

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES
August 30, 2012

The meeting was called to order at 10:02 a.m. on August 30, 2012 by Chair, Michael Arambula, M.D. Committee members present were Pat Crocker, D.O., John D. Ellis Jr., Carlos L. Gallardo, and William Roy Smythe, M.D.

Dr. Crocker moved, Mr. Gallardo seconded, that the Committee close the meeting to the public and continue in Executive Session for deliberations concerning Agenda items 2a and 3a. The motion passed. Dr. Arambula announced that the meeting would be closed for deliberations at 10:04 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.

Paulette B. Southard entered the meeting at 10:18 a.m.

Wynne M. Snoots, M.D. entered the meeting at 10:20 a.m.

The Executive Session ended at 3:44 p.m.

Agenda Item 2 - Discussion, recommendation and possible action regarding licensee requests

Item 2a Request of physician for retirement if cancelled license

Licensee #1283 appeared before the Committee, in executive session, to appeal the Executive Directors determination to deny retirement of the licensees cancelled license. Following discussion, **Ms. Southard moved to recommend to the full Board that the request to reinstatethe canceled license be denied due to requestors failure to timely renew the license. Dr. Crocker seconded the motion. All voted in favor. The motion passed.**

Agenda Item 3 - Discussion, recommendation and possible action regarding applicants for licensure, permits, and certification.

Item 3a 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.

Applicant #1257 appeared before the Committee, with counsel, in executive session. In open session, **Ms. Southard moved to recommend to the full Board that the applicant be privately referred to the Texas Physicians Health Program (TXPHP) and upon resolution with the TXPHP be granted a Texas medical license subject to an administrative penalty in the amount of \$2000.** This recommendation is due to the applicant providing false or misleading information to the Board, and applicants diagnosis of a mental condition that has affected the applicants ability to safely practice medicine. Factors contributing to this recommendation include the committees determination that the falsification was intentional and egregious; the applicant has been diagnosed with adjustment disorder that contributed to instances of unprofessional conduct with colleagues for which the applicant was placed on academic probation in 2008 while in training; and the applicant has undergone counseling with a determination that applicants prognosis is favorable. **Dr. Smythe seconded the motion. All voted in favor. The motion passed.**

Applicant #1260 appeared before the Committee, with counsel, in executive session. In open session, **Dr. Crocker moved to recommend to the full Board that the applicant be allowed to withdraw the application for a Texas medical license.** This recommendation is due to providing inaccurate information to the Board on an application for licensure. Factors contributing to this recommendation include the Committees determination that the submission of inaccurate information was not intentional. The applicant will be allowed to file a new application in which the correct information is provided. **Mr. Gallardo seconded the motion. All voted in favor. The motion passed.**

Applicant #1262 appeared before the Committee in executive session. In open session, **Dr. Smythe moved to recommend to the full Board that the applicant be granted a physician in training permit. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #1264 appeared before the Committee, with counsel, in executive session. In open session, **Dr. Snoots** moved to recommend to the full Board that the applicant be granted a physician in training permit. **Ms. Southard** seconded the motion. **All voted in favor. The motion passed.**

Applicant #1265 appeared before the Committee, in executive session. In open session, **Dr. Smythe** moved to recommend to the full Board that, upon compliance with all further requirements of licensure, the applicant be granted subject to the following conditions:

Within 1 year, completion of the Anger Management for Healthcare Professionals Program offered by the UC San Diego PACE Program and 16 hours of CME in disruptive behavior

Referral to the Texas Physicians Health Program (TXPHP)

This recommendation is due to the applicants failure to practice medicine in a professional manner consistent with public health and welfare; unprofessional or dishonorable conduct likely to deceive, defraud or injure the public; inability to safely practice medicine due to a physical or mental condition; and action taken by a health care entity due to unprofessional conduct or professional incompetence likely to harm the public. Factors contributing to this recommendation include applicants termination from employment in 2009 due to repeated instances of disruptive behavior with other medical staff, and the applicants physical and mental conditions that have affected the applicants ability to carry out the applicants responsibilities as a physician. **Ms. Southard** seconded the motion. **All voted in favor. The motion passed.**

Applicant #1266 appeared before the Committee, in executive session. In open session, **Dr. Smythe** moved to recommend to the full Board that the applicant be determined ineligible for due to failure to practice medicine in an acceptable manner consistent with public health and welfare, and action taken by a health care entity due to professional incompetence or unprofessional conduct likely to harm to the public. Factors contributing to this recommendation include that the applicant was placed on academic probation for two years while in medical school, and as a result repeated one year of medical school; the applicant was placed on academic probation as an intern in 2011 due to inadequate clinical patient care management; and the applicant has received no further training since completion of the applicants internship year. **Further, Dr. Smythe** move 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, the physician in training permit may be granted by the Executive Director. **Dr. Crocker** seconded the motion. **All voted in favor. The motion passed.**

Applicant #1267 appeared before the Committee in executive session. In open session, **Dr. Crocker** moved to recommend to the full Board that the applicant be granted an unrestricted license. **Ms. Southard** seconded the motion. All voted in favor. The motion passed.

