

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

December 7, 2006

The meeting was called to order at 11:28 a.m. by Chair, John Pate, Jr., M.D. Committee members present were Michael Arambula, M.D., Julie Attebury, Jose M. Benavides, M.D., Melinda S. Fredricks, Manuel Guajardo, M.D., Eddie J. Miles, Jr., Charles Oswalt, M.D., Larry Price, D.O., and Annette P. Ragette.

**Executive Session was considered. Dr. Price moved, Dr. Benavides seconded, and the motion passed at 11:30 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 11:58 a.m. A certified agenda of the executive session was made.

**Agenda Item 14 Discussion and direction to staff regarding letters of eligibility to practice medicine in the country of graduation.** The Committee directed staff to continue the current approval process for letters of eligibility and to work with the legislature to implement statute that seeks proof that the applicants medical school is accredited by the country in which it is located.

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

**Item 11a Texas Medical Board Rules**

1. **Chapter 172.15, Licensure**, regarding the proposed rules for a limited Public Health License. **Dr. Oswalt moved to publish the rules as proposed in the Texas Register for public comment. Mr. Miles seconded. All voted in favor and the motion passed.**
2. **Regarding the Boards interpretation of the effect of HB 1173, Chapter 61, Texas Education Code, and Section 32.52, Texas Penal Code**, relating to fraudulent and

substandard schools. Mr. Simpson stated the Committee had nothing to add to the report given by Ms. Shackelford to the Executive Committee.

**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 possible changes to requirements for reporting of medical liability suits and/or claims by applicants.** The Committee directed staff to change the requirements for reporting of medical liability suits and/or claims by applicants to mirror the reporting requirements for licensed physicians outlined in Texas Occupations Code **160.052. REPORT FROM INSURER OR PHYSICIAN.**

**Agenda Item 13 Discussion and direction to staff regarding possible changes to the application professionalism and medical liability questions.** The Committee directed staff to implement all proposed changes to the physician licensure application questions. These changes include language to mirror the medical malpractice reporting requirements for licensed physicians outlined in Texas Occupations Code **160.052. REPORT FROM INSURER OR PHYSICIAN** and language to clarify the Actions and Investigation section to ensure that applicants are aware that full disclosure is required even if the applicant feels the action or investigation is minor or unreportable.

**Executive Session was considered. Dr. Price moved, Mr. Miles seconded, and the motion passed at 12:29 p.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 4:24 p.m. A certified agenda of the executive session was made.

Note: Dr. Oswalt was not present when the Committee reconvened.

**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.

**Applicants Appearing before Subcommittee A:**

**Applicant #525** appeared before the Committee in executive session on referral by the Executive Director. In open session, **Mr. Miles 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 alcohol dependence/abuse and a previous non-public agreed order regarding a Physician in Training Permit. Factors contributing to this recommendation include successful completion of the applicants previous non-public order. **Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

**Applicant #234** appeared before the Committee in executive session on referral by the Executive Director. In open session, **Ms. Fredricks moved to recommend to the full board that the applicant be granted a Texas medical license under a 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 the applicants history of drug abuse and major depression. Factors contributing to this recommendation include the applicants successful completion of a previous public order regarding the applicants Physician in Training Permit. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant # 528** appeared 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 an unrestricted license. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant #526** appeared before the Committee in executive session on appeal of the Executive Directors determination of ineligibility. In open session, **Dr. Arambula recommended to the full Board that the applicant be granted an unrestricted license. Ms. Fredricks seconded the motion. All voted in favor. The motion passed.**

**Applicant #503** appeared before the Committee in executive session on referral by the Executive Director. In open session, **Dr. Arambula moved that the Committee recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to mental impairment based on a diagnosis of schizophrenia (paranoid type) and failure to have been in the active practice of medicine within the last two years. Factors contributing to this recommendation include the recent treatment for the applicants mental condition. **Dr. Arambula further stated that upon receipt of a request for a Physician in Training permit for a fellowship program of no less than one year in Family Medicine, the 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 full physician license in the future. Mr. Miles seconded the motion. All voted in favor. The motion passed.**

