

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
April 7, 2011

Chair Melinda McMichael, M.D., called the meeting to order at 8:37 a.m. Other members present were Julie K. Attebury, David Baucom, Patricia S. Blackwell, Margaret C. McNeese, M.D., George Willeford III, M.D., and Irvin E. Zeitler, Jr., D.O.. Allan Shulkin, M.D., arrived late at approximately 8:51 a.m. Committee Members Pat J. Crocker, D.O., Manuel Guajardo, M.D., and Charles Oswalt, M.D., were not present.

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

Agenda Item #2. Discussion, recommendation, and possible action regarding referrals and reports from the Texas Physician Health Program.

Dr. John Jackson presented the status of the PHP's current caseload to the DPRC. It was announced that Dr. Lloyd Garland has stepped down as the Executive Director of the Texas Physician Health Program. Former Presiding Officer, Dr. John Jackson, will serve as the acting Executive Director until the position is permanently filled. In the absence of a Medical Director the PHP has continued its missions and although there wasn't a physical report available for review, Dr. Jackson discussed pertinent information of the agency. Currently, there are no unusual cases that needed to be brought to the attention of the DPRC.

Agenda Item #3. Reports and discussion regarding the Investigation, Litigation and Compliance Departments.

Ms. Robinson presented the Enforcement Report for February 2011, a copy of which is attached. This was an informational item only and no vote was necessary.

Agenda Item #4. Discussion and possible direction regarding cases referred from DPRC for additional work or a hearing.

Staff was directed to reveal direction of the DPRC to the ISC panels in ISC referrals from the DPRC for additional work or a hearing. This information should be titled case history and annotated in the summary of allegations for the case. It is also recommended that the DPRC blue sheets be more detailed when stating why the case is returned for further investigation and/or an ISC hearing.

Agenda Item #5. Review, discussion, and possible action regarding review of probationer's appearances.

Ms. Attebury moved, and Dr. McNeese seconded that the waiver list on Agenda Item 5 be approved. Motion carried.

Agenda Item #6. Consideration and approval of membership of the Expert Physician Panel.

Dr. Zeitler moved, and Dr. McNeese seconded that the memberships to the Expert Physician Panel on Agenda Item 6 be approved. Motion carried.

Agenda Item #7. Reports and discussion regarding cases over one year old.

Ms. Robinson presented to the DPRC the current status of cases that are over one year old. To date, there are approximately 495 investigations that fall under this category; the majority being SOAH cases. This was an informational item only and no vote was necessary.

A recess was taken at 9:38 a.m. and the committee returned at 9:53 a.m.

Dr. Zeitler moved, and Ms. Blackwell seconded; the motion passed at 9:54 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 11:03 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 #10. Review, discussion, and possible action regarding selected files and cases.

Dr. McNeese moved, and Dr. Willeford 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.

A recess was taken at 11:04 a.m. and the committee returned at 11:21 a.m.

Agenda Item #9. Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from DPRC for follow-up action.

Dr. Zeitler moved, and Ms. Attebury seconded that Log #09-6047 be dismissed. Motion carried.

Dr. Willeford moved, and Dr. Zeitler seconded that Log #10-1202 be dismissed with a custom letter to the Respondent. Motion carried.

Dr. McNeese moved, and Dr. Zeitler seconded that Log #10-5387 be dismissed with a custom letter to the Respondent. Motion carried.

Dr. Zeitler moved, and Dr. McNeese seconded that Log #10-5969 (09-5852) be dismissed with a custom letter to the Respondent. Motion carried.

Dr. Zeitler moved, and Ms. Blackwell seconded; the motion passed at 11:40 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 11:46 a.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Dr. Willeford moved, and Ms. Attebury seconded that Log #10-6126, 10-6127, 10-6128, 10-6129, and 10-6130 be dismissed only as it relates to the standard of care issues on the patients in these cases and not the decisions of the peer review committee. Motion carried.

A lunch recess was taken at 11:51 a.m. and the committee returned at 12:15 p.m.

