



# Texas Medical Board

BOARD MEETING  
JUNE 8, 2012  
333 GUADALUPE, TOWER 2, SUITE 225  
AUSTIN, TEXAS

The meeting was called to order on June 8, 2012 at 8:05 a.m. by Irvin E. Zeitler, Jr., D.O., Board President. Board members present were Melinda McMichael, M.D., Vice-President; Paulette Southard, Secretary/Treasurer; Pat J. Crocker, D.O.; John D. Ellis, Jr., J.D.; Carlos Gallardo; J. Manuel G. Guajardo, M.D.; Scott Holliday, D.O.; Margaret McNeese, M.D.; Allan N. Shulkin, M.D.; Wynne M. Snoots, M.D.; Stanley S. Wang, M.D., J.D.; Timothy Webb, J.D.; and George Willeford III, M.D. Michael Arambula, M.D.; Julie Attebury; David Baucom; Patricia Blackwell; and W. Roy Smythe, M.D., were not present. Board staff present were Mari Robinson, Executive Director; Nancy Leshikar, J.D., General Counsel; Tonie Knight, Licensure Manager; Megan Goode, Public Information and Special Projects Manager; Jennifer Kaufman, Assistant General Counsel; and various other staff.

Dr. McMichael 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.**

**FSMB Meeting Update.** Dr. Zeitler gave an update of the Federation State Medical Board meeting that several board members attended. Dr. Zeitler presented a plaque from the Federation to the board for serving the public interest and protecting the health of Texas citizens.

## **Agenda item #3, Executive Director Report.**

**Budget.** Ms. Robinson reported instructions were received for the submission of the Biennium 2014-2015 Legislative Appropriations Request. She reported the instructions came with a joint letter that indicated possible budget cuts in 2014 and she reviewed possible ramifications of budget cuts.

**Legislative Update** Ms. Robinson reported attending and serving as a resource at an Interim House Public Health Committee meeting that focused on prescription delegation.

**TWC audit.** Ms. Robinson reported that the Texas Work Force Commission is in the process of performing an audit at the agency.

**Outreach Update.** Ms. Robinson reported receiving positive responses from county medical societies and medical schools for the Outreach presentations around the state. Additional presentations are scheduled and will be held over the next several months throughout the state.

**Personnel Update.** Ms. Robinson gave a brief update on the reduced number of open staff positions.

There were no items for Agenda item #04.

**Agenda item #05, Public Information Update.** Ms Hopper gave an update on recent TMB-related reports in the news media, and discussed physician preferences for receiving the TMB Bulletin and news releases via email.

After discussion, the board directed staff to add new physician-subscribers to the "Physician" list to receive TMB Newsletters and post-meeting news releases, giving them the option to receive notices of temporary suspensions by joining the "Media & Others" list.

**Agenda item #06, Discussion, recommendation, and possible action regarding the use of e-mail to transmit patient information or submit orders for patients.** After discussion, the board directed staff to gather additional information to bring back before the board in November.

**Agenda item #07, Discussion, recommendation, and possible action regarding Department of State Health Services draft rule of Subchapter V. Autologous Adult Stem Cell Banks, Section 1.451 Purpose and Eligibility Criteria.** After discussion that the criteria is acceptable, if the facilities have Federal oversight and regulation, the board directed staff to gather information confirming that the autologous adult stem cell banking facilities have Federal regulations and oversight.

**Agenda item #08, Discussion, recommendation, and possible action regarding Request for Proposal (RFP) for a new drug vendor.** After discussion, **Dr. Crocker moved, Ms. Southard seconded, and the motion passed to approve Recovery Trek as the designated drug vendor.**

**Agenda item #09, Consideration and possible action regarding pending litigation.** Ms. Leshikar introduced Ted Ross, Office of the Attorney General. **Dr. McMichael moved, Ms. Southard seconded, and the motion passed to go into Executive Session at 9:39 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 10:29 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, **Dr. McMichael moved, Dr. Crocker seconded, and the motion passed to approve the Amended Final Judgment Agreed Permanent Injunction and Order of Dismissal with Prejudice between the State of Texas and Michelle Longo O'Donnell.**

**Agenda item #10, Consideration and Approval of Proposal for Decision. 1. Rahul Kumar Nath, M.D.** Scott Freshour, staff attorney, was present and gave a presentation. Dr. Nath was not present. James Norta, appeared representing Dr. Nath. Mr. Norta gave a presentation. After discussion, **Mr. Webb moved, Ms. Southard seconded, and the motion passed to approve to adopt the Findings of Facts, the Conclusions of Law in the Proposal for Decision of the Administrator Law Judges, Shannon Kilgore and Sharon Cloninger, and the Final Order filed by Board staff for dismissal.**

