

Texas Medical Board

BOARD MEETING MINUTES

April 3, 2009

The meeting was called to order April 3, 2009 at 8:03 a.m. by Irvin E. Zeitler, Jr., D.O., Board President. Board members present were Julie Attebury; David Baucom; Jose M. Benavides, M.D.; Patricia Blackwell; Manuel Guajardo, M.D.; J. Scott Holliday, D.O.; Amanullah Khan, M.D.; Melinda McMichael, M.D.; Margaret McNeese, M.D.; Larry Price, D.O.; Annette Raggette; Allan N. Shulkin, M.D.; Timothy J. Turner; Timothy Webb, J.D.; George Willeford III, M.D. Board staff present were Mari Robinson, Executive Director; Alan Moore, M.D., Medical Director; Robert Simpson, J.D., General Counsel; Jane McFarland, Chief of Staff; Jaime Garanfio, Director of Customer Affairs; and various other staff.

Mr. Baucom read the boards mission statement 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. Zeitler reported that new committee assignments will be assigned after April 13th.

Dr. Zeitler reported that board members will be contacted by staff regarding ethics presentations around the state to help educate medical students. Staff will be present to provide updated information.

Dr. Zeitler reported the two board resolutions to be presented at the 2009 Federation meeting are 1.) a proposal for a review of the reporting of withdrawals by each member board and to draft a policy to ensure consistent reporting of withdrawals by each member board that will advise member boards of a physicians history of withdrawals in other states, and 2.) a change in Federal law assuring confidentiality to allow greater sharing of information between licensing boards.

Agenda item #3, Executive Director Report. Mari Robinson gave a follow-up report on security. After discussion, the board directed staff to provide a physical barrier between staff and respondents table for Informal Settlement Conferences.

After Ms. Robinson gave a report on possible audio video conferencing options, the board directed staff to continue to research additional options for audio-video conferencing and to report back to the board.

Ms. Robinson gave a report on the process of approving risk management Continuing Medical Educations credits. The board directed Ms. Robinson to continue to approve risk management CME credits under the current process.

Ms. Robinson gave a legislative update.

Agenda item #4, Medical Director Report. Dr. Moore gave a report that he is working with the expert panel system for a more targeted approach to obtain more panelists and will report back in more detail at the May meeting

Agenda item #3, Executive Director Report (continued). Staff supervisors introduced new staff members.

Agenda item #18, Consideration and Approval of Proposal for Decision. Daniel Andrew Maynard, D.O. Dr. Maynard was not present. Scott Freshour, staff attorney, appeared representing the board. Administrative Law Judge, Paul Keeper, gave a presentation and recommendation. Scott Freshour gave a presentation. After discussion, **Ms. Attebury moved, Dr. Shulkin seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law recommended by the Administrative Law Judge in the Proposal for Decision, and to adopt the proposed order of board staff as presented revoking the license of Daniel Andrew Maynard, D.O.**

Agenda item #17, Consideration and Approval of Determinations of Default.

- 1. Denise Rochelle Greenwood, M.D.** Staff attorney, John Heisler, gave a presentation. After discussion, **Dr. Price moved, Mr. Turner seconded, and the motion passed to approve the Determination of Default revoking the license of Denise Rochelle Greenwood, M.D., with a clarification to the Finding of Facts that the action taken in the other state was due to substance abuse and impairment issues.**
- 2. Enrique Perez-Rodriguez, M.D.** Staff attorney, Lee Bukstein, gave a presentation. After discussion, **Dr. Price moved, Ms. Blackwell seconded, and the motion passed to approve the Determination of Default revoking the license of Enrique Perez-Rodriguez, M.D., as written.**
- 3. Brian D. Rappe, D.O.** Dr. Zeitler was recused. Staff attorney, Scott Freshour, gave a presentation. After discussion, **Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to approve the Determination of Default revoking the license of Brian D. Rappe, D.O., as written.**

Agenda item #5, Discussion and possible action regarding current litigation. Mr. Simpson gave a presentation on pending litigation.

