

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
April 2, 2009

Chairman Larry Price, D.O., called the meeting to order at 10:11 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., Annette P. Raggette, and George Willeford, III, M.D. Committee Member Charles Oswalt, M.D. was not present. Committee Member Allen Shulkin, M.D. arrived late at 10:37 a.m.

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

Dr. McMichael moved, and Ms. Raggette seconded; the motion passed at 10:12 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 & .203, Occupations Code. Open session resumed at 1:17 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: i. Investigations: 06-3150, 08-1426, 08-1889, 08-2517, 08-2694, 08-2868, 08-3684, 08-3688, 08-3801, 08-3870, 08-3871, 08-3872, 08-4106, 08-4145, 08-4146, 08-4148, 08-4583, 08-5059, 08-5569, 08-5742, and 08-5806, ii. Legal Files: 08-0675 (07-5993), and 08-0821 (07-3627). B. Jurisdictional-Not-Filed Complaints: 08-3770, 08-6355, 09-0086, 09-0460, 09-1439, 09-1558, 09-1600, 09-1723, 09-1769, 09-2330, 09-2331, 09-2386, and 09-2387

Dr. McNeese moved, and Ms. Blackwell seconded that the appeal of Item 2.B, Log #09-0086 be granted and a PDD be opened to investigate this case; specifically, to investigate the proper use of the AMA forms in relation to State law and what indications was the basis for the admission of the patient involved in this case. Motion carried.

Dr. McMichael moved, and Ms. Raggette seconded that the appeal of Item 2.A, Log #08-0675 (07-5993) be granted and that the investigation be continued to obtain witnesses statements regarding the relationship between the Respondent and the Complainant. Motion carried. Ms Raggette moved, and Dr. McMichael seconded that the motion be amended to include investigation into the inappropriate prescribing of medication. Amended motion carried.

Dr. McMichael moved, and Dr. Shulkin seconded that the appeal of Item 2.A., Log #08-1426 be denied. Motion carried.

Dr. Khan moved, and Dr. Shulkin seconded that the appeal of Item 2.A., Log #08-4106 be denied. Motion carried.

Dr. Khan moved, and Dr. Shulkin seconded that the appeal of Item 2.A, Log #08-4145 be granted and that the investigation be continued to evaluate the appropriate use of the drug that was involved in this case and that the panel reviewer be a hematologist or an oncologist. Motion carried.

Dr. Khan moved, and Dr. Shulkin seconded that the appeal of Item 2.A, Log #08-4146 be denied. Motion carried.

Dr. Khan moved, and Dr. Shulkin seconded that the appeal of Item 2.A, Log #08-4148 be denied. Motion carried.

Dr. Willeford moved, and Ms. Raggette seconded that the appeal of Item 2.A, Log #08-4583 be granted and that the original panel reviewers determine if the medical records were changed, and if so, does the discovery of the new information change their original opinion. Motion carried.

A lunch recess was taken at 1:24 p.m. and the committee returned at 2:01 p.m.

Dr. McNeese moved, and Ms. Raggette seconded that the appeal of Item 2.B, Log #08-3770 be denied. Motion carried.

Dr. Shulkin moved, and Dr. Guajardo seconded that the appeal of Item 2.B, Log #08-6355 be granted and that an investigation be opened. Motion carried.

Dr. Willeford moved, and Dr. McNeese seconded that the appeal of Item 2.B, Log #09-0460 be denied. Motion carried.

Dr. Shulkin moved, and Ms. Raggette seconded that the appeal of Item 2.B, Log #09-1439 be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. Shulkin moved, and Dr. Khan seconded that the appeal of Item 2.B, Log #09-1558 be denied. Motion carried.

Dr. McNeese moved, and Ms. Blackwell seconded that the appeal of Item 2.B, Log #09-1600 be denied. Motion carried.

Dr. McMichael moved, and Ms. Blackwell seconded that the appeal of Item 2.B, Log #09-1723 be denied. Motion carried.

Dr. Khan moved, and Ms. Raggette seconded that the appeal of Item 2.B, Log #09-1769 be denied. Motion carried.

Dr. Willeford moved, and Dr. Khan seconded that the appeal of Item 2.B, Log #09-2330 be denied. Motion carried.

Dr. McMichael moved, and Dr. Khan seconded that the appeal of Item 2.B, Log #09-2331 be denied. Motion carried.

Dr. Guajardo moved, and Ms. Raggette seconded that the appeal of Item 2.B, Log #09-2386 be denied. Motion carried.

Dr. Guajardo moved, and Dr. McMichael seconded that the appeal of Item 2.B, Log #09-2387 be denied. Motion carried.

Dr. Shulkin moved, and Mr. Baucom seconded that the appeal of Item 2.A., Log #06-3150 be denied. Motion carried.

