

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

December 11, 2008

The meeting was called to order at 9:47 a.m. by Chair, Michael Arambula, M.D. Committee members present were Julie Attebury; Jose M. Benavides, M.D.; Roberta Kalafut, D.O.; Paulette B. Southard; Timothy J. Turner; Timothy Webb; and Irvin Zeitler, D.O.

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

**Dr. Kalafut** 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. Arambula announced that the meeting would be closed for deliberations at 9:50 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.

The executive session ended at 4:11 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 #728** 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.** This recommendation is due to failure to pass USMLE within three attempts. **Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

**Applicant #549** 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.** This recommendation is due to being out of the active practice of medicine for the last four years; multiple orders by the Board; revocation by the Board; and associating in the practice of medicine while under order of revocation. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

**Applicant #718** appeared with counsel, before the Committee in executive session, on referral by the Executive Director. In open session, **Dr. Zeitler moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to failure to comply with the Medical Practice Act regarding exam attempts and to pass all parts within ten years. **Mr. Turner seconded the motion. All voted in favor. The motion passed.**

**Applicant #390** 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 an unrestricted license.** **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #738** appeared before the Committee, in executive session, on appeal of the Executive Directors determination of ineligibility. In open session, **Ms. Southard moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to failure to pass the Texas Medical Jurisprudence Examination within three attempts. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant # 669** appeared with counsel, 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 granted a Texas medical license under a confidential, non-disciplinary rehabilitation order for a period of three years that includes monthly psychological counseling by a psychologist approved by the Executive Director. The order may not be modified for a period of 24 months.** This recommendation is due to the report of an independent psychiatric evaluation. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant #719** 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. Zeitler seconded the motion. All voted in favor. The motion passed.

**Applicant #729** appeared with counsel before the Committee, in executive session, on appeal of the Executive Directors determination of ineligibility. In open session, **Dr. Kalafut moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to graduation from a medical school that has been disapproved by another state. **Ms. Southard seconded the motion.. All voted in favor. The motion passed.**

**Applicant #731** 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 application be deferred until the applicant undergoes a comprehensive clinical evaluation approved by the Executive Director and to be completed no later than May 1, 2009.** Dr. Zeitler seconded the motion. All voted in favor. The motion passed.

**Applicant #485** appeared with counsel, before the Committee in executive session, on appeal of the Executive Directors offer of an agreed order. In open session, **Mr. Turner moved to recommend to the full Board that the applicant be granted a Texas medical license under a confidential non-disciplinary rehabilitation order that includes the requirements that were included in the agreed order entered upon granting a Physician in Training permit, with the change to reduce the number of required AA meetings from 4 to 2 per week.** This recommendation is due to impairment due to abuse of alcohol. Factors contributing to this recommendation include successful completion of agreed order upon granting a physician-in-training permit **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #734** 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 action be deferred for 6 months to allow applicant to obtain an independent psychiatric examination from a psychiatrist approved by the Executive Director and to include the Minnesota Multiphasic Personality Inventory (MMPI) and Millon Clinical Mutiaxial Inventory (MCMI) evaluations. The applicant must return to the committee for a final determination, which may include a 90-day mini-residency to resolve out of practice issue.** Ms. Southard seconded the motion. All voted in favor. The motion passed.

2. Physician in training permit applicants

**Applicant #730** 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 a Physician in Training permit.** This recommendation is due to conviction of one felony count of conspiracy to distribute cocaine and incarceration in Federal prison from July 2001 to January 2005. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

3. Acudetox certification applicants There were none.
4. Surgical assistant licensure applicants There were none.

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

- a.
  1. 162 Supervision of Medical School and Physician Assistant Students Rule review and possible changes to 162.1 Supervision of Medical Students

Dr. McNeese entered the meeting to lead discussion on this issue. **Dr. Zeitler moved to recommend to the full board that this rule be published as proposed in the Texas Register for public comment. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

## **Agenda Item 2 continued**

### **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 eight orders offered by the Executive Director. **Mr. Webb moved to recommend to the full Board that all eight orders be approved. Ms. Attebury seconded. All voted in favor and 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 2d Applicants determined by staff to meet eligibility requirements.**

1. Physician Licensure Applicants - There were 479 applicants who met all requirements to be considered for permanent licensure by the full Board.
2. Acudetox certification applicants There were three acudetox certification applicants to be considered for approval.
3. Surgical assistant licensure applicants - There were six surgical assistant licensure applicants to be considered for approval.

