

**TEXAS MEDICAL BOARD**  
**LICENSURE COMMITTEE MEETING MINUTES**

June 7, 2007

The meeting was called to order at 10:15 a.m. by Chair, Keith E. Miller, M.D. Committee members present were Michael Arambula, M.D., Julie Attebury, Jose M. Benavides, M.D., Manuel Guajardo, M.D., Larry Price, D.O., Paulette B. Southard, Timothy J. Turner, and Timothy Webb.

**Agenda Item 3 Discussion, recommendation, and possible action regarding applicants appearing for rehearing concerning eligibility:**

**Item 3a** Physician licensure and physician in training permit There were none.

**Item 3b** Acudetox certification - There were none.

**Item 3c** Surgical assistant licensure - There were none.

**Agenda Item 4 Discussion, recommendation, and possible action regarding applicant requests:**

**Item 4a Requests for Rehearing** There were none.

**Item 4b Request for Waiver of Acupuncture License Requirements** There were none.

**Agenda Item 5 Reports on:**

**Item 5a Proposed orders for restriction of physician licensure and physician in training permit applicants** Ms. Garanflo reported on two orders for physician in training permit holders who applied for full licensure and will be offered orders with similar terms and conditions.

**Item 5b Approvals by the Executive Director of physician licensure applicants who are graduates of medical schools from which the Board has not previously licensed** Ms. Garanflo presented a report on two applicants who graduated from the following medical schools: University of Bergen, Norway and

Rostock University, Germany. The applicants medical educations have been reviewed by the Executive Director and staff and found to meet appropriate board rules and statute.

**Item 5c Letters of eligibility of physician licensure applicants** There were none.

**Item 5d 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 April 13, 2007 through May 29, 2007.

**Item 5e Physician licensure process statistics** Ms. Garanflo presented a report on various statistics related to the Licensure and Customer Affairs Division.

**Agenda Item 6 Discussion, recommendation, and possible action regarding unsigned orders from previous meetings.** Ms. Garanflo reported that of the three orders offered at the April 2007 Board meeting two have been approved and one remains pending. The agreed order for one applicant from the December 2006 board meeting is still pending while the applicant searches for a residency training program.

**Agenda Item 7 Discussion, recommendation, and possible action regarding applicants to be considered for licensure, permits, or certification:**

**Item 7a Physician licensure applicants** - There were 504 applicants who met all requirements to be considered for permanent licensure by the full Board. **Mr. Turner moved to recommend to the full board that all 504 applicants for permanent licensure be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Item 7b** - Acudetox certification applicants - There were none.

**Item 7c - Surgical assistant licensure applicants** - There were 5 Surgical Assistant applicants to be considered for approval. **Dr. Benavides moved to recommend to the full board that the 5 Surgical Assistant applicants be approved. Mr. Turner seconded the motion. All voted in favor. The motion passed.**

**Agenda Item 8 - Discussion, recommendation, and possible action regarding licensee requests:**

**Item 8a - Request of physician for activation of canceled physician licenses** There were none.

**Item 8b - Request of physician to return to Active Status from Texas Retired Status** There were none.

**Agenda Item 9 - Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration.**

**Item 9a Surgical Assistants** There were none.

**Item 9b Acudetox** There were none.

**Agenda Item 10 - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations:**

**Item 10a - Applicants for initial certification** - There were 3 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. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Item 10b - Requests for biennial recertification** - There were 3 applications for biennial recertification as a Nonprofit Health Organization for approval. **Dr. Price moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

**Item 10c - Cancellation of organizations certified as Nonprofit Health Organizations** - There was one application to be canceled by request as a Nonprofit Health Organization, and one to be canceled for failure to submit the biennial recertification application. **Mr. Webb moved to recommend to the full**

**board that the request for cancellation as a Nonprofit Health Organization be approved. Mr. Turner seconded the motion. All voted in favor. The motion passed.**

**Agenda Item 11 - Discussion, recommendation, and possible action regarding proposed additions and modifications to board rules:**

**Item 11a Texas Medical Board Rules.** Ms. Garanflo presented the following recommendations:

- Chapter 175, Fees, Penalties, and Forms**, including rule review, and fee increases related to contingency revenue riders and the requirement to produce additional revenue for
1. implementation of SB 29, SB 1731, HB 1973 and salary increases in HB 1.