**Agenda item #11, Consideration and Approval of Modification Request/Termination Request of Non-Public Rehabilitation Orders. Dr. McMichael moved, Ms. Southard seconded, and the motion passed to approve the Termination Granted of Rehabilitation Order #622; Modified agreed Rehabilitation Order #666; and Modification Granted of Rehabilitation Order #542.**

**Agenda item #12, Consideration and possible action for Agreed Orders. After discussion, Dr. McMichael moved, Ms. Southard seconded, and the motion passed to approve the Agreed Order for Jacques A. Roy, M.D.**

After discussion, **Dr. McMichael moved, Mr. Gallardo seconded, and the motion passed to approve the Agreed Orders for Mohammad A. Chaudhry, M.D.; Jay Pearce, D.O.; Darey Philbrick M.D.; Stephen L. Turner, M.D.; and Lowell E. Wilder, M.D.**

After discussion, **Ms. Southard moved, Dr. Crocker seconded, and the motion passed to approve the Agreed Orders for Karen P. Bullington, M.D.; Mark Geier, M.D.; and Dennis W. Whitfield, M.D.**

After discussion, **Ms. Southard moved, Dr. Crocker seconded, and the motion passed to approve the Agreed Orders for Ikenna Adugba, M.D.; and Carlton D. Pittard, M.D.**

The remaining items for Agenda item #12, Agreed Orders, were deferred to later in the meeting.

**Agenda item #28 at 11:00 a.m., Presentation by Ryan Patrick and Alfred Paris.** Mr. Alfred Paris, DEA Special Agent, and Mr. Ryan Patrick, Houston District Attorney, gave a presentation on pill mills.

**Agenda item #29 at 11:45 a.m., Discussion, recommendation, and possible action including adoption of proposed amendments to 22 Texas Administrative Code:**

- a. 163.2 Full Texas Medical License.
- b. 163.4 Procedural Rules for Licensure Applicants
- c. 163.5 Licensure Documentation
- d. 166.1 Physician Registration
- e. 166.3 Retired Physician Exception

- f. 172.8 Faculty Temporary License
- g. 172.15 Public Health License
- h. 172.16 Provisional Licenses for Medically Underserved Areas
- i. 177.5 Special Requirements for 162.001(b) Health Organizations
- j. 190.8 Violation Guidelines

Ms. Kaufman gave a brief summary of 163.2 Full Texas Medical License; 163.4 Procedural Rules for Licensure Applicants; and 163.5 Licensure Documentation. No one signed in to present oral comments. Written comments were received and reviewed. **Ms. Southard moved, Mr. Webb seconded, and the motion passed to approve to adopt proposed changes to 22 T.A.C. 163.2 Full Texas Medical License; 163.4 Procedural Rules for Licensure Applicants; and 163.5 Licensure Documentation with non-substantive changes for publication.**

Ms. Kaufman gave a brief summary of 166.1 Physician Registration and 166.3 Retired Physician Exception. No one signed in to present oral comments. Written comments were received and reviewed. **Ms. Southard moved, Dr. McMichael seconded, and the motion passed to approve to adopt proposed changes to 22 T.A.C. 166.1 Physician Registration and 166.3 Retired Physician Exception with a non-substantive change for publication.**

Ms. Kaufman gave a brief summary of 172.8 Faculty Temporary License; 172.15 Public Health License; and 172.16 Provisional Licenses for Medically Underserved Areas. No one signed in to present oral comments. Written comments were received and reviewed. **Ms. Southard moved, Dr. McNeese seconded, and the motion passed to approve to adopt the proposed changes to 22 T.A.C. 172.8 Faculty Temporary License; 172.15 Public Health License; and 172.16 Provisional Licenses for Medically Underserved Areas for publication.**

Ms. Kaufman gave a brief summary of 177.5 Special Requirements for 162.001(b) Health Organizations. No one signed in to present oral comments. Written comments were received and reviewed. **Dr. Holliday moved, Mr. Ellis seconded, and the motion passed to approve to adopt proposed rule changes to 22 T.A.C. 177.5 Special Requirements for 162.001(b) Health Organizations for publication.**

Ms. Kaufman gave a brief summary of 190.8 Violation Guidelines. No one signed in to present oral comments. Written comments were received and reviewed. **Dr. McMichael moved, Mr. Webb seconded, and the motion passed to approve to adopt proposed rule changes to 22 T.A.C. 190.8 Violation Guidelines for publication.**

**Agenda item #30, Discussion, recommendation, and possible action regarding proposed rule changes to 22 T.A.C. Chapter 183, Acupuncture, 183.4. Licensure.** Ms. Kaufman gave a brief summary of 183.4. Licensure. **Mr. Webb moved, Dr. McMichael seconded, and the**

**motion passed to approve to adopt proposed rule changes to 22 T.A.C. Chapter 183, Acupuncture, 183.4. Licensure for publication.**

There were no items for Agenda item #31.

