

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

August 28, 2008

The meeting was called to order at 10:04 a.m. by Chair, Michael Arambula, M.D. Committee members present were Julie Attebury; Jose M. Benavides, M.D.; Roberta Kalafut, D.O.; Paulette B. Southard; Timothy J. Turner; Timothy Webb; and Irvin Zeitler, D.O.

Agenda Item 2 - Discussion, recommendation, and possible action regarding applicants for licensure, permits, and certification.

Dr. Kalafut moved, **Ms. Southard** seconded, that the Committee close the meeting to the public and continue in Executive Session for deliberations concerning licensure applications. The motion passed. Dr. Arambula announced that the meeting would be closed for deliberations at 10:06 a.m. concerning licensure applications and the character and fitness of applicants under the authority of The Medical Practice Act Sections 152.009 and 155.058, Occupations Code, and that while in executive session, the Board would not take any action, make any decision, or vote with regard to any matter that may be considered or discussed. A certified agenda of any executive session will be made.

The executive session ended at 4:17 p.m.

Item 2a Applicants appearing concerning eligibility

The Licensure Committee conducted hearings to review applicants appearing concerning eligibility. The hearings were conducted in Executive Session. Following the hearings, the Committee reconvened and considered the applications.

1. Physician Licensure Applicants

Applicant #687 appeared, with counsel, before the Committee, in executive session, on appeal of the Executive Directors determination of ineligibility. In open session, **Dr. Zeitler moved to recommend to the full Board that the applicants request for reissuance be denied.** This recommendation is due to the applicants failure to demonstrate that reissuance of the Texas medical license would be in the publics and the applicants best interest; disciplinary history with the board; history of substance abuse; criminal

history, including two arrests for driving while under the influence; and time out of the active practice of medicine with lack of sufficient plan for safe reentry into practice. **Ms. Southard seconded the motion.** During discussion Dr. Zeitler asked that if the applicant decides to reapply for reissuance of a license in the future, that the applicant consider not asking for an unrestricted license, present a goal directed plan, and demonstrate understanding of sobriety, possibly by submitting to an independent psychiatric examination. Dr. Kalafut pointed out that the applicant is at a high risk of relapse and might need to increase the number of visits to the treating psychiatrist. **All voted in favor. The motion passed.**

Applicant #672 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Webb moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to a mental condition that has affected applicants ability to practice medicine with reasonable skill and safety. . Factors contributing to this recommendation include placement on probation while at two different residency programs that were the result of certain personality characteristics, which have caused some impairment in the applicants interpersonal skills, interpersonal judgment, and professional conduct. **Further, Mr. Webb moved to recommend to the full Board that the applicants application for a Physician-in-Training permit be approved under a non-public, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the Committee. In addition, the applicant must appear before the Licensure Committee before being granted a physician license. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #692 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Ms. Southard moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to time out of the active practice of medicine, and a mental condition that may affect the practice of medicine. Factors contributing to this recommendation include that the applicant has not actively practiced medicine in the two years prior to application, a diagnosis of bipolar disorder with the most recent episode in 2007, and that the applicants bipolar illness affected the applicants ability to successfully complete residency training resulting in the applicants discontinuation of training in 2005. **Further, Ms. Southard moved to recommend to the full Board that upon receipt within one calendar year of a request for a physician-in-training permit of no less than one year, a physician-in-training permit may be granted by the Executive Director under a non-public, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the Committee. In**

addition, the applicant must appear before the Licensure Committee before being granted a physician license. Factors contributing to this recommendation include the recommendation by treating psychiatrist that the applicant can safely practice medicine with conditions in place. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #694 appeared before the Committee, in executive session, on appeal of the Executive Directors determination that a KSTAR evaluation and mini-residency or specialty board certification will be required to meet eligibility requirements. In open session, **Dr. Zeitler moved to recommend to the full board that a decision on the applicants application be deferred for four months and upon successful completion of the applicants proposed 30 day mini-residency in Pediatrics with the University of Texas at San Antonio Health Science Center and passage of the SPEX examination within 3 attempts, the applicant be granted an unrestricted license.** This recommendation is due to the applicants time out of the active practice medicine in the two years prior to date of application. Factors influencing this recommendation include the applicants appearance before the committee with a proposed mini-residency in place, the applicants successful completion of a pediatrics residency program, and that the applicant has only been out of practice for just over two years. **Mr. Turner seconded the motion. All voted in favor. The motion passed.**

