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Beverly
Kotsanis

**Sunset Committee Testimony Regarding Texas Medical Board
December 9, 2016
Beverly Kotsanis: Regarding Personally Witnessed ISC Experiences**

Dear Chairman and committee members I am Beverly Kotsanis of Grapevine, Texas, a 34 year medical practice manager and CEO of Kotsanis Institute in Grapevine, TX. I am a graduate of Loyola University of Chicago and have graduate training in business at Lake Forest College in Illinois and SMU in Dallas. I'm here to oppose continuation of the Texas Medical Board in its current form and to oppose Texas' joining the medical licensure compact.

I am also here to relate experiences I personally witnessed during ISCs where our practice was a respondent. None of the complaints were made by patients or their families and there was never patient harm. For all of our 34 years we always had and continue to have an unrestricted license in Texas and all states in which we are licensed.

I have seen palpable hostility of the ISC panels and board attorneys toward us. The ISC panels are clearly ignorant of cases before them, as though they had not read the files because they were coached to conclude guilt regardless of the facts.

The only ISC we ever settled was for a \$500 fine, despite no findings of fact. We didn't know any better. ISC panels routinely push for a token settlement because they know a SOAH hearing can cost respondents upwards of \$300,000. Even just preparing for and going through a single day at an ISC has cost us in excess of \$35,000.

In 34 years the only claims our TMA/TMLT malpractice carrier ever paid were not malpractice but in defense of frivolous administrative attacks by TMB that could have been resolved if TMB had simply read our responses and reviewed our records. Did they do that on purpose?

Particularly disturbing was that the experts assigned to review our cases were not peers, as required by TMB rules, and that they sometimes manufactured conclusions opposite of those that could be supported by the medical record. These were not findings of fact, but false conclusions and skewed opinions on a subject in which they were ill informed. If the board lies, this is bad faith and the state and board and its members can collectively and individually be sued for triple damages. Is the stated mission of TMB protecting the public or protecting

the medical industry status quo and generating revenue for the state through fines?

In one ISC relating to an autism advertisement regarding nutrition and behavior, the medical panelist at the ISC was a non-board certified otolaryngologist who admitted having no knowledge or experience with nutrition or autism. Likewise, the expert report writer for the autism case was also uninformed about either. **These panelists did not satisfy the requirements for expert review under any part of the rules but especially not under chapter 200 which gives latitude to doctors practicing integrative and complementary medicine.**

In one ISC related to cancer treatment, the ISC medical panelist was a non-board certified internal medicine doctor who did not practice oncology. And there was only one expert panelist report (not 2 as required by board rules) who reviewed the patient records. This individual was a non-board certified oncologist with no education in nutrition or complementary medicine. **These panelists did not satisfy the requirements for expert review under any part of the rules but especially not under chapter 200.**

Solution:

- 1) **We recommend including integrative and complementary doctors on the TMB and having a public panel to review medical board cases decided against doctors to insure that cases are fairly adjudicated before a respondent must exercise their right to a trial.**
- 2) **Additionally, we recommend the Indiana system, used successfully since 1975**
 - a. **The panel is composed of three health care professionals and one attorney who serves as chairman with no vote. Each side chooses one health care provider; these two providers choose a third. The panel's findings are:**
 - i. **1) Admissible in disciplinary cases or court**
 - ii. **2) Not legally binding; and**
 - iii. **3) As a practical matter, rarely overturned by a judge.**

Thank you for your consideration.