**Ms. Attebury moved to publish the rules as proposed in the Texas Register for public comment. Dr. Guajardo seconded. All voted in favor and the motion passed.**

**Item 11b Texas Physician Assistant Board Rules.** There were none.

**Item 11c Texas State Board of Acupuncture Examiners Rules.** There were none.

**Agenda Item 12 - Discussion and direction to staff regarding plan to prioritize the licensing of physicians who treat Medicare and Medicaid patients consistent with the contingent rider for FY 08- FY 09 funding for new licensure FTEs.** Ms. Garanflo explained the rider on the boards FY 08-09 appropriation making Licensure exceptional item funding contingent upon giving priority to applicants treat Medicare and Medicaid patients. She discussed the issues related to other statutory requirements to expedite applicants who will be practicing in rural and medically underserved areas. Ms. Garanflo asked the committee for input regarding the plan. The committee discussed how to define those applicants who treat Medicare and Medicaid patients, including setting a length of time that the physicians would be expected to continue to treat Medicare and Medicaid patients. The committee also discussed monitoring compliance of applicants who treat Medicare and Medicaid patients in return for expedited application processing, including random audits and posting information on the boards web site listing physicians who agree to treat Medicare and Medicaid patients and investigating them if complaints are received regarding failure to accept Medicare and Medicaid patients. The committee directed staff to develop a plan for discussion, recommendation, and action at the August board meeting.

**Executive Session was considered. Ms. Southard moved, Dr. Benavides seconded, and the motion passed at 11:00 a.m. to go into executive session for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action and consideration of possible rehabilitation orders under the authority of the Open Meetings Act, GOVERNMENT CODE, 551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009, 155.058, 160.006, 164.007 and 164.203; and Attorney Generals Opinion No. H-484.**

There was no final action, decision, or vote with regard to any matter considered or discussed in executive session. The executive session ended at 2:35 p.m. A certified agenda of the executive session was made.

**Agenda Item 2 - Discussion, recommendation, and possible action regarding applicants appearing concerning eligibility.**

The Licensure Committee conducted hearings to review applicants appearing concerning eligibility. The hearings were conducted in Executive Session for deliberations concerning licensure applications and consideration of possible rehabilitation orders under the authority of the Open Meetings Act, GOVERNMENT CODE, 551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009, 155.058, 160.006, 164.007 and 164.203; and Attorney Generals Opinion No. H-484. Following the hearings, the Committee reconvened and considered the applications.

**Item 2a Physician licensure and physician in training permit**

**Applicant # 550** appeared with counsel before the Committee in executive session after referral by the Executive Director. In open session, **Dr. Guajardo moved to recommend to the full Board that the Applicant be granted a Texas medical license , subject to an administrative penalty in the amount of \$1000. This recommendation is due to the applicants failure to disclose action taken by a health care entity on the physician licensure application.** Factors contributing to this recommendation include the committees determination that although the failure to disclose may not have been willful; the applicant could have been more forthcoming. It is the feeling of the committee that the assessment of an administrative penalty should deter the applicant from failing to disclose this action in the future. **Mr. Turner seconded the motion. All voted in favor. The motion passed.**

**Applicant #551** appeared with counsel 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 an unrestricted Texas medical license. Mr. Turner seconded the motion. All voted in favor. The motion passed.**

