

TEXAS MEDICAL BOARD
MINUTES OF THE
DISCIPLINARY PROCESS REVIEW COMMITTEE
April 8, 2010

Chair Melinda McMichael, M.D., called the meeting to order at 12:31 p.m. Other members present were Julie K. Attebury, David Baucom, Patricia S. Blackwell, Pat J. Crocker, D.O., Manuel Guajardo, M.D., Margaret C. McNeese, M.D., Allan Shulkin, M.D., George Willeford III, M.D., and Irvin E. Zeitler, Jr., D.O. Committee Member Charles Oswalt, M.D., was not present.

Also present was Medical Director Alan T. Moore, M.D., and Mari Robinson, Executive Director, and various other staff.

Dr. Zeitler moved, and Dr. Crocker seconded; the motion passed at 12:32 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. Open session resumed at 1:38 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 #2. Review, discussion and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 08-0018, 08-0022, 08-3723, 09-3611, 09-3723, 09-4484, 09-5207, 09-5912, 09-6443, 09-6507, 09-6861, 09-7057, ii. Legal Files: 09-0429 (08-3295), 09-0738 (08-4923), 10-0018 (09-0901), 10-0113 (09-3300); B. Jurisdictional Not Filed Complaints: 10-0756, 10-0961, 10-0962, 10-1136, 10-1282, 10-1283, 10-2000, 10-2042, 10-2081, 10-2316, 10-2335, 10-2432, 10-2440, 10-2459, 10-2626, 10-2677, 10-2685, 10-2774, 10-2960, 10-3012, 10-3081, 10-3092, 10-3223, 10-3246; and C. Non-Jurisdictional Complaints: 10-2958.

Dr. Zeitler moved, and Dr. Shulkin seconded that the appeal of Item 2.A., Log #08-0018 be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. Zeitler moved, and Dr. Shulkin seconded that the appeal of Item 2.A., Log #08-0022 be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. Guajardo moved, and Ms. Blackwell seconded that the appeal of Item 2.A., Log #09-4484 be denied. Motion carried.

Agenda Item #3. Discussion, recommendation and possible action regarding referrals and reports from the Texas Physician Health Program.

The Presiding Officer, Dr. John Jackson, and the Executive Director, Dr. Lloyd Garland presented the status of the PHPs current caseload to the DPRC. To date, 109 cases have been referred to the PHP. Dr. Jackson and Dr. Lloyd discussed the different circumstances of cases the

Texas Physician Health Program is currently working. Further guidance will be given to the TX PHP in a meeting scheduled next week.

Dr. Zeitler moved, and Dr. Crocker seconded; the motion passed at 2:08 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. Open session resumed at 4:25 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 #2. Review, discussion and possible action regarding appeals of dismissed complaints. A. Jurisdictional Complaints: i. Investigations: 08-0018, 08-0022, 08-3723, 09-3611, 09-3723, 09-4484, 09-5207, 09-5912, 09-6443, 09-6507, 09-6861, 09-7057, ii. Legal Files: 09-0429 (08-3295), 09-0738 (08-4923), 10-0018 (09-0901), 10-0113 (09-3300); B. Jurisdictional Not Filed Complaints: 10-0756, 10-0961, 10-0962, 10-1136, 10-1282, 10-1283, 10-2000, 10-2042, 10-2081, 10-2316, 10-2335, 10-2432, 10-2440, 10-2459, 10-2626, 10-2677, 10-2685, 10-2774, 10-2960, 10-3012, 10-3081, 10-3092, 10-3223, 10-3246; and C. Non-Jurisdictional Complaints: 10-2958. **Dr. Guajardo recused himself from any discussion and decision regarding Log #09-0429 (08-3295). Dr. Willeford and Dr. Shulkin each recused himself from any discussion and decision regarding Log #10-0018 (09-0901).**

Dr. Zeitler moved, and Ms. Blackwell seconded that the appeal of Item 2.A., Log #09-5912 be denied. Motion carried.