**Agenda item #31, Open forum for public comments.** Thomas Cuddy, Lene' Grindrod, Mike Devose and Almo Fellows presented public comments on chronic pain. After discussion, the board directed staff to publish an article in the quarterly newsletter regarding the treatment of chronic pain.

Thomas Simons present oral comments on physician residency programs for foreign educated physicians.

There board recessed for lunch.

The board reconvened and a quorum was confirmed.

**Agenda item #12, Consideration and possible action for Agreed Board Orders. (continued)**

After discussion, the board directed staff to notify Informal Settlement Conferences panels when a case is limited to identifying 15 patients.

After discussion, **Dr. McMichael moved, Dr. Shulkin seconded, and the motion passed to approve the Agreed Order #13 with the modification to restricted DEA prescribing of Schedule II-IV, until returning for board approval.**

After discussion, **Dr. Shulkin moved, Mr. Webb seconded, and the motion passed to approve Agreed Order #21 with the modification to eliminate the last sentence regarding the respondent's failure.**

After discussion, **Dr. McMichael moved, Mr. Gallardo seconded, and the motion passed to approve to deny the Agreed Order for #31 and pursue revocation of licensure at the State Office of Administrative Hearings.**

After discussion, **Dr. McMichael moved, Ms. Southard seconded, and the motion passed to approve the Agreed Orders en masse for Karen P. Bullington, M.D.; Mark Geier, M.D.; Dennis W. Whitfield, M.D.; Ikenna Adugba, M.D.; Carlton D. Pittard, M.D.; Donald W. Clark, M.D.; Roberta L. Fennig, D.O.; Uma R. Gullapalli, M.D.; Samuel C. Hartman, M.D.; Jeffrey D. Johnson, D.O.; James H. Kern, M.D.; Ramesh B. Kesavan, M.D.; Richard A. Lankes, M.D.; Rafael Parra, M.D.; John P. Ramirez, M.D.; Natascha T. Dumas, M.D.; Louis M. Hamer, M.D.; Thomas F. Pullen, Jr., M.D.; Jack L. Ritter, M.D.; Donald W. Smith, M.D.; Brianne Williams, M.D.; Ronald D. Wong, M.D.; Warren P. Roquet, M.D.; and John Webb, Jr., M.D.**

**Agenda item #13 Consideration and Approval of Modification Request/Termination Request Orders.** After discussion, **Dr. McMichael moved, Dr. Wang seconded, and the motion passed to approve the Order Denying the Termination of Suspension for Lundy E. Cavender, Jr., M.D.; and the Order Granting Termination for Raul E. Loaisiga.**

**Agenda item #14, Consideration and Approval of Nunc Pro Tunc Orders.** Ms. Southard moved, Dr. Crocker seconded, and the motion passed to approve the Nunc Pro Tunc

**Orders for David J. Carter, M.D.; Nora O. Garza, M.D.; Bryan C. Lipsen, M.D.; and Josanne Stephens (Vacating Cease & Desist).**

**Agenda item #15, Consideration and Approval of Mediated Settlement Agreed Orders.** Dr. Holliday was recused for consideration of James G. Holliday, D.O., order. After discussion, **Dr. McMichael moved, Ms. Southard seconded, and the motion passed to approve the Mediated Settlement Agreed Orders en masse for Warren B. Dailey, M.D.; Charles J. O'Hearn, M.D.; Robert Hernandez, M.D.; James G. Holliday, D.O.; Tone Johnson, M.D.; and Steven M. Sacks, M.D.**

