

**TEXAS MEDICAL BOARD**  
**BOARD MEETING MINUTES**

**April 10 11, 2008**

The meeting was called to order on April 10, 2008 at 3:58 p.m. by Board President, Roberta Kalafut, D.O. Board members present were Lawrence L. Anderson, M.D.; Michael Arambula, M.D.; Julie Attebury; Jose M. Benavides, M.D.; Patricia S. Blackwell; Melinda S. Fredricks; Manuel Guajardo, M.D.; Amanullah Khan, M.D.; Melinda McMichael, M.D.; Margaret McNeese, M.D.; Larry Price, D.O.; Annette Raggette; Allan Shulkin, M.D.; Paulette Southard; Timothy J. Turner; Timothy Webb, J.D.; and Irvin E. Zeitler, Jr., D.O. Board staff present were Donald W. Patrick, M.D., J.D., Executive Director; Robert Simpson, J.D., General Counsel; Jane McFarland, Chief of Staff; and various other staff. Dr. Price 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.** Mr. Turner and Dr. Arambula discussed the upcoming annual meeting of the Federation of State Medical Boards scheduled for May 1-2.

**Agenda item #3, Executive Directors report.** Jane McFarland provided the board members with a copy of the report prepared for the legislative hearing. The report outlines the new fast-track process to be used in cases of minor administrative violations, as well as an update concerning the licensure and finance departments.

Leonor Sotelo, IT Department Manager, discussed the LIST project currently in development which will enable licensure applicants to obtain an update concerning their application via the website.

**Agenda item #4, Discussion and action to delegate members of the Executive Committee to provide direction to staff regarding agency strategic planning and development of the agency Legislative Appropriations Request for the FY 2010-2011 Biennium. Dr. Price moved, Ms Southard seconded and the motion passed to direct staff to begin the process.**

**Agenda item #5, Discussion and possible action regarding current litigation.** Robert Simpson, General Counsel, provided the board members with an update concerning current litigation involving the board.

**Dr. Price moved, Mr. Turner seconded, and the motion passed to go into Executive Session at 4:40 p.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 4:57 p.m. and it was announced that no action was taken. A certified agenda was made.

The meeting recessed for the day at 5:00 p.m. and reconvened on Friday, April 11 at 8:03 a.m. Members present were Board President Roberta Kalafut, D.O.; Lawrence L. Anderson, M.D.; Michael Arambula, M.D.; Julie Attebury; Jose M. Benavides, M.D.; Patricia S. Blackwell; Melinda S. Fredricks; Melinda McMichael, M.D.; Margaret C. McNeese, M.D.; M.D.; Larry Price, D.O.; Allan N. Shulkin, M.D.; Timothy J. Turner; Timothy Webb, J.D.; and Irvin E. Zeitler, Jr., D.O. Board staff present were Donald W. Patrick, M.D., J.D., Executive Director; Robert Simpson, J.D., General Counsel; Jane McFarland, Chief of Staff; and various other staff.

**Agenda item #8, Consideration and Approval of Determination of Default. Dr. Price moved, Mr. Turner seconded and the motion passed to accept the Determination of Default Order which will result in the revocation of the license.**

**Agenda item #9, Consideration and Approval of Proposal for Decisions. Agenda Item #21, Consideration and Approval of Proposals for Decision. Thomas A. J. Vaughan, M.D. Carol S. Birch, Administrative Law Judge, gave a report and recommendation. Dr. Vaughn was not present for the meeting. Mark Martyn, staff attorney, appeared representing the Board. After discussion, Dr. Price moved, Mr. Turner 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, except Findings of Fact #18 which is a sanction recommendation from the ALJ, the determination of which is reserved for the board and to approve the Final Order by staff including the revocation of Dr. Vaughans license.**

**Jesus Rodriguez-Aguero, M.D. Ann Landeros, Administrative Law Judge, gave a report and recommendation. Dr. Rodriguez-Aguero appeared along with his attorney Tim Weitz. Scott Freshour and Mark Martyn, appeared representing the Board.**

**Dr. Price moved, Dr. McNeese seconded, and the motion passed to go into Executive Session at 9:12 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 9:28 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 adopt the Findings of Fact and Conclusions of Law recommended by the Administrative Law Judge in the Proposal for Decision, except conclusion of law # 10, which is a sanction recommendation from the ALJ, the determination of which is reserved for the board and to approve the Final Order by staff including an administrative penalty in the amount of \$3,000.**