**Applicant #532** did not appear.

#### **Applicants Appearing before Subcommittee B:**

**Applicant #530** appeared before the Committee in executive session on appeal of the Executive Directors determination of ineligibility. Dr. Benavides recused himself from consideration of this applicant. In open session, **Ms. Attebury 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 alcohol dependence and abuse and action taken by a health care facility. Factors contributing to this recommendation include the applicants self-report of alcohol dependence and abuse. **Ms. Raggette seconded the motion. All voted in favor. The motion passed.**

**Applicant #488** appeared before the Committee in executive session following deferral from the August 2006 Licensure Committee meeting. In open session, **Ms. Raggette 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 \$2000.** 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.**

**Applicant #514** appeared before the Committee in executive session on appeal of the Executive Directors determination of ineligibility. In open session, **Ms. Raggette recommended to the full Board that the applicant be determined ineligible for licensure due to failure to pass the United States Medical Licensing Exam within three attempts or meet the exceptions to that requirement in place at the time of application.** Factors contributing to this recommendation include the applicants statutory ineligibility. **Ms. Fredricks seconded the motion. All voted in favor. The motion passed.**

**Applicant #513** appeared before the Committee in executive session on referral by the Executive Director. Dr. Arambula recused himself from consideration of this applicant. In open session, **Ms. Raggette moved to recommend to the full board that the applicant be granted a Physician-In-Training Permit under a 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 alcohol abuse. Factors contributing to this recommendation include the applicants recent sobriety date and recent treatment for alcohol dependence. **In addition, Ms. Raggette moved to recommend to the full Board that the Applicant be assessed an administrative penalty in the amount of \$500.** 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. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant #529** appeared before the Committee with counsel in executive session after referral by the Executive Director for predetermination regarding best interests for relicensure. Dr. Arambula recused himself from consideration of this applicant. In open session, **Ms. Raggette moved to recommend to the full Board that the applicants relicensure application be considered to have met the requirement regarding proof that applicants reinstatement would be in the best interest of the public. Further review of the application may now take place, with the understanding that it is possible the applicant may be determined ineligible on this or other criteria based on information not now available to the Board.** **Dr. Price seconded the motion.** In discussion Ms. Fredricks asked how this is in

the best interests of the public. Ms. Raggette stated that the applicant did not have standard of care issues, and had a 30-year practice with no complaints. The issue that caused the revocation of the applicants license was a felony, but not a standard of care issue. **Ms. Attebury, Dr. Guajardo, Mr. Miles, Dr. Price, and Ms. Raggette voted in favor. Ms. Fredricks was opposed. Dr. Benavides abstained. The motion passed.**

**Applicant # 511** appeared before the Committee in executive session on appeal of the Executive Directors determination of ineligibility. In open session, **Dr. Benavides moved to recommend to the full Board that the applicant be determined ineligible for licensure due to lacking the required amount of postgraduate training in the United States or Canada.** Factors contributing to this recommendation include the applicants statutory ineligibility. **Dr. Price seconded. All voted in favor. The motion passed.**

Ms. Raggette commented that both applicants 511 and 514 seemed to be well-qualified, educated physicians and the Board simply does not have the authority to grant licenses in these instances.

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

**Item 3a** Physician licensure and physician in training permit

**Applicant # 486** appeared before the Committee with counsel in executive session pursuant to the Committee granting the applicants motion for rehearing at the Boards October 2006 meeting. In open session, **Dr. Price 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 multiple arrests, primarily alcohol related. Factors contributing to this recommendation include a recent 96-hour treatment program assessment. **Dr. Benavides seconded the motion. Dr. Arambula, Ms. Attebury, Dr. Benavides, Ms. Fredricks, Dr. Guajardo, Mr. Miles, and Dr. Price voted in favor. Ms. Raggette was opposed. The motion passed.**

**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** Mr. Simpson reported that one applicant had been offered an order for a license to practice administrative medicine, and that the order would be included on the full board agenda for approval.

