

TEXAS MEDICAL BOARD

MINUTES OF THE DISCIPLINARY PROCESS REVIEW COMMITTEE

August 24, 2006

The meeting was called to order at 10:01 a.m. by Chairman Keith E. Miller, M.D. Other committee members present were Lawrence Anderson, M.D., Amanullah Khan, M.D., Irvin E. Zeitler, Jr., D.O., Patricia S. Blackwell, Paulette B. Southard, and Timothy Turner. Roberta Kalafut, D.O., and Margaret C. McNeese, M.D., were not in attendance. Staff members present were Mari Robinson, Director of Enforcement and Dewey Helmcamp, Manager of the Litigation Department, and various other staff.

Agenda Item #2, appeals of closed matters, concerning the appeal of Jurisdictional Complaint Files: Log # 05-1680; Log # 05-1829 and NJ File # 05-6874; Log # 06-0217; Log # 06-1332; Log # 06-0111 and Legal Case # 06-0289; and Logs # 06-1843, 06-1844 and 06-1845.

Ms. Southard moved, Ms. Blackwell seconded and the motion passed at 10:02 a.m. 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 General's Opinion No. H-484. Complainants appeared in appeal of Log # 05-1680; Log # 05-1829 and NJ File # 05-6874; Log # 06-0217; Log # 06-1332; Log # 06-0111 and Legal Case # 06-0289; and Logs # 06-1843, # 06-1844 and # 06-1845. Open session resumed at 12:28 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Ms. Southard moved, Ms. Blackwell seconded and a motion passed to take no further action regarding Log # 05-1680, Log # 08-1829 and NJ # 05-6874.

Mr. Turner moved, Ms. Blackwell seconded and a motion was approved regarding Log # 06-0217 directing staff to send the file to an ISC for further review and to address the issue of unprofessional conduct of the respondent.

Mr. Turner moved, Ms. Southard seconded, and a motion passed regarding Log # 06-1332 and directed staff to request another expert opinion specifically addressing the time gap in the treatment of care of the patient. Dr. Anderson opposed the motion.

Mr. Turner moved, Ms. Southard seconded and a motion passed regarding Log # 06-0111 and Legal Case # 06-0289 directing staff to send files for a follow-up expert opinion including complainant's additional documentation, and specifically requesting an opinion on the monitoring of a patient on the medication Coumadin.

Dr. Anderson moved, Ms. Blackwell seconded and the motion passed regarding Log # 06-1843, Log # 06-1844 and Log # 06-1845 and directed staff to send the files to an expert cardiologist for review of the patient's Medtronic device performance and evidence of a myocardial infarction.

Agenda Item # 4: Regarding reports and discussion regarding Investigation, Litigation and Compliance Departments was presented. Ms. Robinson and Mr. Helmcamp presented the enforcement and activity report for their perspective departments. A copy of the July 2006 Enforcement Report is attached. This was an informational item only and no vote was necessary.

Agenda Item # 6: Regarding the review of Administrative Orders Policy and types of administrative orders being reviewed. Mr. Helmcamp presented the report. This was a review item only and no vote was necessary.

Agenda Item # 7: Regarding discussion, recommendation and possible action regarding Administrative Confidential Rehabilitation Orders. Mr. Helmcamp presented.

Ms. Southard moved, Mr. Turner seconded and the motion passed to pend action on Administrative Confidential Rehabilitation Orders until further discussion with the Board.

Agenda Item # 8 regarding the discussion, recommendation and possible action regarding proposed amendments to Chapter 190.8, Disciplinary Guidelines, to include standards for Medical Directors. Mr. Helmcamp presented.

Dr. Anderson moved, Ms. Southard seconded and the motion passed recommending Chapter 190.8 for publication regarding standards for Medical Directors.

Agenda Item # 5: Regarding review, discussion and possible action regarding the review of probationers' appearances: Ms. Robinson presented the report.

Ms. Southard moved, Dr. Anderson seconded and the motion passed to go into executive session at 12:40 p.m. 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 General's Opinion No. H-484; And for consideration of possible rehabilitation orders 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, 164.007, and 164.203; and Attorney General's Opinion No. H-484. 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.