Dr. Crocker moved, and Dr. Zeitler seconded that the appeal of Item 2.A., Log #09-0429 (08-3295) be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. McNeese moved, and Ms. Attebury seconded that the appeal of Item 2.A., Log #10-0018 (09-0901) be granted and that a new investigation be opened. Motion carried.

Dr. Zeitler moved, and Dr. Crocker seconded that the appeal of Item 2.A., Log #09-0738 (08-4923) be denied. Motion carried.

Dr. Willeford moved, and Ms. Blackwell seconded that the appeal of Item 2.A., Log #10-0113 (09-3300) be granted and that the case be forwarded to an ISC. Motion carried.

Dr. Zeitler moved, and Dr. Willeford seconded that all other appeals under Item 2.A. not specifically granted above be denied. Motion carried.

Dr. Shulkin moved, and Dr. Willeford seconded that the appeal of Item 2.B., Log #10-1282 be granted and that an investigation be opened. Motion carried.

Dr. Shulkin moved, and Dr. Willeford seconded that the appeal of Item 2.B., Log #10-1283 be granted and that an investigation be opened. Motion carried.

Ms. Attebury moved, and Dr. Guajardo seconded that the appeal of Item 2.B., Log #10-2000 be granted and that an investigation be opened. Motion carried.

Dr. McNeese moved, and Dr. Crocker seconded that the appeal of Item 2.B., Log #10-2081 be granted and that an investigation be opened. Motion carried.

Dr. Zeitler moved, and Dr. Crocker seconded that all other appeals under Item 2.B. not specifically granted above be denied. Motion carried.

Ms. Attebury moved, and Dr. Willeford seconded that the appeal of Item 2.C, Log #10-2958 be denied. Motion carried.

Agenda Item #4. Discussion, recommendation, and possible action regarding routine follow-up on investigative files, previously referred from the DPRC for follow-up action, specifically including: 08-4185, 09-1957, 09-2385, 09-3315, and 09-5908.

Dr. Willeford moved, and Ms. Blackwell seconded that Log #08-4185 be dismissed. Motion carried.

Dr. Willeford moved, and Dr. McNeese seconded that Log #09-1957 be continued. Motion carried.

Dr. McNeese moved, and Dr. Crocker seconded that Log #09-2385 be denied and that a custom letter be sent to the Respondent. Motion carried.

Dr. Zeitler moved, and Dr. McNeese seconded that Log #09-3315 be dismissed. Motion carried.

Mr. Baucom moved, and Ms. Blackwell seconded that Log #09-5908 be dismissed. Motion carried.

Dr. Shulkin departed the Board room at 4:50 p.m., a quorum still remained.

Agenda Item #5. Reports and discussion regarding the Investigation, Litigation and Compliance Departments. A physical enforcement report was not presented to the committee due to computer error; instead, Ms. Robinson discussed the pertinent parts of the Enforcement Report that would ordinarily been presented. This was an informational item only and no vote was necessary.

Agenda Item #6. Discussion and possible direction regarding CME requirements for disciplinary orders relating to teleconference courses.

Staff was directed to allow teleconference courses to be considered the same as live attendance as a condition of meeting the CME requirement for disciplinary orders.

Agenda Item #7. Review, discussion and possible action regarding review of probationers appearances.

Ms. Attebury moved, and Dr. Crocker seconded that the waiver list on Agenda Item 7 be approved. Motion carried.

Agenda Item #8. Consideration and approval of appointments to the Expert Physician Panel.

Dr. McNeese moved, and Ms. Blackwell seconded that the appointments to the Expert Physician Panel on Agenda Item 8 be approved. Motion carried.

Dr. Zeitler moved, and Ms. Blackwell seconded; the motion passed at 5:00 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. Open session resumed at 5:20 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 #9. Review, discussion, and possible action regarding selected files and cases.

Ms. Attebury moved, and Dr. McNeese 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.

At 5:45 p.m., Dr. McMichael announced the meeting was adjourned, there were no objections.