

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

April 2, 2009

The meeting was called to order at 10:05 a.m. by Acting Chair, Irvin Zeitler, D.O. Committee members present were Julie Attebury; Jose M. Benavides, M.D.; James Scott Holliday, D.O.; Timothy J. Turner; and Timothy Webb.

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

Mr. Turner moved, **Dr. Benavides** seconded, that the Committee close the meeting to the public and continue in Executive Session for deliberations concerning licensure applications. The motion passed. Dr. Zeitler 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 the executive session was made.

The Executive Session ended at 3:25 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 #755 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, upon compliance with all further requirements of licensure, the applicant be granted a Texas medical license subject to the following conditions: the applicant must successfully complete a boundary violation course approved by the Executive Director within one year of licensure; and complete 10 hours of**

continuing medical education in ethics and/or professional responsibility within three months of licensure. This recommendation is due to evidence of unprofessional conduct likely to deceive, defraud, or injure the public. Factors contributing to this recommendation include complaints of sexual harassment on more than one occasion against applicant while in residency training. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #734 appeared before the Committee, in executive session, after being deferred for more information by the December 2008 Licensure Committee. In open session, **Mr. Webb moved to recommend to the full Board that a determination on this application be deferred for one year to allow the applicant time to complete a 90-day mini-residency in Neurology to be approved by the Executive Director.** This recommendation is due to failure to demonstrate the active practice of medicine in either of the two years preceding the date of application. Factors contributing to this recommendation include that the applicant has not actively practiced medicine since June 30, 2005. **Further, Mr. Webb moved to recommend to the full Board that upon successful completion of the mini-residency 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 an admission by the applicant that the applicant has a mental condition that would benefit from treatment to assist in the safe practice of medicine. Factors contributing to this recommendation include the recommendation of a board consultant based on psychiatric evaluation of applicant. **Mr. Turner seconded the motion. All voted in favor. The motion passed.**

Applicant #763 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. Holliday seconded the motion. All voted in favor. The motion passed.**

Applicant #746 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 determined ineligible for licensure.** This recommendation is due to action taken by health care entity. Factors contributing to this recommendation include: placement on academic probation during the applicants internship year due to concerns about patient care, fund of knowledge, and unprofessional conduct; and the applicant was not advanced to second year of training and has not received any other training or experience since the applicants internship year. **Further, Dr. Benavides moved to**

recommend to the full Board that if a Physician in Training permit application is received, and no new information is obtained to warrant referral to the Committee, that the application be approved without restrictions. Ms. Attebury seconded the motion. All voted in favor. The motion passed.

Applicant #754 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. Holliday seconded the motion. All voted in favor. The motion passed.**

Applicant #759 appeared, with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Ms. Attebury 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 the applicant 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 #747 appeared before the Committee in executive session, on referral by the Executive Director. In open session, **Ms. Attebury moved to recommend to the full Board that the applicant be granted an unrestricted license. Dr. Holliday seconded the motion. All voted in favor. The motion passed.**

Applicant #486 appeared, with counsel, 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 a Texas medical license under a three-year non-public nondisciplinary agreed rehabilitation order with substantially similar terms and conditions to the applicants current non-public non-disciplinary agreed rehabilitation order in effect for the applicants Physician in Training permit.** This recommendation is due to applicants intemperate use of alcohol. Factors contributing to this recommendation include applicants history of alcohol abuse including two arrests for driving under the influence with one of the arrests occurring while in medical school; and the applicants compliance with the current order for the past two years. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

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 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. **Mr. Turner 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 one order offered by the Executive Director. **Mr. Turner moved to recommend to the full Board that the order 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 565 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 565 physician licensure applicants determined to meet eligibility requirements by staff be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.**
2. Acudetox certification applicants There was one acudetox certification applicant to be considered for approval. **Mr. Turner moved to recommend to the full Board that the acudetox certification applicant determined to meet eligibility requirements by staff be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**
3. Surgical assistant licensure applicants - There were none.

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 there are no unsigned orders 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 January 29, 2009 through March 24, 2009.

Item 5b Physician licensure process statistics Ms. Garanflo presented physician licensure statistics for applicants considered for licensure at this meeting. Statistics from one week ago reflect the estimated average time to process all applicants is 30 days. Additionally, forty-five percent of physician applications were completed for licensure within ten days. Those numbers may change slightly when the final statistics are run.

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 none.

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 was one application for initial certification as a Nonprofit Health Organization for approval. **Mr. Turner moved to recommend to the full board that the request for initial certification as a Nonprofit Health Organization be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Item 8b - Requests for biennial recertification - There was one application for biennial recertification as a Nonprofit Health Organization for approval. **Mr. Turner moved to recommend to the full board that the request for biennial recertification as a Nonprofit Health Organization be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Item 8c - Cancellation of organizations certified as Nonprofit Health Organizations - There were none.

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

- a. Tex. Admin. Code, Chapter 162.1, Supervision of Medical School Students
Mr. Turner moved to recommend to the full board that the rule be published as proposed in the Texas Register for public comment. Mr. Webb seconded the motion. All voted in favor. The motion passed.
- b. Tex. Admin. Code, Chapter 173.1 Profile Contents.
Mr. Turner moved to recommend to the full board that the rule be published as proposed in the Texas Register for public comment. Mr. Webb seconded the motion. All voted in favor. The motion passed.

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

Agenda Item 10 - Discussion, recommendation and possible action regarding acceptance of certification by the Certifying Commission in Medical Management for compliance with the 10-year rule Ms. Garanflo queried the Committee as to whether they would consider a rule change to allow the Certifying Commission in Medical Management certification as a mechanism to meet eligibility for

the ten year rule for applicants requesting licensure for the practice of administrative medicine. The Committee directed staff to conduct research to find if there are any other certifying organizations for physicians who practice administrative medicine or practice as medical directors. The Committee further directed staff to query other state medical boards regarding requirements for the practice of administrative medicine and the certification organizations they recognize.

Agenda Item 11 - There being no further business, Dr. Zeitler adjourned the meeting at 3:55 p.m.