

TEXAS MEDICAL BOARD

MINUTES OF THE DISCIPLINARY PROCESS REVIEW COMMITTEE

August 23, 2007

Chairman Lawrence Anderson, M.D., called the meeting to order at 10:00 a.m. Other members present were Roberta Kalafut, D.O., Amanullah Khan, M.D., Melinda McMichael, M.D., Irwin E. Zeitler, Jr., D.O., and Patricia S. Blackwell. Melinda S. Fredricks arrived late at approximately 11:20, a.m. Committee Members Margaret C. McNeese, M.D. and Annette P. Raggette were not present.

Also present was Executive Director Donald Patrick, M.D., J.D., Jane McFarland, Chief of Staff, and Mari Robinson, Director of Enforcement, and various other staff.

Dr. Kalafut moved and Ms. Blackwell seconded, and the motion passed at 10:01 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary actions under the authority of the Open Meetings Act, Government Code Sec. 551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE, ANNOTATED, Sections 152.009, 155.058, 160.006, and 164.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE, ANNOTATED, Sections 152.009, 160.006, 164.007, and 164.203; and the Attorney Generals Opinion No. H0484. Open session resumed at 12:38 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Agenda Item #2. Review, discussion and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: File # 06-3108, File # 06-2939, File # 06-3427, File # 06-3751, File # 06-3826, File # 06-3827, File # 07-0035, File # 07-0146, File # 07-0233, File # 07-0295, File # 07-0540, File # 07-0602, File # 07-0744, File # 07-0786, File # 07-0787, File # 07-0806, File # 07-1010, File # 07-1259, File # 07-1666, File # 07-1802, and B. Jurisdictional-Not-Filed Complaints: File # 06-3841, File # 07-3252, File # 07-3718, and File # 07-4112

It was announced by Mari Robinson that File #07-0602 would be moved to the October DPRC Agenda at the request of the Complainant

Dr. Kalafut moved and Ms. Blackwell seconded that a custom letter be prepared and sent to the Respondent in item 2.A.17, File # 07-1010 recommending that, in the future, Respondent should order testing for drug levels as appropriate and make referrals when indicated. Additionally, that a letter be forwarded to Complainant thanking Complainant for appearing before this committee. Motion carried.

Dr. Zeitler moved that the appeal of item 2.A.8, File #07-0146 be denied and his motion failed for lack of a second.

Dr. Khan then moved and Dr. Kalafut seconded that the appeal be granted and File #07-0146 be referred for additional review. Motion carried.

Dr. Khan moved and Ms. Blackwell seconded that the appeal of item 2.A.19, File #07-1666 be granted and the care and/or treatment provided by the radiologist be reviewed. Motion carried.

Dr. Khan moved and Ms. Frederick seconded that the appeal of item 2.A.4, File #06-3751 be denied and that a new matter be opened regarding Dr. S. Motion carried.

Dr. Kalafut moved and Ms. Frederick seconded that the appeal of all remaining items listed under 2.A., be denied. Motion carried.

Ms. Blackwell moved and Ms. Frederick seconded that the appeal of item 2.B.2. File #07-3252 be granted. Motion carried.

Ms. Blackwell moved and Dr. Khan seconded that the appeal of the remaining items listed under 2.B., be denied. Motion carried.

Agenda Item #3. Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from DPRC for follow-up action, specifically including: Log # 05-0921, Log # 05-1330, Log # 05-1720, Log # 05-1860, Log # 06-0181, and # 06-3491.

Dr. Kalafut moved and Dr. Khan seconded that all items in Agenda Item #3 be dismissed and no further action be taken. Motion carried.

A lunch recess was taken at 12:45 p.m. and the committee returned at 1:25 p.m.

Agenda Item #4. Reports and discussion regarding the Investigation, Litigation and Compliance Departments. Mari Robinson presented the Enforcement Report for July 2007, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #5. Discussion, recommendation and possible action regarding Rule Review and proposed changes to the following chapters: (presented by J. Kaufman)

A. Discussion, recommendation, and possible action regarding rule review of Chapter 164, **Physician Advertising**.

B. Discussion, recommendation, and possible action regarding rule review and proposed amendments to Chapter 196, **Voluntary Relinquishment or Surrender of A Medical License**, to include changes to 196.2 Surrender

Associated with Disciplinary Action, and 196.3 Surrender Associated with Impairment.

C. Discussion, recommendation, and possible action regarding rule review and proposed amendments to Chapter 198, **Unlicensed Practice**, to include changes to 198.2.Complaints, and 198.3.Investigation of Complaints.

Dr. Kalafut moved and Ms. Blackwell seconded that these items be published in the Texas Register. Motion carried.

Agenda Item #6. Review, discussion and possible action regarding review of probationers appearances. (M. Robinson)

Dr. Kalafut moved and Dr. Khan seconded that the recommendations be accepted. Motion carried.

Agenda Item #7. Consideration and approval of appointments to the Expert Physician Panel. (M. Robinson)

Ms. Blackwell moved and Dr. Khan seconded that the recommendations be accepted. Motion carried.

Agenda Item #8. Review, discussion, and possible action regarding selected files and cases.

Dr. Kalafut moved and Ms. Blackwell seconded that the investigations and cases reviewed by this committee be resolved as noted and that they be listed along with each resolution as part of the minutes of this Committee. Motion carried.

Agenda Item #9. Adjourn.

Ms. Blackwell moved and Dr. Khan seconded that the meeting adjourn. Motion carried at 1:57 p.m.