**Kenneth W. ONeal, M.D.** Paul Keeper, Administrative Law Judge, gave a report and recommendation. Mark Martyn, staff attorney, appeared representing the Board. After discussion, **Mr, Turner moved, Ms. Raggette 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, except conclusion of law # 128, which is a sanction recommendation from the ALJ, the determination of which is reserved for the board and to approve the Final Order by staff. Dr. Kalafut recused herself from the vote.**

**Francis X. Burch, M.D.** Catherine Egan, Administrative Law Judge, gave a report and recommendation. Scott Freshour, staff attorney, appeared representing the Board. Dr. Egan was represented by Mr. Tony Felices. After discussion, **Dr. Price moved, Ms. Blackwell 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, except Findings of Fact #113 which is a sanction recommendation from the ALJ, the determination of which is reserved for the board and to approve the Final Order by staff including a reprimand of Dr. Burch and an administrative penalty of \$3,000.**

**Agenda item #10, Consideration and Approval of Non-Public Rehabilitation Orders and Modification Request/Termination Request of Non-Public Rehabilitation Orders. Mr. Turner moved, Ms. Fredricks seconded and the motion passed to approve the following Non-Public Rehabilitation Orders: # 488, #490, #493, and #494.**

After discussion, **Mr. Turner moved, Ms. Fredricks seconded and the motion passed to approve the Termination Request of Non-Public Rehabilitation Order #310 and #260.**

**After discussion, Mr. Turner moved, Ms. Fredricks seconded and the motion passed to deny the Termination Request of Non-Public Rehabilitation Order #273.**

**After discussion, Mr. Turner moved, Ms. Fredricks seconded and the motion passed to approve the Modification Request of Non-Public Rehabilitation Order #422.**

**Agenda item #11, Consideration and Approval of Agreed Board Orders. After discussion, Mr. Turner moved, Dr. Price seconded, and the motion passed to approve the Agreed Order for David A. Green, M.D.**

**After discussion, Dr. Price moved, Ms. Raggette seconded, and the motion passed to approve the Agreed Order for Anthony P. Nikko, M.D.**

**After discussion, Dr. Price moved, Ms. Blackwell seconded and the motion passed to approve the Agreed Order for Miguel Samonte, Jr., M.D.**

**Dr. Price moved, Ms. Raggette seconded, and the motion passed to go into Executive Session at 10:47 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 10:52 a.m. and it was announced that no action was taken. A certified agenda was made.**

**After discussion, Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to approve the Agreed Order for Scott Wyrick, M.D. once the Findings of Fact (FOF) is changed to include the name of the medical practice.**

**Mr. Turner moved, Dr. Anderson seconded and the motion passed to approve the Agreed Orders for the following:** Raymond Bixby, M.D.; Daniel A. Boudreau, D.O.; Richard G. Buch, M.D.; Andrew F. Campbell, M.D.; Michela Caruso, M.D.; Viraf R. Cooper, M.D.; Thomas Curvin, M.D.; Gerard Dericks, Jr., M.D.; Preston W. Deshan, M.D.; Eldo E. Frezza, M.D.; Philip E. Garcia, M.D.; Teresa Guerrero, M.D.; Robert E. Hanson, Jr., M.D.; William R. Haskett, Jr., M.D.; Khai-Linh Ho, M.D.; Naiyer Iman, M.D.; James K. Kaufman, M.D.; Kenan Kennamer, M.D.; Larry L. Likover, M.D.; William O'Donnell, Jr., M.D.; Michael C. Peace, D.O.; Araceli Ramirez, M.D.; Ronald Salmond, M.D.; Allan Shippel, M.D.; Ali R. Shivani, M.D.; James Shoemaker, M.D.; Ray E. Warren, M.D.; David R. Woerner, M.D.

**Agenda item #12, Consideration and Approval of Administrative Orders.** After discussion, **Mr. Turner moved, Ms. Blackwell seconded, and the motion passed to approve the Administrative Orders for the following:** Kenneth C. Horton, M.D.; Miguel Ibarra, M.D.; James W. Linton, D.O.; Randolph A. Lopez, M.D.; Kevin Rittger, M.D.

