

TEXAS MEDICAL BOARD
BOARD MEETING MINUTES
October 9-10, 2008

The meeting was called to order October 9, 2008 at 4:02 p.m. by Roberta Kalafut, D.O., Board President. Board members present were Michael Arambula, M.D.; Jose M. Benavides, M.D.; Patricia S. Blackwell; Melinda Fredricks; Manuel Guajardo, M.D.; Amanullah Khan, M.D.; Melinda McMichael, M.D.; Margaret McNeese, M.D.; Charles Oswalt, M.D.; Larry Price, D.O.; Annette Raggette; Paulette Southard; Timothy J. Turner; Timothy Webb, J.D.; George Willeford, M.D.; and Irvin E. Zeitler, Jr., D.O. Board staff present were Mari Robinson, Interim Executive Director; Robert Simpson, J.D., General Counsel; Jane McFarland, Chief of Staff; Jaime Garanfio, Director of Customer Affairs; and various other staff.

Dr. McMichael read the Texas Medical Board Mission into the minutes.

Our Boards mission is to protect and enhance the publics health, safety, and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline, and education.

Agenda item #2, Board member report. Dr. Kalafut introduced and welcomed new board member, George Willeford, M.D., who made a brief statement that he looked forward to serving on the board.

Dr. Kalafut presented Dr. Lawrence Anderson with a Texas plaque and resolution in recognition of his dedicated service to the board from August 2004 to August 2008.

Agenda item #3, Report on the position of the Interim Medical Director. The report was deferred until October 10, 2008.

Agenda item #4, Recess for the day. Ms. Raggette moved, Ms. Blackwell seconded, and the motion passed to adjourn and reconvene Friday, October 10, 2008 at 8:00 a.m.

Agenda item #5, Reconvene and call to order. The meeting was called to order October 10, 2008 at 8:02 a.m. by Dr. Kalafut. Board members present were Michael Arambula, M.D.; Jose M. Benavides, M.D.; Patricia S. Blackwell; Manuel Guajardo, M.D.; Amanullah Khan, M.D.; Melinda McMichael, M.D.; Margaret McNeese, M.D.; Charles Oswalt, M.D.; Larry Price, D.O.; Annette Raggette; Paulette Southard; Allan Shulkin, M.D.; Timothy J. Turner; Timothy Webb, J.D.; George Willeford, M.D.; and Irvin E. Zeitler, Jr., D.O. Board staff present were Mari Robinson, Interim Executive Director; Jane McFarland, Chief of Staff; Robert Simpson, J.D., General Counsel; Jaime Garanflo, Director of Customer Affairs; and various other staff.

Agenda item #6, Executive Directors report. Ms. Robinson gave a report on the letter to Board and District Review Committee members requesting their assistance in the increasing number of informal settlement conference meetings each year.

Ms. Robinson gave a report on Legislative Appropriations Request (LAR) and Exception Items.

Ms. Robinson gave a report on the Employee Survey and the study commissioned to study job classifications and salary comparisons with other agencies. The LAR may be amended after receiving data to provide possible pay scale.

Ms. Robinson reported that staff were in the process of pulling the Town Hall meeting comments together to post on the website and to present at the December board meeting.

Agenda item #7, Consideration and approval of board meeting calendar. Ms. Raggette moved, Ms. Southard seconded, and the motion passed to approve the proposed board meeting calendar.

Agenda item #8, Discussion and possible action related to guidelines for anesthesiology assistants. After discussion, the board directed staff to contact stakeholders to outline issues and bring back to the board for public comment.

Agenda item #9, Discussion and possible action regarding current litigation. Dr. Price moved, Mr. Turner seconded, and the motion passed to go into Executive Session at 8:21 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and deliberation concerning licensure applications, and/or disciplinary action under the authority of the Open Meetings Act, Government Code, 551.071 and 551.074; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009, 155.058, 160.006,

and 164.007, and 164.203; and Attorney Generals Opinion No. H-484. Open session resumed at 8:31 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item #10, Consideration and Approval of Non-Public Rehabilitation Orders and Modification Request/Termination Request of Non-Public Rehabilitation Orders. Dr. Price moved, Ms. Raggette seconded, and the motion passed to approve Non-Public Rehab Order #542; Non-Public Rehab Order #544; Non-Public Order #546; Modification Granted of Rehab Order #377; Termination Granted of Rehab Order #450; Non-Public Rehab Order #547; and Termination Granted of Rehab Order #283.

After discussion, Ms. Raggette moved, Dr. Arambula seconded, and the motion passed to approve the Non-Public Rehab Order #531 with the modification to amend from a three year order to a five year order and to include quarterly reports, due to concerns of possible inability to practice medicine due to danger to patients.

After discussion, Dr. McNeese moved, Mr. Turner seconded, and the motion passed to approve the Non-Public Rehab Order #542 with a typographical correction.

Agenda item #11, Consideration and Approval of Agreed Board Orders. After discussion, Dr. Price moved, Mr. Turner seconded, and the motion passed to approve the agreed orders for Virendra Agarwal, M.D.; Richard Cohen, M.D.; Victor Kareh, M.D.; Michael Kim, M.D.; John Launius, M.D.; Igor Matwijiw, M.D.; Vijesh Patel, M.D.; Dennis Shaughnessy, M.D.; Palur V Sridharan, M.D.; Benjamin Weiner, M.D.; Peter Werner, M.D.; Marvin C. Cornette, M.D.; Martin A. Derusha, Jr., D.O.; David T. Dunn, M.D.; Nhi P. L, M.D.; Charles E. Longmoor, M.D.; Gregory Phillips, M.D.; Srilatha A. Reddy, M.D.; Gayle A. Rothenberg, M.D.; and William Tiemann, M.D., as written.