Applicant #1272 did not appear before the Committee, but requested consideration of the application. In open session, **Mr. Gallardo** moved to recommend to the full Board that a decision be deferred and the applicants file be extended until November 29, 2012 so that the applicant can appear in person before the Committee. **Ms. Southard** seconded the motion. All voted in favor. The motion passed.

Applicant #1275 appeared before the Committee, with counsel, in executive session. In open session, **Dr. Snoots** moved to recommend to the full Board that the applicant be granted an unrestricted license. **Ms. Southard** seconded the motion. **Dr. Gallardo** voted against the motion. All others voted in favor. The motion passed.

Applicant #1276 appeared before the Committee in executive session. In open session, **Mr. Gallardo** moved to recommend to the full Board the applicant be privately referred to the Texas Physicians Health Program (TXPHP) and upon resolution with the TXPHP be granted . This recommendation is due to the applicants inability to safely practice medicine due to substance abuse; and failure to practice medicine in an acceptable professional manner consistent with public health and welfare. Factors contributing to this recommendation include the applicants history of alcohol and drug dependency; applicant relapsed in 2005 and was found in violation of terms of drug monitoring agreement with another state in 2005; applicant has been sober for over four years after successful participation in treatment and compliance with monitoring agreements since 2008; and applicants Texas training program is aware of applicants history and intend to monitor the applicant. **Ms. Southard** seconded the motion. All voted in favor. The motion passed

Applicant #1285 did not appear before the Committee, but the Committee considered the applicants appeal of the non-disciplinary remedial plan offered by the Executive Director. In open session, **Ms. Southard** moved to recommend to the full Board that, upon compliance with all further requirements of licensure the applicant be granted a Texas medical license upon entering into a non-disciplinary remedial plan with the following terms: 8 hours CME in Ethics. 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. Smythe seconded the motion. All voted in favor. The motion passed.**

Applicant #1296 appeared before the Committee in executive session. In open session, **Mr. Gallardo moved to recommend to the full Board that the applicant be granted a Texas medical license, under a nondisciplinary remedial plan, subject to the following conditions: eight hours of CME in Ethics.** This recommendation is due to disciplinary action by a state licensing entity; unprofessional or dishonorable conduct likely to deceive, defraud or injure the public; and writing a false or fictitious prescription for a controlled substance or dangerous drug. Factors contributing to this recommendation include the applicant was disciplined by the New York medical board in 2012 due to unprofessional conduct for writing a prescription for Ambien using another physicians prescription pad with the prescription written out for the applicant but intended for applicants relative. **Dr. Crocker seconded the motion. All voted in favor. The motion passed**

Applicant #1297 appeared before the Committee, with counsel, in executive session. In open session, **Dr. Smythe moved to recommend to the full Board that the applicant be granted a physician in training permit. Mr. Gallardo seconded the motion. All voted in favor. The motion passed.**

Applicant #1304 appeared before the Committee, with counsel, in executive session. In open session, **Ms. Southard moved to recommend to the full Board that the applicant be determined ineligible for a faculty temporary license due to a pending investigation with a state licensing agency. Further, Ms. Southard recommend to the full Board that the applicant be allowed to withdraw the application for a Faculty Temporary License and apply for a Visiting Professor Temporary License that is available despite a pending investigation. Dr. Smythe seconded the motion. All voted in favor. The motion passed.**

Item 3b - Proposed orders offered by the Executive Director.

Ms. Knight reported on 6 physician in training and 14 physician licensure orders offered by the Executive Director and accepted by applicants. **Ms. Southard moved to recommend to the full Board that all 20 orders be approved. Dr. Smythe seconded. All voted in favor and the motion passed.**

Item 3c Physician licensure applicants to be licensed.

There were 114 applicants who met all requirements to be considered for permanent licensure by the full Board. **Ms. Southard moved to recommend to the full Board that all 114 physician licensure**

applicants determined to meet eligibility requirements by staff be approved. Mr. Gallardo seconded the motion. All voted in favor. The motion passed.

Item 3d Surgical assistant licensure applicants to be licensed

There were eight applicants who met all requirements to be considered for licensure by the full Board. **Ms. Southard moved to recommend to the full Board that all eight surgical assistant applicants determined to meet eligibility requirements by staff be approved. Mr. Gallardo seconded the motion. All voted in favor. The motion passed.**

Item 3e Acudetox applicants to be certified

There was one applicant who met all requirements to be considered for certification by the full Board. **Dr. Crocker moved to recommend to the full Board that the one acudetox applicant determined to meet eligibility requirements by staff be approved. Dr. Smythe seconded the motion. All voted in favor. The motion passed.**

Agenda Item 4 Report on physician licensure statistics. Ms. Knight reported that the average time to complete applications for physician licensure in FY 12 was 31 days.