Dr. Khan moved, and Ms. Raggette seconded that the appeal of Item 2.A., Log #08-1889 be denied. Motion carried.

Ms. Raggette moved, and Dr. McMichael seconded that the appeal of Item 2.A., Log #08-2517 be denied. Motion carried.

Dr. Khan moved, and Dr. Guajardo seconded that the appeal of Item 2.A., Log #08-2694 be denied. Motion carried.

Dr. Khan moved, and Dr. Shulkin seconded that the appeal of Item 2.A., Log #08-2868 be denied. Motion carried.

Dr. Guajardo moved, and Mr. Baucom seconded that the appeal of Item 2.A., Log #08-3684 be denied. Motion carried.

Dr. Guajardo moved, and Ms. Blackwell seconded that the appeal of Item 2.A., Log #08-3688 be denied. Motion carried.

Dr. McNeese moved, and Ms. Raggette seconded that the appeal of Item 2.A., Log #08-3801, 08-3870, 08-3871, 08-3872 be granted and that a new panel review be obtained. Motion carried. Dr. McMichael recused herself from any discussion or decision related to this case.

Dr. Guajardo moved, and Ms. Raggette seconded that the appeal of Item 2.A, Log #08-5059 be denied. Motion carried.

Dr. Willeford moved, and Dr. Shulkin seconded that the appeal of Item 2.A, Log #08-5569 be denied. Motion carried.

Dr. Shulkin moved, and Dr. Guajardo seconded that the appeal of Item 2.A, Log #08-5742 be denied. Motion carried.

Dr. McNeese moved, and Dr. Khan seconded that the appeal of Item 2.A, Log #08-5806 be denied and that a custom letter be sent to the Complainant explaining the inappropriate coding error that was used for this medical visit. Motion carried.

Dr. Willeford moved, and Ms. Blackwell seconded that the appeal of Item 2.A, Log #08-0821 (07-3627) be denied. Motion carried.

Agenda Item #3. Discussion, recommendation, and possible action regarding routine follow-up on investigative files, previously referred from the DPRC for follow-up action, specifically including: 07-0853, 07-2128, 08-1148, and 08-3462.

Dr. McNeese moved, and Mr. Baucom seconded that the follow-up action of Item 3, Log #07-0853 be denied and that the case be closed. Complainant. Motion carried.

Dr. Willeford moved, and Ms. Raggette seconded that the follow-up action of Item 3, Log #07-2128 be reviewed by a new expert panel. Motion carried.

Dr. Willeford moved, and Ms. Raggette seconded that the follow-up action of Item 3, Log #08-1148 be reviewed by a new expert panel. Additionally, this motion includes that the TMB Medical Director explain to the original expert panelists the expectation and needs of the DPRC when they are assigned to review a case that will be presented to the DPRC. Motion carried.

Dr. Guajardo moved, and Ms. Blackwell seconded that the follow-up action of Item 3, Log #08-3462 be denied and that the case be closed. Motion carried.

Agenda Item #4. Reports and discussion regarding the Investigation, Litigation and Compliance Departments. Ms. Robinson presented the Enforcement Report for February 2009, a copy of which is attached. This was an informational item only and no vote was necessary.

Dr. Willeford departed the Boardroom at 2:51p.m.

Agenda Item #5. Discussion, recommendation, and possible action relating to proposed amendment to Board Rule 22 T.A.C. 165.3, Patient Access to Diagnostic Imaging Studies in Physician's Office.

Ms. Blackwell moved, and Mr. Baucom seconded that the revisions presented to the committee that pertain to Agenda Item 5 to charge a reasonable fee for providing copies of requested images and to also include non-static films as part of the definition of diagnostic imaging studies or imaging studies as used in this section be approved for publication. Motion carried.

Agenda Item #6. Licensees requiring review, discussion and possible action regarding their probationer appearances.

Ms. Raggette moved, and Mr. Baucom seconded that all waivers on Agenda Item 6 be granted. Motion carried.

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

Dr. McMichael moved, and Ms. Raggette seconded to approve all appointments to the Expert Physician Panel. Motion carried.

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

Ms. Blackwell moved, and Ms. Raggette seconded that all Standard of Care and Non-Standard of Care QA Rejected cases not specifically granted above be closed. Motion carried.

Dr. McMichael moved, and Ms. Raggette seconded; the motion passed at 3:14 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 & .203, Occupations Code. Open session resumed at 3:26 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 #8. Review, discussion, and possible action regarding selected files and cases.

Dr. Guajardo moved, and Dr. McNeese seconded; that Administrative Penalty Order #09-0123 be approved as presented to the committee. Motion carried.

Ms. Blackwell 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 3:40 p.m., Dr. Price announced the meeting was adjourned; there were no objections.