**Agenda item #16, Consideration and Approval of Remedial Plans.** Dr. Wang was recused for Cheryl Clark-Brown. **Ms. Southard moved, Dr. Crocker seconded, and the motion passed to approve the Remedial Plans en masse for Madhava Agusala, M.D.; Richard Andrews, D.O.; Sean Burgest, M.D.; Norman T. Crabb, II, D.O.; Danny L. Dubberly, M.D.; Omar H. Durrani, M.D.; Joe M. Etter, D.O.; Luis E. Gonzalez, M.D.; Elena Guirova, M.D.; Nora C. Hart, M.D.; Laura M. McNamara, D.O.; Delia M. Quisenberry, M.D.; David A. Smith, M.D.; Syed F. Zaidi, M.D.; Jay K. Radhakrishnan, M.D.; George P. Amegin, D.O.; William P. Coleman, M.D.; Cecilia Del Moral, M.D.; James L. Holly, M.D.; Michael G. Kaldis, M.D.; Ahmed I. Khan, M.D.; Herbert Marshak, D.O.; Sherry Nussbaum, M.D.; Patrick T. Prevo, M.D.; Khusro Rashid, M.D.; Ellen J. Remenchik, M.D.; Kevin J. Shelton, M.D.; Julie Traynham, D.O.; Michael E. Tschickardt, M.D.; George S. White, M.D.; James Williams, M.D.; Aurora Yllana-Shepperd, M.D.; Lawrence Alder, M.D.; David J. Carter, M.D.; Kelley A. Farmer, M.D.; Maurice S. Haddad, M.D.; Henrik Mike-Mayer, M.D.; Derrick Owens, M.D.; Ramiro A. Pena, M.D.; Daniel P. Sneed, D.O.; Kevin R. Teal, M.D.; Peter E. Goldstein, M.D.; John A. Sazy, M.D.; Bill M. Balch, M.D.; Charles A. Cole, D.O.; Ikedinobi U. Eni, M.D.; Michael A. Flores, M.D.; Vincent G. Gonzaba, M.D.; Paul W. Heath, M.D.; William O. Kearsse, M.D.; Rafael H. Martinez, M.D.; Juan Rivera, M.D.; Jared W. Santan, M.D.; Holly S. Stewart, M.D.; Maurice N. Ugwuibe, M.D.; Barrett D. Whitefield, D.O.; Syed A. Yusoof, M.D.; Robert O. Zimmerman, M.D.; Sami T. Ali, M.D.; Chery M. Clark-Brown, M.D.; Monica J. Graham, M.D.; Daniel H. Kellum, Sr., D.O.; and Robert R. Low, D.O.**

There were no items for Agenda items #17-18.

**Agenda item #19, Report on Temporary Suspension.** Reports were presented on the Temporary Suspension hearings for Donnie Evans, M.D.; Esteban Alejo, M.D.; and Akili Graham, M.D.

There were no items for Agenda item #20.

**Agenda item #21, Consideration and approval of Agreed Cease and Desist Orders.** Dr. McMichael moved, Ms. Southard seconded, and the Agreed Cease and Desist Orders were approved en masse for Roby Mitchell, Maria Reyes De Manciaz; Roshin A. Rowjee; Stephen Thompson; and Josanne Stephens that was Vacated under Agenda item #14, Nunc Pro Tunc Orders.

There were no items for Agenda item #22-26.

**Agenda item #27, Discussion, recommendation, and possible action regarding penalty guidelines.** Ms. Robinson presented a draft of penalty guidelines for disciplinary action. After discussion, the board directed staff to revise the guidelines, removing the chart monitor for one patient and add a high-end range. After discussion, **Mr. Webb moved, Dr. Wang seconded, and the motion passed to approve the guidelines with the revisions.** After discussion, the board directed staff to attempt to schedule physician board members for pain management Informal Settlement Conferences.

#### **Consent Agenda**

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

1. **Consideration and approval of the April 13, 2012 Board Meeting Minutes. Mr. Webb moved, Ms. Southard seconded, and the motion passed to approve the April 13, 2012 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.

Dr. McMichael gave a report of the Disciplinary Process Review Committee meeting. **Dr. McMichael moved, Dr. Crocker seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items.**

Ms. Southard gave a report of the Licensure Committee meeting. **Ms. Southard moved, Dr. Crocker seconded, and the motion passed to approve the Licensure Committee meeting minutes and action items.**

Dr. McMichael gave a report of the Finance Committee meeting. **Dr. McMichael moved, Mr. Webb seconded, and the motion passed to approve the Finance Committee minutes.**

Dr. Willeford gave a report of the Standing Orders Committee meeting. **Dr. Willeford moved, Mr. Webb, and the motion passed to approve the minutes and action items.**

There being no further agenda items, the meeting adjourned at 2:32 p.m.