**Agenda item #13, Consideration and Approval of Modification Request/Termination Request Orders.** **Mr. Turner moved, Ms. Southard seconded, and the motion passed to approve the Modification Request/Termination Request Order for Sean T. Fitzpatrick, M.D.**

After discussion, **Mr. Turner moved, Ms. Southard seconded, and the motion passed to deny the Modification Request/Termination Request Orders for the following:** Jeffrey Butts, D.O.; Octavio J. Calvillo, M.D.; John Garner, D.O.; Anthony P. Nikko, M.D.; Paul Rodriguez, M.D.

After discussion, **Mr. Turner moved, Ms. Blackwell seconded and the motion passed to approve the Modification Request for George Walters, M.D. once the terms are changed to require psychiatric reports on an annual basis.**

**Agenda item #14, Consideration and Approval of Nunc Pro Tunc Orders.** Mr. Turner moved, Dr. Anderson seconded and the motion passed to approve the Nunc Pro Tunc order for Armando Chavez, M.D.

**Agenda item #15, Consideration and Approval of Mediated Settlement Agreement Orders.** Dr. Anderson moved, Ms. Raggette seconded, and the motion passed to approve the Mediated Settlement Agreement Order for the following: James A. Donovitz, M.D.; Ahmed U. Jamaluddin, M.D.; Joon Sang Lee, M.D.; Adam Naaman, M.D.; Kenneth M. Rice, M.D.; John D. Seifert, M.D.; Kurt J. Sherick, M.D.

**Agenda Item #16, Consideration and Approval of Termination of Suspension Orders.** Dr. Price moved, Ms. Raggette seconded, and the motion passed to approve the termination of the suspension order for Philip Head, Jr., M.D.; Robert Cassella, M.D.

There were no items for Agenda item #17.

**Agenda Item #18, Report on Temporary Suspensions Orders.** Nancy Leshikar gave a report on the Temporary Suspensions for Beauford Basped, D.O.

**Agenda Item #19, Report on Automatic Orders.** Nancy Leshikar gave a report on the Automatic Order for Douglas W. Wheeler, M.D.

**Agenda Item #20, Consideration of dismissal recommendations from the Informal Settlement Conference Panels.** After discussion, Ms. Southard moved, Ms. Blackwell seconded and the motion passed to approve all of the cases for dismissal except #12.

There were no items for #21

**Agenda item #22, Discussion Recommendation and possible action regarding rule reviews and adoption of proposed rule changes.**

**1. Chapter 162, Supervision of Medical Schools 161.1, Supervising of Medical Schools Amendment.** No one signed up to present oral comments. No written comments were received. **Ms. Southard moved, Dr. Anderson seconded, and the motion passed to adopt the proposed amendments.**

**2. Chapter 164, Physician Advertising. 164, Misleading or Deceptive Advertising Amendment.** No one signed up to present oral comments. No written comments were received. **Ms. Fredricks moved, Ms. Ragette seconded and the motion passed to adopt the proposed amendments to Chapter 164.**

**3. Chapter 173, Physician Profile, 173.3 Physician Initiated Updates Amendment and 173.7 Corrections and Dispute Process Amendment.** No one signed up to present oral comments. No written comments were received. **Dr. Price moved, Ms. Blackwell seconded and the motion passed to adopt the rules as published.**

**4. Chapter 196, Voluntary Relinquishment or Surrender of a Medical License. 196.1, Relinquishment of License Amendment.** No comments were received. No one signed up to present oral comments. **Ms. Southard moved, Ms. Fredricks seconded and the motion passed to adopt the amendments as written.**

**Discussion item #1, Consent Agenda. Mr. Turner moved, Ms Blackwell seconded, and the motion passed to approve all of the Consent Agenda items.**

**Discussion item #2, Committee reports and the consideration and approval of minutes and action items of committees meeting during the Board meeting.**

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



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

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

Dr. Arambula gave a report of the Licensure Committee meeting. After discussion, **Dr. Arambula moved and Mr. Turner seconded a motion to revisit the matter of Licensure Committee minutes and action items.**

Dr. Anderson gave a report of the Disciplinary Process Review Committee. **Dr. Anderson moved, Ms. Blackwell seconded, and the motion passed to approve the Disciplinary Process Review Committee minutes and action items.**

The Legislative and Public Information Committees did not meet.

There being no further items the meeting adjourned at 12:44 p.m.