Applicant #654 appeared, with counsel, before the Committee in executive session, on appeal of the Executive Directors determination of ineligibility. In open session, **Mr. Webb moved to recommend to the full Board that the applicants request for reissuance be denied.** This recommendation is due to the applicants failure to demonstrate that reissuance of the Texas medical license would be in the publics and the applicants best interest; prior disciplinary action by the TMB, including revocation of license; disciplinary action by peers; disciplinary action by other state medical boards; criminal history that includes two felony convictions; failure to practice medicine consistent with public health and welfare; subject to repeated or recurring meritorious health care liability claims that in the board's opinion evidence professional incompetence likely to injure the public; and time out of the active practice of medicine. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #703 appeared, with counsel, before the Committee, in executive session, on appeal of the Executive Directors determination of ineligibility. In open session, **Mr. Turner moved to recommend to the full Board that the applicant be granted a Texas medical license, subject to a public reprimand and an administrative penalty in the amount of \$5000, and successful completion within one year of 15 hours of CME in Ethics to be approved by the Executive Director.** This recommendation is due to

providing false or misleading information to the Board. Factors contributing to this recommendation include the committees determination that the falsification was intentional and that the applicant failed to report training probation that was given due to multiple instances of dishonesty. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #683 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Turner moved to recommend to the full Board that the applicant be granted an unrestricted license. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #674 appeared, with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Webb moved to recommend to the full Board that the applicant be granted an unrestricted license. Mr. Turner seconded the motion.** In discussion, Dr. Kalafut wanted to point out that this applicant was different from other issues of falsification brought before the committee because she believes the applicant was completely truthful. **Ms. Attebury, Dr. Benavides, Dr. Kalafut, Ms. Southard, Mr. Turner, Mr. Webb, and Dr. Zeitler voted in favor. Dr. Arambula was opposed. The motion passed.**

Applicant #690 appeared, with counsel, before the Committee in executive session, on appeal of the Executive Directors determination of ineligibility. In open session, **Dr. Kalafut moved to recommend to the full Board that the applicants request for reissuance be denied.** This recommendation is due to the applicants failure to demonstrate that reissuance of the Texas medical license would be in the publics and the applicants best interest; prior disciplinary action by the TMB, including revocation of license; violation of state law with relation to practice of medicine; time out of the active practice of medicine and failure to demonstrate rehabilitation of condition that partially served as basis for the applicants revocation. **Ms. Southard seconded the motion.** In discussion, Dr. Arambula pointed out that the applicants failure to continue treatment was an issue for him. **All voted in favor. The motion passed.**

2. Physician in training permit applicants

Applicant #688 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Benavides moved to recommend to the full Board that the applicant be granted a Physician in Training permit under a non-public, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to**

the members of the committee. This recommendation is due to a mental condition that may affect the practice of medicine. Factors contributing to this recommendation include the applicants history of major depression dating back to 2003, which is in remission. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #691 appeared, with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Zeitler moved to recommend to the full Board that the applicant be granted a Physician in Training permit under a non-public, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the committee.** This recommendation is due to a mental condition that may affect the practice of medicine. Factors contributing to this recommendation include disciplinary action by peers that occurred in part as a result of applicants mental condition, and a residency program that has accepted the applicant is aware of the applicants condition and has the resources to monitor applicant to ensure patient safety. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #684 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Kalafut moved to recommend to the full Board that the applicant be determined ineligible for a Physician in Training permit.** This recommendation is due to disciplinary action by peers; and unprofessional conduct likely to defraud, deceive, or injure the public. Factors contributing to this recommendation include unsatisfactory evaluations, placement on probation at two different training programs due to unprofessional conduct, poor academic performance, and removing an examination without authorization. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

3. Acudetox certification applicants There were none.
4. Surgical assistant licensure applicants There were none.

Item 2b Applicants appearing for rehearing concerning eligibility.

