

**TEXAS MEDICAL BOARD**  
**MINUTES OF THE**  
**DISCIPLINARY PROCESS REVIEW COMMITTEE**  
October 9, 2008

Chairman Larry Price, D.O., called the meeting to order at 10:00 a.m. Other members present were Patricia S. Blackwell, Melinda S. Fredricks, Manuel Guajardo, M.D., Amanullah Khan, M.D., Melinda McMichael, M.D., Margaret C. McNeese, M.D., Charles Oswalt, M.D., and Annette P. Raggette. Committee Members Allan Shulkin, M.D. and George Willeford, III, M.D. were not present.

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

**Ms. Raggette moved, and Ms. Blackwell seconded; the motion passed at 10:03 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 10:53 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 #2.** Review, discussion and possible action regarding appeals of dismissed complaints: A. Jurisdictional Complaints: i. Investigations: 07-3323, 07-4480, 07-5704, 07-6194, 07-6430, 08-0996, 08-1060, 08-1072, 08-1124, 08-1329, 08-1543, 08-1545, 08-1750, 08-1935, 08-2111, 08-2514, 08-2574; and B. Jurisdictional-Not-Filed Complaints: 08-3722, 08-5299, 08-5502, 08-5766, 08-5863, 08-5982, 08-6059, and 08-6072.

Dr. Oswalt recused himself from all discussion and decisions associated with Agenda Item 2.A.i., Log #07-4480.

**Dr. Khan moved, and Ms. Raggette seconded that the appeal of Item 2.A.i., Log #07-4480 be granted and that the case be forwarded to an ISC. Motion carried.**

**Dr. McNeese moved, and Ms. Blackwell seconded that the appeal of Item 2.A.i., Log #08-1060 be granted and that a new panel review this case. This motion includes the stipulation that the new reviewers have a background in child psychiatry and that the investigation focuses on the amount of medicine that was given and the age appropriateness of the medication that was given. Additionally, this motion includes obtaining a copy of the child custody court order to determine guardianship of the child involved in this case as it relates to the release of medical records. Motion carried.**

**Agenda Item #4.** Reports and discussion regarding the Investigation, Litigation and Compliance Departments. Ms. Robinson presented the Enforcement Report for August 2008, a copy of which is attached. This was an informational item only and no vote was necessary.

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

**The committee unanimously moved that the six appointments to the Expert Physician Panel be accepted. Motion carried.**

**A lunch recess was taken at 11:30 a.m. and all committee members returned at 12:05 p.m.**

**Agenda Item #5.** Discussion, recommendation and possible action regarding Rule Review and proposed changes to the following chapter in Title 22 of the Texas Administrative Code.

A. Chapter 187, Procedural Rules.

**Ms. Raggette moved, and Dr. Khan seconded that the revisions presented to the committee pertaining to Agenda Item 5.A., Chapter 187.18 in regards to granting continuances to Respondents be accepted for publication in the Texas Register, with the exception of the information presented in section L. This section pertains to the recording of ISCs and this section will not be published. Motion carried.**

**The committee unanimously moved to withdraw the amendment that they had previously approved, the amendment to Chapter 187.18 in August 2008; the prior amendment will be replaced with the revised amendment as attached, with the exception of section L as noted above. These recommendations affected by this motion will be presented to the full board for discussion on October 10, 2008; the amendment will then go to the stakeholders for consideration and input prior to final publication. Motion carried.**

**Following this motion, a discussion ensued relating to the release of the names of the panel members involved in ISCs prior to the date of the ISC. The committee directed the staff that the name of any panelist involved in an ISC should not be disclosed prior to the ISC.**

**Dr. McMichael moved, and Ms. Raggette seconded; the motion passed at 12:37 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.**

**Agenda Item #2.** Review, discussion and possible action regarding appeals of dismissed complaints: A. Jurisdictional Complaints: i. Investigations: 07-3323, 07-5704, 07-6194, 07-6430, 08-0996, 08-1072, 08-1124, 08-1329, 08-1543, 08-1545, 08-1750, 08-1935, 08-2111, 08-2514, 08-2574; and B. Jurisdictional-Not-Filed Complaints: 08-3722, 08-5299, 08-5502, 08-5766, 08-5863, 08-5982, 08-6059, and 08-6072.

**Agenda Item #3.** Discussion, recommendation, and possible action regarding routine follow-up on investigative files previously referred from the Disciplinary and Ethics Committee for follow-up action, specifically including: 06-2920, and 07-0451.

**Agenda Item #6.** Review, discussion and possible action regarding review of probationers appearances.

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

**Open session resumed at 2:25 p.m. All committee members were present with the exception of Ms. Fredricks who left during this executive session. It was announced that no action was taken during executive session. A certified agenda of the executive session was made.**

**Discussion continued on Agenda Item #2. Review, discussion and possible action regarding appeals of dismissed complaints.**

**Dr. Oswalt moved, and Ms. Blackwell seconded that all other appeals listed under Agenda Item 2.A.i. not specifically granted above be denied. Motion carried.**

**Dr. McNeese moved, and Ms. Blackwell seconded that the appeal of Item 2.B., Log #08-5863 be granted and that an investigation be opened. Motion carried.**

**Dr. Khan moved, and Dr. Oswalt seconded that all other appeals not specifically granted above be denied. Motion carried.**

**Discussion continued on Agenda Item #3. Review, discussion and possible action regarding appeals of dismissed complaints.**

**Ms. Blackwell moved, and Dr. Khan seconded that all routine follow-up files be closed. Motion carried.**

**Discussion continued on Agenda Item #6. Review, discussion and possible action regarding review of probationers appearances.**

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

**Discussion continued on Agenda Item #8. Review, discussion, and possible action regarding selected files and cases.**

**Ms. Raggette moved, and Dr. Oswalt seconded that Log #08-4970 be closed and that a custom letter be sent to the Respondent recommending that patients be informed in writing of the possibly penalties that can be incurred if they cancel an appointment. Motion carried.**

**Dr. Oswalt moved, and Ms. Raggette seconded that Log #08-1827 be closed and that a custom letter be sent to the Respondent directing them not to give samples of medication to persons that are not their patient or to give out any leftover medication that was initially intended for others. Motion carried.**

**Dr. Khan moved, and Ms. Raggette 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 2:49 p.m., Dr. Price announced that the meeting was adjourned; there were no objections.