**Dr. Benavides moved to recommend to the full board that all physician licensure, acudetox certification, and surgical assistant licensure applicants determined to meet eligibility requirements by staff be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed**

**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** Dr. Heather Fork appeared before the Committee to request a return to active status from the Texas Retired Status. After discussion **Dr. Benavides moved to recommend to the full Board that a non-disciplinary order limiting Dr. Forks practice to administrative medicine be offered. Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

**Agenda Item 3 Discussion, recommendation, and possible action regarding applicant requests:**

**Item 3a Requests for Rehearing**

**Applicant #646's request for rehearing was considered. Ms. Southard moved to recommend to the full board that the request for rehearing be denied.** This recommendation is due to no significant new information being presented to the Board. **Dr. Kalafut seconded the motion. All voted in favor. The motion passed.**

**Applicant #687's** request for rehearing was considered. **Ms. Southard moved to recommend to the full board that the request for rehearing be denied** This recommendation is due to no significant new information being presented to the Board. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**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 of the six orders offered at the October 2008 Board meeting, five have been accepted. One applicant withdrew. Two orders are still pending 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 October 2, 2008 through November 25, 2008.

**Item 5b Physician licensure process statistics** Ms. Garanflo presented physician licensure statistics for applicants considered for licensed at this meeting as of several days ago. The average time to process all applicants was 41 days. Those with no expediting factors were completed in an average of 40 days, while applicants with expediting factors were completed in an average of 44 days. The reason that the average completion time was higher for applicants with expediting factors is that this group contained a higher percentage of high complexity applications. Ms. Garanflo also reported that 960 new applications were received during the period September 2008 through November 2008, as compared to 965 applications for the same period last year.

**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 were seven applications for initial certification as a Nonprofit Health Organization for approval. **Dr. Zeitler 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 8b - Requests for biennial recertification** - There were 64 applications for biennial recertification as a Nonprofit Health Organization for approval. **Dr. Zeitler moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Item 8c - Cancellation of organizations certified as Nonprofit Health Organizations** - There were three requests for decertification as a Nonprofit Health Organization for approval. **Dr. Zeitler moved to recommend to the full board that the requests for decertification as a Nonprofit Health Organization be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Agenda Item 10 - Report on Licensure stakeholders meeting** Mr. Simpson reported on the recent licensure stakeholders meeting. A petition for rulemaking was presented to that group concerning physicians licensed in Puerto Rico who had taken the Puerto Rican board examination which is not an acceptable examination in board rule. After discussion, the Committee directed staff to deny the petition for rule making.

**Agenda Item 9a continued -**

2. 166.2 Physician Registration Continuing Medical Education no changes were presented to the committee regarding this section of the rules.

3. 171.7 - Postgraduate Training Permits Inactive Status **Ms. Southard moved to recommend to the full board that this rule be published as proposed in the Texas Register for public comment. Dr. Kalafut seconded the motion. All voted in favor. The motion passed.**
4. 172.8 Temporary and Limited Licenses Faculty Temporary License **Mr. Turner moved to recommend to the full board that this rule be published as proposed in the Texas Register for public comment. Ms. Southard seconded the motion. All voted in favor. The motion passed.**
5. 173.1 Physician Profiles Profile Contents no changes were presented to the committee regarding this section of the rules
6. 175.1 Fees, Penalties, and Forms Application Fees - **Mr. Turner moved to recommend to the full board that this rule be published as proposed in the Texas Register for public comment. Ms. Southard seconded the motion. All voted in favor. The motion passed.**
7. 175.3 Fees, Penalties, and Forms Penalties - **Mr. Turner moved to recommend to the full board that this rule be published as proposed in the Texas Register for public comment. Ms. Southard seconded the motion. All voted in favor. The motion passed.**
8. 185.2 Physician Assistants Definitions - no changes were presented to the committee regarding this section of the rules
9. 192.2 Office Based Anesthesia Services Provision of Anesthesia Services in Outpatient Settings no changes were presented to the committee regarding this section of the rules

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

**Agenda Item 11 - Report on other states policies regarding withdrawal of application** Ms. Garanflo presented a report on this information. Some states report certain withdrawals to the Federation of State Medical Boards (FSMB), although the policy and actions taken by the FSMB with the information is not clear. The Committee directed staff to draft a resolution to present to the FSMB seeking a consistent reporting policy for all state licensing boards and clarification of what information about withdrawals is reported to other boards and how withdrawals are considered in the context of summaries of overall board actions. The draft resolution will be prepared and presented to the Committee at the next meeting for approval.



**Agenda Item 12 - Discussion, recommendation and possible action regarding licensure application and additional forms** - The Committee deferred action on this item and requested that it be placed on the agenda for the next meeting.

**Agenda Item 13 - Discussion, recommendation, and possible action regarding reporting of fines by applicants and licensees** - Ms. Robinson presented information regarding a proposed change in reporting requirements by licensees and applicants related to citations and tickets. Currently licensees and others are not required to report minor traffic violations of less than \$100. The Committee directed staff to increase the limit from \$100 to \$250.

**Agenda Item 14** - There being no further business, Dr. Arambula adjourned the meeting at 5:05 p.m.