Agenda item #6, Consideration and Approval of Non-Public Rehabilitation Orders and Modification Request/Termination Request of Non-Public Rehabilitation Orders. After discussion, **Mr. Turner moved, Ms. Raggette seconded, and the motion passed to approve the Non-Public Rehabilitation Orders #573, #576, #580, #581, #582, #583, #584, #585, #586, #587, #588; the Termination Granted of Rehabilitation Orders #326, #364, #185; the Termination of Suspension Granted of Rehabilitation Order #589; and the Nunc Pro Tunc Rehabilitation Order #371.**

After discussion, **Dr. McMichael moved, Mr. Turner seconded, and the motion passed to approve the Non-Public Rehabilitation Order #574, as written.**

After discussion, **Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to approve the Non-Public Rehabilitation Order #579, as written.**

Agenda item #7, Consideration and Approval of Agreed Board Order. After discussion, Mr. Turner moved, Ms. Raggette seconded, and the motion passed to approve the Agreed Board Orders for Lloyd E. Arnold, M.D.; Tony T. Bui, M.D.; Guaracy DeCarvalho, M.D.; Renato A. Geralde, D.O.; Mitchell K Golden, M.D.; Miles D. Hyman, M.D.; Richard A. Kellet, S.A.; Rashid Khan, M.D.; James Lui, M.D.; Robert C. Newman, M.D.; Darryl D. Nix, D.O.; Ann H. Nolen, D.O.; Jayshree, M.D.; Carlton Pittard, M.D.; Filiberto Rodriguez-Salinas, M.D.; Alejandro Santos, M.D.; Francisco Saucedo, M.D.; Dennis Shaugnessy, M.D.; Richard R. Torres, M.D.; Terry L. Wells, M.D.; David C. Winkler, M.D.; Tammy H. Vu, M.D.; Gregory, D.O.; Abdul-Aziz Alhassan, M.D.; Kenneth E. Baird, M.D.; Robert E. Blais, M.D.; Robert Bowers, M.D.; Robert G. Callahan, M.D.; Odette L. Campbell, M.D.; Janice R. Crowder, M.D.; Gina M. Esparza, M.D.; Demetris A. Green, M.D.; Rickey L. Gross, M.D.; Thomas J. Leytham, M.D.; Norman J. McCall, M.D.; Alice M. McIntosh, D.O.; Rajanikant P. Pandya, M.D.; Antonio F. Rivera, M.D.; Thomas M. Rogott, M.D.; Harold C. Henderson, M.D.; Charles P. Anderson, M.D.; Sharon Iglehart, M.D.; and John M. Ross, M.D.

After discussion, Dr. Willeford moved, Dr. Guajardo seconded, and the motion passed to approve the Agreed Order for Lance Carroll, M.D., as written.

After discussion, Ms. Attebury moved, Dr. Benavides seconded, and the motion passed to approve the Agreed Order for Bogdan Chumak, M.D., with the modification to the Findings of Fact to change the patient initials to patient #1 and to change the specific number of children to children to protect the identity of the patients.

The board directed staff to replace patient initials in orders with an identifying patient number to protect the identity of the patient.

After discussion, Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to approve the Agreed Order for John M. Hammerick, Jr., M.D., as written.

After discussion, Dr. McMichael moved, Dr. Price seconded, and the motion passed to approve the Agreed Order for Marcel D. Thompson, D.O., as written.

After discussion, Dr. McMichael moved, Mr. Turner seconded, and the motion passed to approve the Agreed Order for Ajay Aggarwal, M.D., with the modifications adding 1.) 16 days prior to death in Findings of Fact No. 8; 2.) altered mental status in Findings of Fact No. 11; and 3.) the methadone was in addition to the other prescriptions prescribed.

After discussion, Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to approve the Agreed Order for Steven P. Kloeris, M.D., as written.

After discussion, Ms. Attebury moved, Dr. Shulkin seconded, and the motion passed to approve the Agreed Order for H. Sprague Taveau, D.O., with the modification adding a chart monitor for at least four monitoring cycles until two clean chart monitoring reports and other requirements are completed

There were no items for Agenda item #8.

Agenda item #9, Consideration and Approval of Modification Request/Termination Request Orders. After discussion, Ms. Raggette moved, Mr. Webb seconded, and the motion passed to approve the Termination Request Granted for Edward Tomaneng, M.D., Ronald G. Corley, M.D., and William H. Peterek, M.D.; and the Modification Request Granted for Elizabeth J. Johnson, D.O., Allan J. McCorkle, M.D., and Karl Griffith, M.D.

