

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

June 1, 2006

The meeting was called to order at 12:43 p.m. by Chair, John Pate, Jr., M.D. Committee members present were Julie Attebury, Jose Benavides, M.D., Manuel Guajardo, M.D., Eddie J. Miles, Charles Oswalt, M.D., Elvira Pascua-Lim, M.D., and Larry Price, D.O.

Executive Session was considered. Dr. Price moved, Dr. Benavides seconded, and the motion passed at 12:44 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 General's Opinion No. H-484. Open session resumed at 1:18 p.m. and the Chair announced that no final action or decision was taken during the executive session. A certified agenda was made.

The Licensure Committee conducted hearings to review applicants appearing for rehearing 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 General's Opinion No. H-484. Following the hearings, the Committee reconvened and considered the applications.

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

Item 3a M/span> Physician licensure:

Applicant #444 appeared before the Committee with counsel in executive session pursuant to the Committee's granting a motion for rehearing. In open session, **Dr. Pascua-Lim moved to recommend to**

the full Board that the applicant's prior ineligibility determination be upheld, due to the fact that the applicant is not a graduate of an acceptable unapproved medical school and is a graduate of a medical school that must be proven to be substantially equivalent and that has been disapproved by other state physician licensing agencies. This recommendation is due to the Committee's review of the new information presented. Factors contributing to this recommendation include the failure of the applicant to provide new information that would overcome the Committee's original decision and failure of this applicant to produce evidence showing that the disapproval of the medical school by other states was unfounded. **Dr. Benavides seconded. All voted in favor. The motion passed.**

Item 3b PPhysician in training permits - There were none.

Item 3c PAcudetox certification PThere were none.

Item 3d PSurgical assistant licensure PThere were none.

Executive Session was considered. Dr. Price moved, Dr. Benavides seconded, and the motion passed at 1:19 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 General's Opinion No. H-484. Open session resumed at 4:22 p.m. and the Chair announced that no final action or decision was taken during the executive session. A certified agenda was made.

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 General's Opinion No. H-484. Following the hearings, the Committee reconvened and considered the applications.

Agenda Item 2 - Discussion, recommendation and possible action regarding applicants appearing concerning eligibility.

Item 2a PPhysician licensure:

Applicant #464 appeared before the Committee with counsel in executive session on appeal of the Executive Director's determination of ineligibility. In open session, **Mr. Miles moved to recommend to the full board that the applicant be determined ineligible for licensure.** This recommendation is due to statutory ineligibility based on failure to pass each part of USMLE within 3 attempts and due to the fact that statutory requirements for licensure may not be waived by the Board. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #469 appeared before the Committee in executive session after referral by the Executive Director. In open session, **Dr. Pascua-Lim moved to recommend to the full Board that, upon compliance with all further requirements of licensure, the Applicant be granted a license restricted to the practice of administrative medicine.** This recommendation is due to failure to engage in full-time practice of medicine for 1 year out of last 2 and due to the fact that the active practice of medicine licensure rules cannot be waived by the Board. **Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

Applicant #473 did not appear. Although notice of the Committee meeting had been provided to the applicant, there was no confirmation that the Applicant had received the notice. **Dr. Benavides moved to recommend to the full Board that action on the application be deferred. Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

Applicant #468 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 the Applicant be granted an unrestricted license. Mr. Miles seconded the motion. All voted in favor. The motion passed.**

Item 2b PPhysician in training permit:

Applicant #474 appeared before the Committee in executive session on referral by the Executive Director. In open session, **Dr. Pascua-Lim moved to recommend to the full board that the Applicant**

be determined ineligible for a Physician in Training permit. This recommendation is due to falsification of Physician in Training application and a conviction for misdemeanor theft, a crime involving moral turpitude. Aggravating factors contributing to this recommendation include the applicant's failure to disclose critical information to the Board and to a psychiatrist who performed an Independent Psychiatric Examination. This information included an arrest for driving under the influence of alcohol in December 2005, two weeks before the Independent Psychiatric Examination and action taken by a training program that resulted from the arrest. The Applicant also failed to disclose a depressive episode from 2002 and other instances raising concerns about the use of alcohol. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Item 2a PPhysician licensure:

