

TEXAS MEDICAL BOARD

MINUTES OF THE DISCIPLINARY PROCESS REVIEW COMMITTEE

April 10, 2008

Chairman Lawrence Anderson, M.D., called the meeting to order at 10:25 a.m. Other members present were Patricia S. Blackwell, Melinda S. Fredricks, Amanullah Khan, M.D., Margaret C. McNeese, M.D., Larry Price, D.O., Annette P. Raggette, and Allan Shulkin, M.D. Committee Member Charles Oswalt, M.D., was not present.

Also present was Mari Robinson, Director of Enforcement, and various other staff.

Ms. Fredricks moved, and Ms. Raggette seconded; the motion passed at 10:27 a.m. to go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, §§152.009, 155.058, 160.006, and 164.007; and Attorney Generals Opinion No. H-484. Open session resumed at 11:55 a.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: i. Investigations: 06-2920, 07-0507, 07-0790, 07-2515, 07-2715, 07-2831, 07-3174, 07-3577, 07-3578, 07-4043, 07-4153, 07-4432, 07-4941, and 07-6380; ii. Legal Files: 07-0498 (05-1774), 07-0242 (05-2135), and 07-0510 (07-0299); and B. Jurisdictional-Not-Filed Complaints: 07-6407, 08-0264, 08-1142, 08-1694, 08-1897, 08-2020, and 08-2059.

Ms. Fredricks moved, and Ms. Raggette seconded that the appeal of Item 2.A.i., Log #06-2920 be granted and that the case be returned to the Investigation Division for a new panel to review the previous information and the additional Office of the Inspector General Report. Dr. Price moved to amend the motion of Item 2.A.i., Log #06-2920 to refer the case to the Accreditation Council for Graduate Medical Education (ACGME), and Ms. Fredricks seconded. Motion carried. Vote was taken on the amended motion, and motion carried. Dr. McNeese recused herself from any decisions associated with Agenda Item 2.A.i., Log #06-2920.

Dr. Price moved, and Dr. McNeese seconded that the appeal of Item 2.A.i., Logs #07-3577 and 07-3758 be denied. Motion carried.

Ms. Raggette moved, and Ms. Fredricks seconded; the motion passed at 12:06 p.m. to go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED,

□□152.009, 155.058, 160.006, and 164.007; and Attorney Generals Opinion No. H-484. Open session resumed at 1:09 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 #3. Reports and discussion regarding the Investigation, Litigation and Compliance Departments. Ms. Robinson presented the Enforcement Report for March 2008, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #4. Discussion, recommendation and possible action regarding Rule Review and proposed changes to the following chapter: (Ms. Robinson).

- A. Discussion, recommendation and possible action regarding rule review of Chapter 182, **Use of Experts**.

Ms. Raggette moved, and Dr. McNeese seconded that Rule 182 be published in the Texas Register.

Agenda Item #5. Discussion and possible direction regarding hearings of modification requests. ⁴
(Ms. Robinson)

Ms. Raggette moved, and Dr. Price seconded; the motion passed at 1:46 p.m. to go into Executive Session for private consultation and advice of counsel with respect to legal matters under the authority of the Open Meetings Act, GOVERNMENT CODE, □551.071 and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, □□152.009, 160.006, and 164.007; and Attorney Generals Opinion No. H-484. The following agenda items were discussed in executive session:

Agenda Item #5. Discussion and possible direction regarding hearings of modification requests.
(Ms. Robinson)

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

Agenda Item #7. Consideration and approval of appointments to the Expert Physician Panel.

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

Open session resumed at 2:58 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

The committee directed that staff may waive the hearing requirement on modification requests that are administrative in nature, and rather present them to the DPRC chair and then the full board for approval.

Ms. Blackwell moved, and Ms. Raggette seconded that all waivers on Agenda Item #6 be accepted. Motion carried.

Ms. Raggette moved, and Ms. Blackwell seconded to approve the appointments to the Expert Physician Panel under Agenda Item #7. Motion carried.

Ms. Raggette moved, and Ms. Fredricks seconded that the following cases be forwarded to an ISC hearing: Log numbers 07-1538, 07-1539, 07-1540, 07-1542, 07-1543, 07-1544, 07-1600, 07-1601, and 07-2447. Motion failed.

Ms. Raggette moved, and Ms. Fredricks seconded that the following cases be returned to the Investigation Division: Log numbers 07-1538, 07-1539, 07-1540, 07-1542, 07-1543, 07-1544, 07-1600, 07-1601, and 07-2447. Motion failed.

Dr. McNeese moved, and Dr. Khan seconded that the following cases be closed with a custom letter to include the rules and statutes that apply to these cases: Log numbers 07-1538, 07-1539, 07-1540, 07-1542, 07-1543, 07-1544, 07-1600, 07-1601, and 07-2447. Motion carried.

Ms. Raggette moved and Dr. McNeese seconded that the following emphasis be added to the custom letters; that persons in these named cases understand the expectations of the Board and that it is their duty as doctors to communicate the wrongdoing of other doctors and to use good judgment. These reference cases are: Log numbers 07-1538, 07-1539, 07-1540, 07-1542, 07-1543, 07-1544, 07-1600, 07-1601, and 07-2447. Motion carried. Dr. Anderson directed staff to have Ms. Raggette and Ms. Fredricks review the custom letters in the above named cases prior to them being mailed out.

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

Discussion continued on Agenda Item #2. Review, discussion and possible action regarding appeals of dismissed complaints.

Dr. McNeese moved, and Ms. Blackwell seconded that the appeal of Item 2.A.i., Log #07-6380 be granted and that a new expert review be obtained. Motion carried.

Ms. Raggette moved, and Dr. Khan seconded that the appeal of Item 2.B., Log #08-1694 be granted and an investigation be filed on this matter. Motion failed.

Ms. Raggette moved, and Dr. Khan seconded that all other appeals under Item 2.B. not specifically granted above be denied. Motion carried.

Dr. Khan moved, and Ms. Blackwell seconded that all other appeals under Item 2.A. not specifically granted above be denied. Motion carried.

Ms. Raggette moved, and Ms. Blackwell seconded that the meeting adjourn. Motion carried at 3:14 p.m.