1. Physician Licensure Applicants There were none.
2. Physician in training permit applicants There were none.
3. Acudetox certification applicants There were none.
4. Surgical assistant licensure applicants - There were none.

Item 2c Proposed orders offered by the Executive Director.

1. Physician Licensure Applicants Ms. Garanflo reported on seven orders offered by the Executive Director. **Dr. Zeitler moved to recommend to the full Board that all seven orders be approved. Dr. Benavides seconded. All voted in favor and the motion passed.**
2. Physician in training permit applicants Ms. Garanflo reported on nine orders offered by the Executive Director. **Dr. Zeitler moved to recommend to the full Board that all nine orders be approved. Dr. Benavides seconded. All voted in favor and the motion passed.**
3. Acudetox certification applicants - There were none.
4. Surgical assistant licensure applicants - There were none.

Item 2d Applicants determined by staff to meet eligibility requirements.

1. Physician Licensure Applicants - There were 691 applicants who met all requirements to be considered for permanent licensure by the full Board. **Dr. Benavides moved to recommend to the full board that all 691 applicants for permanent licensure be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**
2. Acudetox certification applicants There were none.
3. Surgical assistant licensure applicants - There were five surgical assistant licensure applicants to be considered for approval. **Ms. Southard moved to recommend to the full board that all five surgical assistant licensure applicants be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Agenda Item 3 Discussion, recommendation, and possible action regarding applicant requests:

Item 3a Requests for Rehearing There were none.

Item 3b Request for Waiver of Acupuncture License Requirements There were none.

Agenda Item 4 Discussion, recommendation and possible action regarding unsigned orders from previous meetings.

Ms. Garanflo reported that of the seven orders offered at the June 2008 Board meeting, six have been accepted. One applicant has withdrawn. Two orders are still pending from previous meetings.

Agenda Item 5 Reports on:

Item 5a Applicant determinations of eligibility made by the Executive Director in the last period -

Ms. Garanflo presented a report on applicant determinations of eligibility made by the Executive Director for the period June 19, 2008 through August 18, 2008.

Item 5b Physician licensure process statistics Ms. Garanflo presented a report on various statistics related to the Licensure Division. Ms. Garanflo reported that there will be approximately 4000 licensure applications this fiscal year, as has been true the last two fiscal years. In addition applicants are being licensed in an average of 46 days.

Agenda Item 6 Discussion, recommendation, and possible action regarding licensee requests:

Item 6a - Request of physician for activation of canceled physician licenses There were none.

Item 6b - Request of physician to return to Active Status from Texas Retired Status There were none.

Agenda Item 7 - Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration.

Item 7a Surgical Assistants There were eleven surgical assistants to be canceled for non-payment. **Dr. Benavides** moved to recommend to the full board that all eleven surgical assistants be canceled. **Dr. Zeitler** seconded the motion. All voted in favor. The motion passed.

Item 7b Acudetox There were none.

Agenda Item 8 Discussion, recommendation, and possible action regarding Nonprofit Health Organizations:

Item 8a - Applicants for initial certification - There were four applications for initial certification as a Nonprofit Health Organization for approval. **Dr. Benavides** moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. **Dr. Kalafut** seconded the motion. All voted in favor. The motion passed.

Item 8b - Requests for biennial recertification - There were eleven applications for biennial recertification as a Nonprofit Health Organization for approval. **Ms. Southard moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Item 8c - Cancellation of organizations certified as Nonprofit Health Organizations - There were sixteen requests for decertification as a Nonprofit Health Organization for approval. **Dr. Kalafut moved to recommend to the full board that the requests for decertification as a Nonprofit Health Organization be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Agenda Item 9 - Discussion, recommendation, and possible action regarding proposed additions and modifications to **board rules**:

Item 9a Texas Medical Board Rules There were none.

Item 9b Texas Physician Assistant Board Rules. There were none.

Item 9c Texas State Board of Acupuncture Examiners Rules. There were none.

Agenda Item 10 - There being no further business, Dr. Arambula adjourned the meeting at 4:40 p.m.