri Rao, MD.**

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

After consideration, **Ms. Barnes moved, Dr. Martnez seconded and the motion passed to approve the Remedial Plans for James Andrew Bodin, Jr., MD; Tony Dang, MD; Alejandra Barba Plan, Jr., MD; Scott T. Roethle, MD; LaShondria Simpson-Camp, MD; Marth Wolfram St. John, MD; and Vernon F. Williams, MD.**

After consideration, **Dr. Martinez moved, Dr. Bahtia seconded and the motion passed to approve the Remedial Plans for Richard Dean Dillman, Jr., MD; Carlos E. Salazar, MD; Shawn Patrick Todd, DO; and Frederick Andreas, MD.**

After consideration, **Dr. DeLoach moved, Ms. Barnes seconded and the motion passed to approve the Remedial Plans for Jose L. Arbona, MD.; Michael Cleveland Livingston, MD; and Jeremy Lloyd Swain, DO.**

After consideration, **Ms. Hicks-Calloway moved, Dr. Nayak seconded and the motion passed to approve the Remedial Plans for Ryan D. Cradeur, MD; Mark B. Blick, DO; and Brad R. Baker, MD.**

Agenda item #5, Consideration and possible action for Agreed Orders. After consideration, **Dr. Vanderweide moved, Ms. Barnes seconded and the motion passed to approve the Agreed Orders for Luis E. Nieves, MD; Peter Robert Bringewalk, MD; Roberto Ruiz, Jr., MD; Ruchard T. Husby, MD; and Elizabeth Jean McCorkle, MD.**

After consideration, **Dr. Bahtia moved, Mr. Martinez seconded and the motion passed to approve the Agreed Orders for Monira Hamid-Kundi, MD; David Andrew Nicol, MD; David Earl Pearce, MD; Mark Randall Rogers, MD; Sonober Umair, MD; Michael A. Velasquez, DO; Michael Quealy Watson, MD.**

After consideration, **Ms. Barnes moved, Ms. Morgan seconded and the motion passed to approve the Agreed Order for Alok Pratap Kushwaha, MD.**

After consideration, **Ms. Barnes moved, Ms. Morgan seconded and the motion passed to approve the Agreed Orders for Fernando T. Avila, MD; Ashokkumar G. Patel, MD; Garrett K. Peel, MD; James M. Stocks, MD; Nadeem A. Khan, MD; and Jeffrey A. Klem, MD.**

Dr. Zaafran moved, Ms. Barnes seconded and the motion passed to go into Executive session 9:01 am for Deliberations concerning disciplinary action, investigative information, peer review information, and possible rehabilitation orders under the authority of The Medical Practice Act Sections 152.009, 160.006-160.008, 164.007(c), and 165.202-165.203, Occupations Code. Open session resumed at 9:54 am.

The board recessed briefly at 9:54 a.m.

The board reconvened at 10:21 a.m. and a quorum was confirmed.

After consideration, **Dr. Luna moved, Ms. Molina seconded and the motion passed to approve the Agreed Orders for David Tanksley Butler, MD and Shailesh C. Vora, MD.**

Agenda item #6, Consideration and approval of Modification Request/Termination Request Orders. After consideration, **Mr. Cokinos moved, Ms. Morgan seconded and the motion passed to approve the Modification Request/Termination Request Orders for**

Priscilla Gutierrez, MD; Mark Thomas Malone, MD; Hernan Emilio Miranda, MD; Veena Surapaneni, MD; and Richard J. Kondejewski, MD.

There were no items for agenda item #7-#8.

Agenda item #9, Consideration and approval of Nunc Pro Tunc Orders. After discussion, **Ms. Barnes moved, Dr. Bahtia seconded and the motion passed to approve the Nunc Pr Tunc order for Deziree Durayappah, DO.**

Agenda Item #10, Consideration and approval of Determinations for Default.

- a) **Annelle Johnson, M.D., SOAH #503-18-5011.MD** Samer Shobassy, Staff Attorney, was present and gave a brief presentation. Dr. Johnson was not present and no one appeared on her behalf. After discussion, **Dr. Nayak moved, Mr. Gracia seconded and the motion passed to adopt the Findings of Fact and the Conclusions of Law of the Administrative Law Judge in the Determinations for Defaults for Annelle Johnson, M.D., and to adopt the staff's suggested final order of revocation.**

There were no items for agenda item #11.

Agenda Item #12, Consideration of Motion for Rehearing Request

- a) **Jose De Jesus Martinez, M.D., SOAH #503-18-5099.MD** Scott Freshour gave a brief summary. After consideration, **Dr. Bahtia moved, Ms. Barnes seconded and the motion passed to deny the motion for Rehearing Request.** Dr. Martinez recused.

Agenda item #13, Executive Director Report.

Budget Report. Mr. Carlton gave a report on the budget and stated that TMB has collected 12% of estimated revenue for the year.

Impairment Questions. Mr. Carlton reported that a stakeholder meeting would be held the second week of February to review impairment questions for licensure and renewal.

Investigations Process. Mr. Carlton reported on the current Investigations Process and possible changes to make the process for efficient. The board directed staff to bring back a proposal of recommendations for possible changes to the investigations process relating to cancelling a license while under investigation.

Audit Team.

Agenda Item #14, Discussion, recommendation, and possible action Physician Health Program White Paper. Amy Swanholm provided a brief summary of the Physician Health Program White Paper. After consideration, **Dr. Bahtia moved, Dr. Nayak seconded and the motion passed to accept the Physician Health Program White Paper.**

Agenda Item #15, Medical Director Report. Dr. Bredt reported that there are currently 675 experts, including five new experts approved by DPRC. There are significant needs for Ortho spine surgery, Neurosurgery, Pain management. There is about a 6-month backlog in those investigations, waiting on panelists. The board directed staff to evaluate how we can resolve the backlog.

Agenda Item #16, Public Information Report. Ms. Randermann provided a report. The board directed staff to proactively address false advertising related to the use of stem cells.

Agenda Item #17, Report Physician Assistant Liaison. Ms. Gottschalk was present and gave a report.

Agenda Item #18, Consideration and possible action regarding pending litigation. Mr. Freshour gave an update on pending litigation. No Action was taken.

There were no items for Agenda Items #19-#26

Agenda Item #27, Discussion regarding Chapter 172.13 Conceded Eminence. Mr. Carlton reported that there is potential language to use for a revision to the rule. The board directed staff to take it to stakeholders.

There were no items for agenda item #29-33.

CONSENTAGENDA

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

1. Consideration and approval of the October 18, 2019 Medical Board Meeting Minutes and action items.
2. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.

After Consideration, **Dr. Bahtia moved, Dr. Vanderweide seconded, and the motion passed to approve the Consent Agenda items:**

1. **Consideration and approval of the October 18, 2019 Medical Board Meeting Minutes and action items.**
2. **Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.**

Agenda Item #34, Open Forum for Public. Three individuals signed in and gave public comment.

Agenda Item #35, Discussion, recommendation, and possible action relating to personnel matters. Mr. Carlton recognized Ms. Monique Johnston, Licensure Manager, for her 21 years of service at TMB. Her last day is January 1st, 2020.

Agenda Item #36, Adjourn. There being no further items, **Mr. Quinones moved, Ms. Barnes seconded and the motion passed to adjourn the meeting at 12:00 PM.**