After discussion, Ms. Raggette moved and Ms. Southard seconded the motion to approve the Agreed Order for Gregory T. Clariday, M.D., with the clarification that originally it was a standard of care case, but after further review it determined that it was a non-standard of care case involving medical records. Dr. Price, Ms. Southard, Dr. Guajardo, Dr. Oswalt, Mr. Webb, and Dr. Zeidler opposed the motion.

After discussion, **Mr. Turner moved, Dr. Price seconded and the motion passed to pull the agreed order for James E. Redfield, M.D., for further review due to the incomplete Findings of Facts and concerns that a public reprimand was not enough for the significant impairment.**

After discussion, **Dr. Oswalt moved, Dr. Price seconded, and the motion passed to approve the Agreed Order for Anna Boecker, M.D., as written.**

After discussion, **Dr. Oswalt moved, Ms. Southard seconded, and the motion passed to approved the Agreed Order of Nitin Dhiman, M.D., as written.**

After discussion, **Dr. Oswalt moved, Ms. Southard seconded and the motion passed to approve the Agreed order for Anna M. Harkins, D.O., as written**

There were no items for Agenda Item #12.

Agenda item #13, Consideration and Approval of Modification Request/Termination Request Orders. Ms. Raggette moved, Ms. Southard seconded, and the motion passed to approve the Termination Request Orders for Carl S. Heller, M.D., and Robert D. Campbell, III, M.D.; and the Modification Request Orders for Harold D. Lewis, M.D.; James T. Stinnett, M.D.; and Richard B. Hartin, Jr., M.D.

After discussion, **Mr. Turner moved, Dr. Arambula seconded, and the motion passed to go into Executive Session at 9:14 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and deliberation concerning licensure applications, and/or disciplinary action under the authority of the Open Meetings Act, Government Code, 551.071 and 551.074; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009, 155.058, 160.006, and 164.007, and 164.203; and Attorney Generals Opinion No. H-484. Open session resumed at 9:18 a.m. and it was announced that no action was taken. A certified agenda was made.**

Mr. Turner moved, Ms. Southard seconded, and the motion passed to deny the Termination Request Order for Gregory S. Vagshenian, M.D., due to concerns how long the respondent has been out of practice and the nature of the case involving the assault of a patient.

Agenda item #14, Consideration and Approval of Nunc Pro Tunc Orders. Ms. Raggette moved, Ms. Southard seconded, and the motion passed to approve the Nunc Pro Tunc Order for Candie Richardson, M.D., and Ralph Sharman, M.D., as written.

Agenda item #15, Consideration and Approval of Mediated Settlement Agreed Orders. Dr. Price moved, Ms. Southard seconded, and the motion passed to approve the Mediated Settlement Agreed Order for Michael Dean Smith, M.D., as written.

Agenda item #16, Consideration and Approval of Termination of Suspension Orders. Dr. Price moved, Mr. Turner seconded, and the motion passed to approve the Termination of Suspension Orders for John R. Hall, D.O., as written.

There were no items for agenda item #17.

There were no items for agenda item #18.

Agenda item #19, Report on Automatic Orders. There was a report on the Automatic Order for Nancy L. Anderson, M.D.

Agenda item #20, Consideration and approval of cease and desist orders. After discussion, **Mr. Turner moved, Ms. Southard seconded, and the motion passed to approve the cease and desist orders for Robert Brunken and Joseph Osel, PhD.**

There were no items for Agenda item #21.

There were no items for Agenda item #22.

Agenda item #23, Discussion, recommendation and possible action regarding proposed rules changes. After discussion, **Ms. Raggette moved, Ms. Blackwell seconded, and the motion passed to approve Chapter 173.1, Profile Contents, as written.**

After discussion, **Ms. Southard moved, Ms. Blackwell seconded, and the motion passed to approve Chapter 185.2, Physician Assistant Definitions, as written.**

The meeting recess at 9:30 a.m.

The meeting reconvened at 10:08 a.m.

After discussion, **Dr. Price moved, Mr. Turner seconded, and the motion passed to approve the Termination Order Paul Redman, M.D., as written.**

Consent Agenda.

- 1. Dr. Price moved, Ms. Blackwell seconded, and the motion passed to approve the August 29, 2008 Board Meeting Minutes**
- 2. Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting.**

Dr. Price gave a report of the Disciplinary Process Review Committee meeting. **Dr. Price moved, Dr. Oswalt seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items.**

Dr. Arambula gave a report of the Licensure Committee meeting. **Dr. Kalafut moved, Mr. Turner seconded, and the motion passed to approve the Licensure Committee minutes and action items.**

Mr. Turner gave a report of the Finance Committee meeting. **Mr. Turner moved, Ms. Southard seconded, and the motion passed to approve the Finance Committee minutes and action items.**

Dr. Kalafut gave a report of the Executive Committee meeting. **Dr. Kalafut moved, Dr. Oswalt seconded, and the motion passed to approve the Executive Committee minutes and action items.**

Ms. Raggette gave a report of the Standing Orders Committee meeting. **Ms. Raggette moved, Ms. Southard seconded, and the motion passed to approve the Standing Orders Committee minutes and action items.**

Agenda item #24. Presentation Shirley Pigott. Dr. Pigott gave a presentation advocating for the re-licensure of a physician whos license had been revoked.

Agenda item #5, Report on the position of the Interim Medical Director. Ms. Robinson announced and introduced the new Interim Medical Director, Alan Moore, M.D. The position of a medical director is required by statute when a non-physician serves as executive director.

There being no further agenda items the meeting adjourned at 10:50 a.m.