

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

April 12, 2007

The meeting was called to order at 10:20 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., Eddie J. Miles, Jr., Charles Oswalt, M.D., Larry Price, D.O., and Timothy J. Turner.

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 an order for a physician in training permit holder who has applied for full licensure and will be offered an order with the 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 There were none.

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 February 9, 2007 through April 12, 2007.

Item 5e Physician licensure process statistics Ms. Garanflo presented a report on physician licensure statistics. The screening backlog has decreased due to a new, expedited screening process which focuses on applicants who have been waiting the longest to be screened and who have extremely low complexity applications. Ms. Garanflo reported that the rule changes regarding required documentation are beginning to have an effect; low complexity applications are being completed more quickly, and the number of low complexity applications completed is increasing. Additionally, incomplete applications are now closer to goal than they were last August. The Physician Licensing Seminar held in March was successful and Ms. Garanflo stated that another one is in the planning stages for May. Dr. Miller thanked the staff for all of their hard work.

Agenda Item 6 Discussion, recommendation, and possible action regarding unsigned orders from previous meetings. Ms. Garanflo reported that the two administrative penalties assessed at the February 2007 Board meeting have been paid. 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 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. Oswalt moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

Item 10b - Requests for biennial recertification - There were 5 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. Arambula 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. Turner moved to recommend to the full board that the request for cancellation as a Nonprofit Health Organization be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Executive Session was considered. Mr. Turner moved, Mr. Miles seconded, and the motion passed at 10:55 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 2:00 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 #542 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 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, namely, ADHD. Factors contributing to this recommendation include the applicants acknowledgment of her mental condition and history of compliance with treatment. **Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

Applicant # 535 appeared before the Committee in executive session after referral by the Executive Director. In open session, **Ms. Attebury moved to recommend to the full Board that this applicant be determined ineligible for licensure.** This recommendation is due to incidents of disruptive behavior that resulted in peer review action, and five medical liability suits. Factors contributing to this recommendation include the statement by a Board psychiatric consultant that this applicants interpersonal skills and personal conduct would be significantly impaired and the determination of a Board consultant that the standard of care was not met in two of the five cases. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #549 appeared before the Committee with counsel in executive session after referral by the Executive Director. In open session, **Dr. Price moved to recommend to the full Board that this applicant be determined ineligible for reissuance of licensure.** This recommendation is due to previous disciplinary action by the Texas Medical Board, and the applicants lack of good professional character. Factors contributing to this recommendation include the applicants long history of failure to adhere to the terms and conditions of agreed orders, and the applicants persistent abuse of the judicial process as

evidenced by the repeated filing of false and malicious cases. **Mr. Miles seconded the motion. All voted in favor. The motion passed.**

Applicant #545 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 a potentially dangerous mental condition, namely Obsessive/Compulsive Disorder, Anxiety, and Depression. Factors contributing to this recommendation include a report from a independent psychiatrist stating that the applicant requires indefinite treatment with psychotropic medications for the treatment of his Obsessive-Compulsive Disorder and Major Depression. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #541 appeared before the Committee in executive session on referral by the Executive Director. In open session, **Mr. Turner moved that the Committee recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to action taken by a residency program, the applicants resignation from a residency program in lieu of termination, and the falsification of the physician licensure application. Factors contributing to this recommendation include the applicants minimal training in his intended practice specialty, and the committees determination that the falsification of the application was intentional. **Dr. Arambula seconded the motion. All voted in favor. The motion passed.**

Applicant #543 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 Texas medical license subject to a public reprimand.** 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 #539 appeared before the Committee in executive session on appeal of the Executive Directors determination of ineligibility. In open session, **Dr. Guajardo 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.** Factors contributing to this recommendation include the

applicants statutory ineligibility. **Dr. Arambula seconded the motion. All voted in favor. The motion passed.**

Applicant #546 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Dr. Price moved to recommend to the full Board that the applicant be granted a Texas Medical license under a ten year 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 the applicants history of substance abuse, action taken by another board, and action taken by a health care entity. Factors contributing to this recommendation include the applicants self-report of alcohol dependence and opioid abuse, and the recommendation of the Boards consultant that the applicant be monitored if granted a license. **Mr. Miles seconded the motion. Dr. Arambula, Ms. Attebury, Dr. Benavides, Dr. Guajardo, Mr. Miles, and Dr. Oswalt, and Dr. Price voted in favor. The motion passed.**

Item 2b Acudetox certification - There were none.

Item 2c Surgical assistant licensure - There were none.

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 494 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 493 applicants for permanent licensure be approved. Dr. Arambula 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. Dr. Guajardo 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. Mr. Simpson presented the following recommendations:

1. **Chapter 163, Licensure**, to include amendments to 163.1, Definitions, and 163.2, Full Texas Medical License, regarding recognition of Texas Higher Education Coordinating Board authority to determine a school to be Fraudulent or Substandard and to clarify that any foreign medical school must meet the Boards substantial equivalence requirements; 163.4, Procedural Rules for Licensure Applicants, regarding processing of applications determined to be ineligible to allow appeal to Licensure Committee on one issue, without spending staff time to process the rest of the application; 163.6, Examinations Accepted for Licensure, to delete subparagraph (e) (10-Year Rule) and make it a new 163.7; 163.6, Examinations Accepted for Licensure, adding a new 163.6(e)(4) eliminating requirements to retake the jurisprudence examination; adding a new 163.7, Ten Year Rule, to include the provision previously included in 163.6(e); adding a new 163.8, Authorization to Take Professional Licensing Examination, to set forth in rule the provisions for applicants to take an examination, invoking the exemption from Chapter 61, Subchapter G, Texas Education Code, as provided in 61.303, Texas Education Code; and adding a new 163.9, Only One License, to provide that any outstanding license or permit is canceled upon issuance of another license.
2. **Chapter 166, Physician Registration**, to include amendments to 166.5, Relicensure Following Cancellation for Nonpayment of Registration Fee, to refer to provisions of Chapter 196 for cancellation
3. upon non-payment, relinquishment, or surrender.
4. **Chapter 172, Temporary and Limited Licenses**, to include amendments to 172.5, Visiting Physician Temporary Permit, to remove the requirement of a license in another state, and adding a new 172.14, Limited License for Administrative Medicine, to establish a new limited license for administrative medicine, as authorized by SB 419.
5. **Chapter 173, Physician Profiles**, to include amendments to 173.3, Physician Initiated Updates, requiring updated regarding address changes, conviction, or incarceration within 30 days.
- Chapter 184, Surgical Assistants**, to include amendments to 184.4, Qualifications for Licensure, to delete outdated provisions; amendments to 184.8, License Renewal, to provide for cancellation upon expiration of a permit; and a new 184.26, Voluntary Relinquishment or Surrender of a License, to refer to chapter 196, regarding Relinquishment or Surrender of a license.

Dr. Benavides 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.

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 - There being no further business, Dr. Miller adjourned the meeting at 2:35 p.m.