



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2012

Mr. William Gimson  
Executive Director  
Cancer Prevention and Research Institute of Texas  
211 E. 7th Street, Suite 300  
Austin, Texas 78711

Dear Bill:

As the Office of the Attorney General's designee on the Oversight Committee of the Cancer Prevention and Research Institute of Texas ("CPRIT"), I have had a chance to review the CPRIT Retrospective Review of Funded Companies (September 28, 2012), CPRIT's Peloton Therapeutics Review (November, 2012) and the letter you sent to Senator Jane Nelson and Representative Jim Keffer (December 4, 2012). Further, I have also considered the information and explanations you provided during this week's Oversight Committee meeting. While I appreciate the information you provided, I am concerned that the Oversight Committee was not told about the circumstances surrounding the Peloton grant until almost two months after they were first discovered.

Based on my understanding of the situation, and according to the timeline CPRIT provided on Tuesday, the Peloton grant was approved at a meeting of the Oversight Committee on June 18, 2010. The Oversight Committee's official minutes, which indicate that I was not present for the meeting, do not specifically mention the Peloton grant. Two years later, CPRIT's Compliance Officer conducted a review of previously issued grant awards. The results of that review, which was issued internally on September 28, 2012, revealed that the Peloton grant was submitted to the Oversight Committee for approval without first being reviewed by the appropriate peer review committees. Presumably, CPRIT's senior management learned about the mishandling of the Peloton grant on or about that day.

Three days later - on October 1, 2012 - Peloton was notified that its grant had been approved without having been subjected to the proper process. However, the Oversight Committee was not told about the problems with the Peloton grant until "the week of November 26." For my part, I first learned that the Peloton grant was flawed when I received a phone call from CPRIT staff on the afternoon of Thursday, November 29, 2012.

I am obviously not the only member of the Oversight Committee that is concerned about this delay. At least one other member of the Oversight Committee - Tom Luce - expressed similar

sentiments at this week's Oversight Committee meeting. The Oversight Committee has a need – and a right – to be informed about significant developments at CPRIT in real time and as they unfold. In fact, the circumstances of the last two months demonstrate this point rather well.

According to the reports prepared by CPRIT's Compliance Officer, the Peloton grant was submitted to the Oversight Committee after e-mails were exchanged between Dr. Al Gilman and Jerry Cobbs, who served as the agency's Chief Science Officer and Chief Commercialization Officer, respectively. When Cobbs resigned, the Oversight Committee was still unaware of the discovery that the Peloton grant had been mishandled. In fact, I learned about the problems with the Peloton grant several days after Cobbs' resignation was announced. And yet, when CPRIT first publicly acknowledged that Peloton would have to resubmit its grant application, the agency's statement indicated that Cobbs was responsible for submitting the Peloton grant to the Oversight Committee before it had been subjected to independent review by the appropriate peer review committees. These circumstances further demonstrate why the Oversight Committee should have been told immediately about the issues surrounding the Peloton grant.

In light of this concern and the serious questions that have recently arisen about CPRIT's operations, it is important that CPRIT carefully consider whatever changes to CPRIT's governance structure are necessary to make the agency more efficient, transparent and accountable. Fortunately, that reform effort has already begun - both at the staff level and under a special committee established by the Oversight Committee. But beyond the steps that have already been implemented administratively or that will be considered for adoption by the Oversight Committee at a future meeting, I wanted to suggest additional measures for CPRIT to consider.

First, after reviewing the grant-making process, it appears that CPRIT would greatly benefit from formally adopting many of CPRIT's complex policies and procedures into the Texas Administrative Code. This process should begin with a review of CPRIT's existing internal policies - especially those governing the grant review and approval process - so that a determination can be made as to which policies should be codified into an agency rule. Given the complexity of CPRIT's grant-making operations, having these processes spelled out in formal agency rules - rather than in agency policies - would not only improve transparency, but would also allow all interested parties to easily access all applicable regulations in a single location, ensure that existing rules are legally enforceable and provide greater clarity to staff, the scientific community and grant applicants.

Second, CPRIT should also review its internal policies for gaps that do not address how certain situations should be governed. For example, when a large group of outside cancer research experts resigned as independent peer reviewers in October, several of those researchers' letters of resignation expressed concern that they had been asked to reconsider scores that had already been assigned to grant applications during the peer review process. If the agency determines as a matter of policy that scores should be reconsidered under certain circumstances, then no one should be under the impression that staff can make these decisions in a vacuum. Instead, the agency's policy regarding the reconsideration of scores should be clearly and expressly delineated in CPRIT's formal rules along with when, and under what circumstances, a re-scoring can be considered. Resolving this issue in CPRIT's governing rules would allow for a

standardized process for all grant applications and ensure that all affected parties know what is expected, permissible and appropriate. For these same reasons, we also recommend that the Corrective Actions outlined in the Compliance Officer's Peloton Therapeutics Review be considered for adoption as formal rules and codified in the Texas Administrative Code, rather than being left to an internal agency policy.

A final issue that warrants your attention is ensuring that CPRIT's volunteer board members having a working understanding of the requirements imposed by the Open Meetings Act. As I have indicated to you in our email exchange and telephone calls earlier this week, I am concerned that the Oversight Committee may not be sufficiently informed about what is required under and what is prohibited by that statute. Therefore, the Oversight Committee should be further educated about the requirements of the Open Meetings Act at a future meeting. If you agree that such a presentation would be helpful, I can arrange for an expert on the Open Meetings Act from the Office of the Attorney General to provide that information and answer any questions that any Oversight Committee members may have about that law.

Hopefully these recommendations will prove helpful as CPRIT moves forward and considers how best to remedy the concerns that have arisen in recent weeks and months. To the extent you wish to pursue these or other remedial efforts and would benefit from the Attorney General's assistance, please do not hesitate to contact me. I look forward to working with you to implement both the reforms recommended in this letter and any other remedial measures that will ensure that CPRIT continues to fulfill its legislative mandate of curing and preventing cancer in Texas.

Very truly yours,



Jay Dyer  
Designee of the Office of the Attorney General