



**TEXAS PHYSICIAN HEALTH PROGRAM
BOARD MEETING**

333 Guadalupe, Tower 2, Suite 225
Austin, Texas 78701
Friday, February 21, 2020

The meeting was called to order on February 21, 2020 at 9:08 a.m. by Presiding Officer Anand Mehendale, M.D. Governing Board members present were: Eugene Boisubin, M.D.; Jeffery Butts, D.O.; Viki Chancellor, M.D.; Helaine Lane; Brian “Dean” McDaniel, D.O.; Sejal Mehta, M.D.; and Susan Wynne, M.D. Governing Board Members not present were Mary Boone, LCSW, LCDC; Ron Cook, D.O.; and Vicki Waters, M.S., PA-C. Staff present were: TXPHP manager Rui Bernardo, TMB Executive Director Brint Carlton, J.D.; Assistant General Counsel, Amy Swanholm, J.D.; Assistant General Counsel Sarah Tuthill, J.D.; and various other staff.

Governing Board members welcomed and introduced themselves to the newly appointed member, Dr. Sejal Mehta.

Agenda Item #2, Discussion, recommendations, and possible action regarding November 1, 2019 Governing Board meeting minutes. After discussion, Dr. Chancellor moved, Dr. Boisubin seconded, and the motion passed to approve the November 1, 2019 Governing Board meeting minutes.

Agenda Item #3, Board President Report. Dr. Mehendale gave a presentation about the recently updated licensure and registration impairment questions.

Agenda Item #4, Executive Medical Director Report.

- a. Report of program enrollment to date, program performance, program operations, program policies.** Mr. Bernardo reported that there are currently 334 active participants in the program.
- b. Report on Outstanding Referrals.** Mr. Bernardo reported that there are currently 30 individuals pending, 25 of whom are waiting to be interviewed. Interviews have slowed due to the EMD position being currently vacant.
- c. Personnel Report.** Mr. Bernardo gave an update on current job vacancies.
- d. Fee Intake Report.** Mr. Bernardo reported that last November notices started going out informing participants of outstanding fees.
- e. Budget Report.** Mr. Bernardo gave an update on the current budget.

Agenda Item #5, TMB Report. Mr. Carlton reported on the relationship between TXPHP and TMB.

Agenda Item #6, Discussion, recommendation and possible action regarding the EMD. Dr. McDaniel moved, Ms. Lane seconded, and the motion passed unanimously to go into Executive Session for deliberations concerning personnel matters under the authority of the Open Meetings Act Section 551.074, Government Code. The Executive Session began at 9:59 am.

Open Session resumed at 10:37 am and the Board recessed until 10:53 am.

After discussion, Dr. Chancellor moved, Ms. Lane seconded, and the motion passed unanimously to authorize Dr. Mehendale, in consultation with the TMB leadership, to explore options regarding the EMD position and salary and, if possible, fill the position before the next TXPHP Board meeting.

Agenda Item #7, Discussion, recommendation and possible action regarding the Advisory Committee. After discussion, Dr. Mehta moved, Dr. Wynne seconded, and the motion passed unanimously to appoint Dr. Johnson to the TXPHP Advisory Committee.

Agenda Item #8, Discussion, Recommendations, Disciplinary Process Review Committee (DPRC) disposition updates, and possible action regarding Case Advisory Panels and case reviews.

13-0249 – After discussion, Dr. Boisaubin moved to refer the participant to TMB, Dr. Wynne seconded, and the motion passed unanimously.

14-0269 – After discussion, Dr. Chancellor moved to refer the participant to TMB with the recommendation that a prompt IDE be completed and if the participant comes back into compliance and follows treatment plan, accept them back into TXPHP. Dr. Boisaubin seconded and the motion passed unanimously.

15-0317 – After discussion, Dr. Boisaubin moved to refer the participant to TMB. Dr. Mehta seconded and the motion passed unanimously.

16-0110-A – After discussion, Dr. McDaniel moved to refer the participant to TMB. Dr. Chancellor seconded and the motion passed unanimously.