Agenda Item 5a Discussion, recommendation, and possible action regarding cancellation of surgical assistant licenses. There were nine surgical assistants whose licenses have been delinquent for at least one year and who have not completed the registration process. **Dr. Crocker moved to recommend to the full board that the nine surgical assistant licenses be cancelled. Dr. Smythe seconded. All voted in favor and the motion passed.**

Agenda Item 6a - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Applicants for initial certification. There were seven applications for initial certification as a Nonprofit Health Organization for approval. **Mr. Gallardo moved to recommend to the full Board that the seven requests for initial certification as a Nonprofit Health Organization be approved. Dr. Smythe seconded. All voted in favor and the motion passed.**

Agenda Item 6b - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Requests for biennial recertification - There were 25 applications for biennial recertification as a Nonprofit Health Organization for approval. **Ms. Southard moved to recommend to**

the full Board that the 25 requests for biennial recertification as a Nonprofit Health Organization be approved. Mr. Gallardo seconded. All voted in favor and the motion passed.

Agenda Item 6c - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Cancellation of organizations certified as Nonprofit Health Organizations. There were two requests for cancellation of organizations certified as Nonprofit Health Organizations. **Ms. Southard moved to recommend to the full Board that the two requests for cancellation be approved. Dr. Crocker seconded. All voted in favor and the motion passed.**

Agenda Item 7 - Discussion, recommendation, and possible action regarding proposed amendments to board rules:

- a. 22 TAC 163 Licensure
- b. 22 TAC 171 Post Graduate Training Permits
- c. 22 TAC 172 Temporary and Limited Licenses

Ms. Southard moved to recommend to the full Board that the rules be published as presented in the Texas Register for public comment. Dr. Smythe seconded. All voted in favor. The motion passed.

Agenda Item 8 Report on Medical/Graduate Medical Education stakeholders meeting. Ms. Knight presented the outcome of the stakeholders group comprised of representatives from Texas medical schools and graduate medical education programs. The Committee directed staff to submit a request to the Texas Higher Education Coordinating Board to revise curriculum guidelines for an unapproved medical school to mirror the Liaison Committee on Medical Education (LCME) or American Osteopathic Association (AOA) guidelines; ask the stakeholders group to create one committee for evaluation of course equivalents; and to evaluate medical schools on the substantial equivalent list every five years. The Committee was supportive of the stakeholders plan to form a working group to create standard processes and common terminology regarding actions taken.

Dr. Crocker left the meeting at 4:20 p.m.

Agenda Item 9 - Discussion, recommendation, and possible action regarding licensure and registration forms. Ms Knight presented the questions from the registration and application forms, as well as the proposed changes to the registration and application questions related to impairment. The

Committee deferred and requested that this item be set on the agenda for the November meeting. The Committee members will provide their suggestions for the application questions to staff by November 11, 2012, and staff will compile them and have them available for review at the November 29, 2012 Licensure Committee meeting.

Agenda Item 10 - Discussion, recommendation, and possible action regarding issuance of temporary permits. The Committee directed the Executive Director, in consultation with the Licensure Chair, to consider requests for temporary physician in training permits by applicants referred to the Licensure Committee on a case by case basis. The applicant must have a letter of support from the proposed Program Director that indicates full awareness of the issues for referral, and if the Executive Director and Licensure Chair feel that a referral to the TXPHP is appropriate, the referral must be made and the case resolved prior to issuance of the temporary physician in training permit. This situation differs from full licensure in that the applicants are going into monitored settings and the time between board meetings may cause a significant delay in training.

Agenda Item 11 - Discussion, recommendation, and possible action regarding issuance of the Visiting Physician Temporary Permit. The Committee authorized the Executive Director, in consultation with the Licensure Chair, to approve requests for Visiting Physician Temporary Permits in unique cases that serve the best interests of Texas patients. Demonstration of good cause for issuance in these cases would not be precedent setting.

Agenda Item 12 - Discussion, recommendation, and possible action regarding applicant packets. Ms. Robinson outlined the difference between licensure applicant committee packets and ISC packets, and asked the Committee if they wanted the licensure applicant committee packets made available to the licensure applicants as the ISC packets are. After discussion, the Committee determined that they are generally in favor of the plan, but will need time to examine the process in more detail, specifically as regards confidential documents. The Committee directed staff to find a date where the whole Committee can meet to work on this issue as well as the application and registration questions.

Agenda Item 13 - There being no further business, Dr. Arambula adjourned the meeting at 4:48 p.m.