

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
February 5, 2009

Chairman Larry Price, D.O., called the meeting to order at 10:02 a.m. Other members present were Patricia S. Blackwell, David Baucom, Manuel Guajardo, M.D., Amanullah Khan, M.D., Melinda McMichael, M.D., Margaret C. McNeese, M.D., Charles Oswalt, M.D., Annette P. Raggette, and Allen Shulkin, M.D. Committee Member George Willeford, III, M.D. was not present.

Also present was Medical Director Alan T. Moore, M.D., Jane McFarland, Chief of Staff, and Mari Robinson, Director of Enforcement/Interim Executive Director, and various other staff.

Ms. Raggette moved, and Dr. McNeese seconded; the motion passed at 10:05 a.m. to go into Executive Session deliberations concerning disciplinary action, investigative information, peer review information, and rehabilitation orders under the authority of The Medical Practice Act Sections 152.009, 160.006 through .008, 164.007(c), and 164.202 & 164.203, Occupations Code. Open session resumed at 11:35 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: 08-1734, 08-1863, 08-2074, 08-2648, 08-3672, 08-4984, 08-5084, 08-5086, and 08-5159, ii. Legal File: 08-2002 (08-0563); and B. Jurisdictional-Not-Filed Complaints: 08-6196, 09-0281, 09-0617, 09-1073, 09-1161, 09-1232, 09-1266, and 09-1606.

Dr. McMichael departed at 10:17am.

Dr. Oswalt moved, and Dr. McNeese seconded that the appeal of Item 2.A., Log #08-1863 be denied. Motion carried.

Dr. McNeese moved, and Dr. Oswalt seconded that the appeal of Item 2.A., Log #08-2074 be granted and that a new panel review be obtained to evaluate the specific events of July 13, 2007, the Respondents interaction with the Complainant and the failure to conduct proper tests. Motion carried.

Dr. Oswalt moved, and Dr. Shulkin seconded that the appeal of Item 2.B., Log #09-1606 be denied. Motion carried.

Dr. Shulkin moved, and Dr. Oswalt seconded that the appeal of Item 2.B., Log #08-6196 be granted and that an investigation be opened. Motion carried.

Dr. Guajardo moved, and Ms. Raggette seconded that the appeal of Item 2.B., Log #09-0617 be granted and that an investigation be opened. Motion carried.

It was announced by Mari Robinson that the complainant of Agenda Item 2.B., Log #09-1073 intended to present their appeal in person but was not present and that a decision would be made on the appeal in their absence.

Dr. Oswalt moved, and Mr. Baucom seconded that the appeal of Item 2.B., Log #09-1073 be denied. Motion carried.

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

A lunch recess was taken at 11:42 a.m. and the committee returned at 11:56 a.m.

Agenda Item #4. Reports and discussion regarding the Investigation, Litigation and Compliance Departments. Ms. Robinson presented the Enforcement Report for December 2008, 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 proposed resolution to the Federation of the State Medical Board.

Ms. Raggette moved, and Ms. Blackwell seconded that the recommendation to propose a change to the Federation rule of the State Medical Board to stipulate that the confidentiality established by the originating state be maintained during the inter-state transfer of information be forwarded by staff to the appropriate agency. Motion carried.

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

Dr. Guajardo moved, and Dr. Oswalt seconded to approve all appointments to the Expert Physician Panel. Motion carried.

Dr. Oswalt moved, and Dr. Guajardo seconded; the motion passed at 12:08 p.m. to go into Executive Session deliberations concerning disciplinary action, investigative information, peer review information, and rehabilitation orders under the authority of The Medical Practice Act Sections 152.009, 160.006 through .008, 164.007(c), and 164.202 & .203, Occupations Code.

Agenda Item #3. Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the Disciplinary and Ethics Committee for follow-up action, specifically including: 08-0211, 08-0710, and 08-2556.

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

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

Open session resumed at 1:05 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Discussion continued on Agenda Item #3. Review, discussion and possible action regarding appeals of dismissed complaints.

Dr. Oswalt moved, and Ms. Blackwell seconded that all routine follow-up files be closed. Motion carried.

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

Ms. Blackwell moved, and Dr. Khan seconded that all waivers on Agenda Item 6 be granted. Motion carried.

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

Dr. Oswalt moved, and Dr. McNeese 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.

Agenda Item #9. Adjourn.

At 1:08 p.m., Dr. Price announced the meeting was adjourned there were no objections.