**Agenda Item 15 Discussion and direction to staff regarding exam attempt requirements for certain medical schools.** Dr. McNeese presented a report on the medical students affected by the three attempt licensing exam requirements. Dr. McNeese would like the Board to consider extending or grandfathering medical students who took step one of the USMLE for the first time while the old exam attempt statute was still in place. Committee members noted that students are not yet eligible to apply for licensure and expressed their understanding of the concerns of these students.

**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** Mrs. Garanflo presented a report on four applicants who graduated from the following medical schools; University of Ioannina, Greece, Tjumen State Medical Academy, Russia, Jinan University Medical School, China, and National Defense Medical College, Japan. 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 are 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 October 6, 2006 through December 6, 2006.

**Item 5e Physician licensure process statistics** - Ms. Garanflo presented the November 29, 2006 Customer Affairs Workload Report. Of note the number of applications received so far in Fiscal Year 2007 is not breaking the record set by Fiscal Year 2006, however it is still significantly higher than previous fiscal years.

**Agenda Item 6 Discussion, recommendation, and possible action regarding unsigned orders from previous meetings.** Mr. Simpson reported that 7 orders were offered and 6 orders were accepted during the October 2006 Licensure committee meeting. The order for applicant #501 was initially signed but the applicant subsequently withdrew the application. Applicant #486 did not sign the order that was initially offered, however, the applicant requested a rehearing and was reconsidered at this meeting.

**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 628 applicants who met all requirements to be considered for permanent licensure by the full Board. **Ms. Attebury moved to recommend to the full board that all 628 applicants for permanent licensure be approved. Ms. Raggette seconded the motion. All voted in favor. The motion passed.**

Dr. Oswalt joined the Committee.

**Item 7b - Acudetox certification applicants** - There was 1 Acudetox applicant to be considered for approval. **Ms. Fredricks moved to recommend to the full board that the Acudetox applicant be approved. Ms. Raggette seconded the motion. All voted in favor. The motion passed.**

**Item 7c - Surgical assistant licensure applicants** - There were 3 Surgical Assistant applicants to be considered for approval. **Ms. Raggette moved to recommend to the full board that the 3 Surgical Assistant applicants be approved. Ms. Attebury 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** One request was considered in executive session for activation of a retired medical license. **Applicant # 512** submitted an application for consideration but did not appear. In open session, **Dr. Price moved to reactivate the license upon passage of the Special Purpose Examination (SPEX) or passage of a monitored specialty board recertification exam. The applicant must also pass the Jurisprudence examination and successfully complete a 90 day mini-residency in Internal Medicine, Family Practice or another primary care specialty approved by the Executive Director. Dr. Benavides seconded the motion.**

**Ms. Raggette moved to amend the motion to change 90 day mini-residency to 180 day mini-residency. Ms. Fredricks seconded the amendment. Dr. Arambula, Ms. Attebury, Ms. Fredricks, Dr. Guajardo, and Ms. Raggette voted in favor. Dr. Benavides, Mr. Miles, Dr. Oswalt, and Dr. Price were opposed. The amendment passed.**

**The Committee voted on the motion, as amended. The motion passed.**

**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 12 applications for initial certification as a Nonprofit Health Organization for approval. **Ms. Raggette moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. Dr. Oswalt seconded the motion. All voted in favor. The motion passed.**

**Item 10b - Requests for biennial recertification** - There were 70 applications for biennial recertification as a Nonprofit Health Organization for approval. **Ms. Attebury moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. Dr. Oswalt seconded the motion. All voted in favor. The motion passed.**

**Item 10c - Cancellation of organizations certified as Nonprofit Health Organizations** - There were none.

**Agenda Item 16-** There being no further business, **Ms. Ragette moved to adjourn the meeting. Ms. Fredricks seconded the motion. All voted in favor. The motion passed.** The meeting adjourned at 5:18 p.m.