Applicant #472 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 Applicant #472 be allowed to withdraw the application for licensure, reapply with true and correct responses, and, upon compliance with all further requirements of licensure, the Applicant be granted a license subject to the following restrictions: private, 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 history of major depressive disorder; three incidents of training probation; and falsification of licensure application. Mitigating factors contributing to this recommendation are the results of an Independent Psychiatric Examination, successful completion of a training program and subsequent specialty board certification; while aggravating factors are the applicant's failure to disclose the applicant's history of major depressive disorder. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant # 463 appeared before the Committee with counsel in executive session after referral by the Executive Director. In open session, **Dr. Benavides moved to recommend to the full board that the applicant be granted an unrestricted license. Dr. Guajardo seconded. All voted in favor. The motion passed.**

Applicant #466 appeared before the Committee in executive session after referral by the Executive Director. In open session, **Dr. Price moved to recommend to the full board that the applicant be allowed to withdraw the application for licensure, reapply with true and correct responses, and, upon compliance with all further requirements of licensure, the applicant be**

granted a license subject to the following restrictions: public, non-disciplinary order that includes the requirements specified in the checklist that has been distributed to the members of the Committee. This recommendation is due to disciplinary action by a training program; disciplinary action by a hospital; and falsification of the application for licensure. Aggravating factors contributing to this recommendation are the multiple violations. Mitigating factors are the successful completion of the training program and the resolution of the hospital's concerns. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #465 did not appear. In open session, **Dr. Guajardo moved to recommend to the full board that the applicant be determined ineligible for a Hurricane Katrina Visiting Physician temporary license and full physician licensure.** This recommendation is due to statutory ineligibility based on having a restricted license in another state. Factors contributing to this recommendation are statutory requirements for licensure that cannot be waived by the Board. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Item 2c PAcudetox certification PThere were none.

Item 2d PSurgical assistant licensure PThere were none.

Agenda Item 4 PDiscussion, recommendation and possible action regarding applicant requests:

Item 4a m/span> Requests for Rehearing PThere were none.

Item 4b PRequest for Waiver of Acupuncture License Requirements m/b> There were none.

Agenda Item 5 PReports on:

Item 5a PProposed orders for restriction of physician licensure and physician in training permit applicants PThere were none.

Item 5b PApprovals 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 April 11, 2006 through May 30, 2006.

Item 5e **Physician licensure process statistics** - Ms. Garanflo presented the May 31, 2006 Customer Affairs Workload Report.

Agenda Item 6 **Discussion, recommendation, and possible action regarding applicants to be considered for licensure, permits or certification:**

Item 6a **Physician licensure applicants** - There were 376 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 376 applicants for permanent licensure be approved. Dr. Price seconded the motion. All voted in favor. The motion passed.**

Item 6b - Acudetox certification applicants - There was 1 Acudetox applicant to be considered for approval. **Dr. Benavides moved to recommend to the full board that the 1 Acudetox applicant be approved. Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

Item 6c - Surgical assistant licensure applicants - There was 1 Surgical Assistant applicant to be considered for approval. **Dr. Benavides moved to recommend to the full board that the 1 Surgical Assistant licensure applicant be approved. Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

Agenda Item 7 - **Discussion, recommendation and possible action regarding licensee requests:**

Item 7a - **Request of physician for activation of canceled physician licenses** - There were none.

Item 7b - **Request of physician to return to Active Status from Texas Retired Status** **There were none.**

Agenda Item 8 - Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration.

Item 8a PSurgical Assistants m/b> There were none.

Item 8b PAcudetox PThere were none.

Agenda Item 9 - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations :

Item 9a - Applicants for initial certification - There were three applications for initial certification as a Nonprofit Health Organization for approval. Mr. Miles moved to recommend to the full board that the applications for initial certification as a Nonprofit Health Organization be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.

Item 9b - Requests for biennial recertification - There were none.

Item 9c - Cancellation of organizations certified as Nonprofit Health Organizations - There was one request for de-certification of an organization certified as a Nonprofit Health Organization. Dr. Benavides moved to recommend to the full board that the request for de-certification as Nonprofit Health Organization be approved. Mr. Miles seconded the motion. All voted in favor. The motion passed.

Agenda Item 10 - There being no further business, Dr. Benavides moved to adjourn the meeting. Mr. Miles seconded the motion. All voted in favor. The motion passed. The meeting adjourned at 4:43 p.m.