Dr. Zeitler moved, and Ms. Attebury seconded; the motion passed at 12:16 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. Open session resumed at 4:25 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 appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 07-5730, 09-0636, 09-5723, 09-5740, 09-6050, 09-6415, 09-6532, 09-6674, 10-0129, 10-0656, 10-0657, 10-2603, 10-3260, 10-3659, 10-5262, 10-5403, 10-5769, 10-6062, 10-6337, 10-6950, 10-7026, 11-0554, 11-0983. B. Jurisdictional Not Filed Complaints: 10-7200, 11-0270, 11-0626, 11-1947, 11-2079, 11-2179, 11-2291, 11-2312, 11-2513, 11-2652, 11-2653, 11-2799, 11-2827, 11-2828, 11-2984, 11-3022, 11-3044, 11-3072, 11-3138, 11-3276, 11-3399, 11-3456, 11-3621, 11-3700; and C. Non-Jurisdictional Complaints: 11-2985, 11-3955, and 11-4040.

Dr. Shulkin moved, and Dr. Willeford seconded that the appeals of Item 8.A.i., Log #09-5723 and 09-5740 be denied. Motion carried.

Dr. McMichael moved, and Ms. Blackwell seconded that the appeal of Item 8.A.i., Log #09-6415 be denied. Motion carried.

Dr. McNeese moved, and Dr. Willeford seconded that the appeal of Item 8.A.i., Log #09-6674 be denied and that a custom letter be sent to the Respondent. Motion carried.

Agenda Item 8.A.i., Log #10-0129 has been moved to the June DPRC Agenda as a courtesy to the complainant. A custom letter will be sent to the Complainant to notify them that a decision will be made on their case in June 2011 whether the Complainant personally appears before the committee or not.

Dr. Willeford moved, and Ms. Attebury seconded that the appeal of Item 8.A.i., Log #10-2603 be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. Zeitler moved, and Ms. Attebury seconded that the appeal of Item 8.A.i., Log #10-5403 be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. McNeese moved, and Dr. Zeitler seconded that the appeal of Item 8.A.i., Log #10-5769 be granted and that the investigation be re-opened. Motion carried.

Agenda Item 8.B., Log #10-7200 has been moved to the June DPRC Agenda as a courtesy to the complainant. A custom letter will be sent to the Complainant to notify them that a decision will be made on their case in June 2011 whether the Complainant personally appears before the committee or not.

Dr. Shulkin moved, and Dr. Zeitler seconded that the appeal of Item 8.B., Log #11-0270 be granted and that an investigation be opened. Motion carried.

Dr. Zeitler moved, and Ms. Attebury seconded that the appeal of Item 8.B., Log #11-0626 be denied. Motion carried.

Dr. McNeese moved, and Dr. Shulkin seconded that the appeal of Item 8.B., Log #11-1947 be denied. Motion carried.

Dr. Zeitler moved, and Dr. Shulkin seconded that the appeal of Item 8.B., Log #11-2079 be granted and that an investigation be opened. Motion carried.

Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 8.A.i., Log #10-6950 be granted and that a new panel review this case. Motion carried.

Dr. Zeitler moved, and Dr. Willeford seconded that the appeal of Item 8.A.i., Log #11-0554 be granted and that more investigation be conducted. Motion carried.

Dr. Willeford moved, and Mr. Baucom seconded that the appeal of Item 8.B., Log #11-2799 be granted and that an investigation be opened. Motion carried.

Dr. Zeitler moved, and Ms. Blackwell seconded that the appeal of Item 8.B., Log #11-2984 be granted and that an investigation be opened. Motion carried.

Dr. Zeitler moved, and Dr. Shulkin seconded that the appeal of Item 8.B., Log #11-3138 be granted and that an investigation be opened. Motion carried.

Dr. Willeford moved, and Dr. Zeitler seconded that the appeal of Item 8.B., Log #11-3456 be granted and that an investigation be opened. Motion carried.

Dr. Willeford moved, and Dr. Zeitler seconded that all other appeals under Agenda Item 8.A.i not specifically granted above be denied. Motion carried.

Dr. Willeford moved, and Dr. Zeitler seconded that all other appeals under Agenda Item 8.B not specifically granted above be denied. Motion carried.

Dr. McNeese moved, and Dr. Shulkin seconded that all other appeals under Agenda Item 8.C not specifically granted above be denied. Motion carried.

Agenda Item #11. Adjourn.

Ms. Blackwell moved, and Ms. Attebury seconded that the meeting adjourn. Motion carried at 4:47 p.m.