

TEXAS MEDICAL BOARD

MINUTES OF THE DISCIPLINARY PROCESS REVIEW COMMITTEE

April 6, 2006

The meeting was called to order at 11:33 a.m. by Chairman David E. Garza, D.O. Other committee members present were Roberta Kalafut, D.O., Amanullah Khan, M.D., Lawrence Anderson, M.D., Jose M. Benavides, M.D., Timothy J. Turner, Patricia S. Blackwell and Paulette B. Southard. Staff members present were Michele Shackelford, General Counsel; Mari Robinson, Manager of the Investigation Department; Dewey Helmcamp, Manager of the Litigation Department, and various other staff.

Agenda Item #2, appeals of closed matters: Discussion was held concerning the appeal of Jurisdictional Complaint file, Log # 05-0361. Mr. Turner moved, Dr. Benavides seconded and the motion passed at 11:34 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. Complainant appeared in appeal of Log # 05-0361. Open session resumed at 12:16 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 a motion was approved regarding Log # 05-0361, that the investigation would remain closed and directed staff to send a custom letter to the respondent and to the complainant.

The committee recessed at 12:20 for a Board Member Workshop; and resumed the meeting at 1:48 p.m.

Discussion was held concerning the appeal of Jurisdictional Complaint file, Log # 05-2137 and Log # 05-2138. Mr. Turner moved, Dr. Kalafut seconded, and the motion passed to go into executive session at 1:48 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. The complainant appeared in appeal of Log # 05-2137 and # 05-2138. Open session resumed at 2:25 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Dr. Khan moved, Dr. Kalafut seconded and the motion was approved to take no further action regarding Log # 05-2137 and # 05-2138.

Discussion was held regarding the following Jurisdictional Complaint files: Log # 05-1612, # 05-1639, # 05-1923, # 05-1966, # 05-2076, # 05-1867, # 05-1895, # 05-2008; # 05-2013; and # 05-2084. Mr. Turner moved, Dr. Khan seconded and the motion passed to go into executive session at 2:28 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 2:39 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

Mr. Turner moved, Dr. Anderson seconded and the motion passed take no further action on the Jurisdictional Complaint Files: Log # 05-1612; # 05-1639; # 05-1923; # 05-1966; # 05-2076; # 05-1867; # 05-1895; # 05-2008; # 05-2013; and # 05-2084. Dr. Kalafut recused herself from voting on Log # 05-1895.

Discussion was held regarding the following Jurisdictional Not-Filed Complaint Files: Log # 06-0225; # 06-0270; # 06-0429; # 06-0469; # 06-1074. Mr. Turner moved, Ms. Blackwell seconded and the motion passed to take no further action on Log # 06-0225, # 06-0429 and # 06-0469. Mr. Turner moved, Ms. Southard seconded and the motion passed to open a formal investigation on Log # 06-0270 and Log # 06-1074.

Discussion was held regarding Non-Jurisdictional File # 06-5586. Mr. Turner moved, Dr. Anderson seconded and the motion passed to take no further action on File # 06-5586.

Agenda item #3, regarding routine follow-up on investigative files, previously referred from DPRC for follow-up action, specifically including Log # 05-1252, File # 05-1324, Log # 05-1325; Log # 05-1328; Log # 05-1680; Log # 05-1924; and Log # 05-1968.

Mr. Turner moved, Ms. Blackwell seconded to refer Log # 05-1252 to an addictionologist for another review.

Dr. Kalafut moved, Ms. Blackwell seconded and the motion passed to close Log # 05-1324, # 05-1325 and # 05-1328 and send a custom letter to the complainant.

Dr. Khan moved, Ms. Blackwell seconded and the motion passed to close Log # 05-1680.

Dr. Khan moved, Dr. Anderson seconded and the motion passed to refer Log # 05-1924 and Log # 05-1968 to another expert review.

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

Agenda item #5, regarding review, discussion and possible action of probationers' appearances, was presented. Dr. Kalafut moved, Dr. Anderson seconded, and the motion passed at 3:18 p.m. 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 3:20 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 Dr. Kalafut 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 #6, regarding review, discussion and possible action regarding the request for approval of proposed practice setting for a probationer: Discussion was held and staff was directed to send a custom letter to the probationer requesting additional information. The item was deferred to the next Board meeting.

Agenda item #7, regarding the discussion, recommendation, and possible action regarding proposed amendments and additions to: repeal of Chapter 170, Authority of Physician to Prescribe for the Treatment of Pain; add New Chapter 170, Pain Management; Chapter 178, Complaints to include 178.8 Appeals; Chapter 193, Standing Delegation Orders, to include 193.12. Ms. Shackelford presented additions and changes to the proposed amendments.

Dr. Anderson moved, Ms. Southard seconded and the motion passed to publish the following proposed additions and deletions in the Texas Register: repeal of Chapter 170, Authority of Physician to Prescribe for the Treatment of Pain; add New Chapter 170, Pain Management; Chapter 178, Complaints to include 178.8 Appeals; Chapter 193, Standing Delegation Orders, to include 193.12.

Agenda Item # 8, regarding proposed changes to Chapter 193, Standing Delegation Orders, to include new 193.13, Prescription Medical Devices. Staff was directed to make changes as discussed in the draft rule and discuss it in the Standing Orders Committee, to form a research group, and distribute the draft to that group for discussion. Report of the research group comments and possible rules proposed for publication would be reviewed by the Standing Orders Committee at the next Board Meeting.

Agenda item # 9 regarding executive session to review selected files and cases recommended for dismissal by Informal Settlement Conferences/Show Compliance Proceedings or staff review was considered. Dr. Benavides moved, Ms. Blackwell seconded, and the motion passed to go into executive session at 3:39 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 5:56 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 #10, regarding review, discussion and possible action regarding selected files and cases: Dr. Anderson moved, Ms. Southard 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, Ms. Southard moved, Ms. Blackwell seconded, and the motion passed to adjourn the meeting at 5:56 p.m.