16-0210-B – After discussion, Dr. Chancellor moved to refer the participant to TMB with the recommendation of an IDE with follow up of any indicated treatment and a zero tolerance agreement if the participant is referred back to TXPHP. Dr. Boisaubin seconded and the motion passed unanimously.

The Board tabled **Agenda Item #8** at 12:00 pm in order to take up **Agenda Item #14** at the scheduled time.

Agenda Item #14, Presentation by the Executive Director of the International Doctors in AA, 12:00 pm. IDAA gave a presentation by telephone.

The Board took a break at 12:15 pm and reconvened at 12:34 pm.

Agenda Item #8, Discussion, Recommendations, Disciplinary Process Review Committee (DPRC) disposition updates, and possible action regarding Case Advisory Panels and case reviews (CONTINUED).

17-0140-A – After discussion, Dr. Chancellor moved to refer the participant to TMB. Ms. Lane seconded and the motion passed unanimously.

17-0308 – After discussion, Dr. Wynne moved to refer the participant to TMB with the recommendation that the participant stay with TXPHP under zero-tolerance. Dr. Boisaubin seconded and the motion passed unanimously.

17-0376 – After discussion, Dr. Mehta moved to refer the participant to TMB. After further discussion, Dr. Chancellor moved to amend the motion to refer the participant to TMB with recommendation of an immediate IDE, with follow up as indicated if the participant is sent back to TXPHP.

Dr. Mehta withdrew her motion.

Dr. Chancellor moved and Dr. Boisaubin seconded the motion to refer the participant to TMB with the recommendation of an immediate IDE, with follow up as indicated if the participant is sent back to TXPHP. The motion passed unanimously.

18-0217 – After discussion, Ms. Lane moved to refer the participant to TMB and return to TXPHP after treatment, Dr. Boisaubin seconded and the motion passed unanimously.

18-0355-A – After discussion, Dr. Chancellor moved to refer the participant to TMB. Ms. Lane seconded and the motion passed unanimously.

18-0404 – After discussion, Dr. McDaniel moved to refer the participant to TMB, Dr. Chancellor seconded and the motion passed unanimously.

18-0488 – After discussion, Dr. Chancellor moved to refer the participant to TMB with the recommendation of a full 5-year agreement and IDE. Dr. Boisaubin seconded and the motion passed unanimously.

19-0346 – After discussion, Dr. Chancellor moved to refer the participant to TMB. Dr. Wynne seconded and the motion passed unanimously.

19-0905 – After discussion, Dr. Butts moved to refer the participant to TMB. Dr. Chancellor seconded and the motion passed unanimously.

19-1102 – After discussion, Dr. Chancellor moved to refer the participant to TMB with the recommendation of an IDE if the participant returns to TXPHP. Dr. Wynne seconded and the motion passed unanimously.

Agenda Item #9, Report on Emergent Referrals. Mr. Bernardo reported that there were five emergent referrals to TMB.

Agenda Item #10, Discussion, recommendations, and possible action regarding adoption of proposed rule amendments to T.A.C. Chapter 180.

Chapter 180: 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

Ms. Swanholm gave a brief overview of the proposed rule amendments. The Board directed staff to see if it's possible to make the drug testing hours more practitioner friendly. The Board directed staff to research meeting attendance requirements and provide language. After discussion, Dr. Boisabuin moved, Dr. Mehta second and the motion passed unanimously to refer proposed rule amendments to T.A.C. Chapter 180 to the Texas Medical Board for adoption with language researched by staff regarding meeting attendance requirements.

Agenda Item #11, Legal Report. Ms. Swanholm reported that there was no information to share.

Agenda Item #12, Discussion, recommendations, and possible action regarding scheduling, procedures, and upcoming Board meetings, member rotation, Case Advisory Panel (CAP) scheduling, and possible agenda topics. There was nothing to discuss under this item.

Agenda Item #13, Discussion, recommendations, and possible action regarding treatment facility requirements for participants and a possible list of approved treatment facilities that meet the requirements. This item was deferred to the next meeting.

Agenda Item #15, Open forum for public comments. No one signed in to provide public comments.

Agenda Item #16, There being no further items, Dr. Chancellor moved, Dr. Boisabuin seconded, and the motion passed unanimously to adjourn the meeting at 1:34 pm.