**Applicant #481** appeared before the Committee in executive session on referral by the Executive Director. In open session, **Dr. Arambula moved to recommend to the full Board that the applicant be granted a Texas medical license 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, which may affect the practice of medicine.** Factors contributing to this recommendation include an independent medical evaluation which states the applicant does have a mental illness that is likely to present unacceptable impairment to practice medicine safely and reliably if untreated; and the recommendation of a consulting psychiatrist that the applicant continue with treatment. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #556** appeared with counsel 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 due to applicants arrest for and plea of nolo contendere to solicitation of capital murder, a first-degree felony; and revocation of applicants Texas license in March of 2004.** Factors contributing to this recommendation include that the applicants plea constitutes conviction of a first-degree felony; and the applicant has not practiced medicine since 2004. **Dr. Arambula seconded the motion. All voted in favor. The motion passed.**

**Applicant #553** 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 due to probation in two training programs for unprofessional conduct; the applicants admission of unprofessional conduct in medical school; and the results of an independent medical review by forensic psychiatrist that the applicant has a mental condition which may affect the practice of medicine, namely, Personality Disorder, not otherwise specified.** Factors contributing to this recommendation include that the probations were based on numerous areas of concern regarding behavior toward colleagues and staff, including sexual inappropriateness; and the statement of a board consultant forensic psychiatrist that: *(The applicant) does have personality characteristics or disorders that present or are likely to present an unacceptable impairment in judgment, interpersonal skills, or ethical or professional conduct.* **Ms. Southard seconded the motion.**

Dr. Price offered an amendment to the motion. Dr. Price moved to recommend to the full Board that the applicant be granted a Texas medical license 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 probation in two training programs for unprofessional conduct; the applicants admission of unprofessional conduct in medical school; and the results of an independent medical review by forensic psychiatrist that the applicant has a mental condition which may affect the practice of medicine, namely, Personality Disorder, not otherwise specified. Factors contributing to this recommendation include that the probations were based on numerous areas of concern regarding behavior toward colleagues and staff, including sexual inappropriateness; and the statement of a board consultant forensic psychiatrist that: *(The applicant) would benefit from either long term individual psychodynamic psychotherapy, meeting weekly for two years or weekly group psychotherapy focusing on interpersonal dynamics and stress management.* **Dr. Guajardo seconded the motion.**

**Dr. Miller called for a vote on the amendment. Dr. Guajardo, Ms. Attebury, Dr. Price, and Mr. Turner voted in favor. Ms. Southard, Dr. Arambula, Mr. Webb, and Dr. Benavides voted against. Due to the tied vote, the Chair cast a vote to break the tie. Dr. Miller voted against. The amendment to the motion failed. Dr. Miller then called for a vote on the original motion made by Mr. Webb. Ms. Southard, Dr. Arambula, Mr. Webb, and Dr. Benavides voted in favor. Dr. Guajardo, Ms. Attebury, Dr. Price, and Mr. Turner voted against. Due to the tied vote, the Chair cast a vote to break the tie. Dr. Miller voted in favor. The motion passed.**

**Applicant #557** appeared with counsel before the Committee in executive session after referral by the Executive Director. In open session, **Dr. Price moved to recommend to the full Board that the Applicant be determined ineligible for reinstatement of licensure due to the revocation of the applicants Texas medical license in October 2003 due to violations of an Agreed Order that required the applicant to abstain from alcohol, dangerous drugs or controlled substances; and resulting failure to be engaged in active practice of medicine since October of 2003.** Factors contributing to this recommendation include a history of substance abuse, with the first Board order for substance abuse in 1994. **Mr. Turner seconded the motion. All voted in favor. The motion passed.**

**Applicant #552** appeared before the Committee in executive session on referral by the Executive Director. In open session, **Dr. Price moved that the Committee 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 \$2500.** 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. **Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

**Item 2b** Acudetox certification - There were none.

**Item 2c** Surgical assistant licensure - There were none.

**Agenda Item 12** - There being no further business, Dr. Miller adjourned the meeting at 2:45 p.m.