After discussion, Dr. Price moved, Mr. Turner seconded, and the motion passed to go into Executive Session at 11:04 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act Section 551.071, Government Code. Open session resumed at 11:21 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, Dr. Price moved, Mr. Turner seconded, and the motion passed to deny the modification request for Rodney Dotson, M.D., and refer to the State Office of Administrative Hearings or to accept a voluntary surrender order, due to Dr. Dotson's long history of violations before the board and failure to comply with the current order.

There were no items for Agenda item #10.

Agenda item #11, Consideration and Approval of Mediated Settlement Agreed Orders. After discussion, Dr. Price moved, Ms. Blackwell seconded, and the motion passed to approve the Mediated Settlement Agreed Orders for Bernard Kornell, M.D.; Victor A. Pallares, M.D.; Michael David Williams, M.D.; Joseph E. Hancock, M.D.; and Clarence G. King, M.D., as written.

Agenda item #12, Consideration and Approval of Termination of Suspension Order for Cesar Maldonado, M.D., as written.

There were no items for Agenda item #13.

Agenda item #14, Report on Temporary Suspensions. Reports were presented on the temporary suspensions of Randy Ramahi, D.O., and Shirley Pigott, M.D.

Agenda item #15, Report on Automatic Orders. A report was presented on the automatic order for Bruce R. McFarland, M.D.

There were no items for Agenda item #16.

Agenda item #19, Open public comments. No one signed-in to present public comments.

Agenda item #20, Discussion, recommendation, and possible action regarding an emergency rule amendment to 190.8(l)(L) relating to the prescribing of controlled substance/dangerous drugs for the partners of patients that have been diagnosed with sexually transmitted diseases. After discussion, Dr. Price moved, Mr. Turner seconded, and the motion passed to adopt the emergency rule amendment to 190.8(l)(L) relating to the prescribing of controlled substance/dangerous drugs for the partners of patients that have been diagnosed with sexually transmitted diseases. After

discussion, **Mr. Turner moved, Dr. Guajardo seconded, and the motion passed to post the emergency rule amendment to 190.8(l)(L) for publication.**

Agenda item #21, Discussion recommendation and possible action regarding proposed rules that were published in the Texas Register for public comment.

- a. Chapter 166, Physician Registration with Amendment to 22 T.A.C.
- 166.2, Continuing Medical Education.

No written comments were received and no one signed up to present oral comments. **Dr. Price moved, Mr. Turner seconded, and the motion passed to adopt the amendment to Chapter 166.2 Continuing Medical Education, as published.**

- b. Chapter 183, Acupuncture, Rule Review with Amendments to:
- 22 TAC 183.2, Definitions
 - 22 TAC 183.4, Licensure
 - 22 TAC 183.10, Patient Records
 - 22 TAC 183.20, Continuing Acupuncture Education

No written comments were received and no one signed up to present oral comments. **Dr. McMichael moved, Dr. Guajardo seconded, and the motion passed to adopt the rule review with amendment to Chapter 183, Acupuncture, 183.2, Definitions; 183.4, Licensure; 183.10, Patient Records; and 183.20, Continuing Acupuncture Education, as published.**

- c. Chapter 189, Compliance with amendment to 22 T.A.C.
- 189.4, Limitations on Physician Probations Practice.

No written comments were received and no one signed up to present oral comments. **Dr. Price moved, Ms. Baucom seconded, and the motion passed to approve the amendments to Chapter 189, Compliance; 189.4 Limitations on Physician Probations Practice, as published.**

Discussion/Action Items to be considered at any time the full board is in session:

Item #1. Consent Agenda, Dr. Price moved, Ms. Raggette seconded, and the motion passed to approve the Consent Agenda items.

Item #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. **Dr. Price moved, Mr. Turner seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items.**

Ms. Attebury gave a report of the Finance Committee. **Ms. Attebury moved, Dr. Benavides seconded, and the motion passed to approve the Finance Committee minutes.**

Dr. Zeitler gave a report of the Licensure Committee. **Dr. Benavides moved, Dr. Guajardo seconded, and the motion passed to approve the Licensure Committee minutes and action items.**

Mr. Turner gave a report of the Telemedicine Committee. **Mr. Turner moved, Ms. Raggette seconded, and the motion passed to approve the Telemedicine Committee**

There being no further agenda items the meeting adjourned at 12:16 p.m.