Following discussion, **Ms. Southard moved, Ms. Blackwell seconded and the motion passed to waive probation appearances for the probationers determined to be in full compliance and identified on the list attached to the Board minutes.**

Agenda Item # 3: Regarding routine follow-up on investigative files, previously referred from DPRC for follow-up action, specifically including Log # 04-0333 and NJ File # 05-7122; Log # 05-0852; Log # 05-1018; Log # 05-2169; Log # 05-1726.

Agenda Item # 9: Review of selected files and cases recommended for dismissal.

Ms. Southard moved, Ms. Blackwell seconded and the motion passed to go into executive session at 1:58 p.m. 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 General's Opinion No. H-484. Open session resumed at 4:12 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Dr. Anderson moved, Ms. Blackwell seconded and the motion was approved to take no further action regarding the appeal of Jurisdictional Complaints: Log # 06-0006; Log # 06-0010 and NJ # 06-5410; Log # 06-0198; Log # 06-0299; Log # 06-0361; Log # 06-0373; Log # 06-0426; Log # 06-0488; Log # 06-0561; Log # 06-0756; Log # 06-0915; Log # 06-1025; Log # 06-1031; Log # 06-1041; and Log # 06-1862, 06-1865 and # 06-1866.

Ms. Blackwell moved, Mr. Turner seconded and the motion passed to take no further action on the appeal of Jurisdictional-Not-Filed Complaints: Log # 06-1556; Log # 06-1716; Log # 06-1974 and # 06-1975; Log # 06-2029; Log # 06-2344; Log # 06-2353; Log # 06-2371; Log # 06-2403; Log # 06-2516; Log # 06-2533; Log # 06-2546, 06-2547, 06-2549, 06-2550, 06-2551, and 06-2552; Log # 06-2620; Log # 06-2693; Log # 06-2731; Log # 06-2850; Log # 06-2851; Log # 06-2887; Log # 06-2990; Log # 06-2991; Log # 06-3021; and Log # 06-3525.

Dr. Miller recused himself from voting on Log # 06-2705 and Dr. Anderson assumed position of Chair for the motion on the appeal of the JNF Complaints.

Ms. Blackwell moved, Ms. Southard seconded and the motion passed to take no further action on the appeal of Jurisdictional-Not-filed Complaint Log # 06-2705.

Mr. Turner moved, Dr. Anderson seconded and the motion passed to take no further action on Non-Jurisdictional File # 05-8623.

Agenda item #3, regarding routine follow-up on investigative files, previously referred from DPRC for follow-up action, specifically including Log # 04-0333 and NJ File # 05-7122; Log # 05-0852; Log # 05-1018; Log # 05-2169; Log # 05-1726.

Mr. Turner moved, Ms. Blackwell seconded and motion passed to take no further action on Log # 04-0333 and NJ File # 05-7122.

Dr. Anderson moved, Ms. Blackwell seconded and the motion passed to take no further action on Log # 05-0852 and directed staff to send a custom letter to the respondent on maintaining proper medical records.

Dr. Anderson moved, Mr. Turner seconded and the motion passed recommending Log # 05-1018 to an Informal Settlement Conference.

Dr. Anderson moved, Ms. Blackwell seconded and the motion passed on Log # 05-2169 and Log # 05-1726 directing staff to get an additional expert opinions.

Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to recess the meeting at 4:12 p.m.

The meeting reconvened Friday, August 25, 2006 at 10:55 a.m. by Chairman Keith E. Miller, M.D. Other committee members present were Larry Anderson, M.D., Irvin E. Zeitler, Jr., D.O., Patricia S. Blackwell, Paulette B. Southard, and Timothy Turner. Roberta Kalafut, D.O., Amanullah Khan, M.D., and Margaret C. McNeese, M.D., were not in attendance. Staff members present were Mari Robinson, Director of Enforcement and various other staff.

Agenda Item # 9, regarding selected files and cases recommended for dismissal.

Mr. Turner moved, Ms. Southard seconded and the motion passed at 10:56 a.m. 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 General's Opinion No. H-484. Open session resumed at 1:00 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Dr. Anderson recused from voting on Log # 06-0796.

Mr. Turner moved, Dr. Zeitler seconded and the motion passed to recommend the investigations and cases reviewed by this committee be resolved as noted and that they be listed along with each resolution as part of the minutes of this committee.

There being no further business, **Dr. Zeitler moved, Mr. Anderson seconded, and the motion passed to adjourn the meeting at 1:01 p.m.**