

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

August 24, 2006

The meeting was called to order at 10:00 a.m. by Chair, John Pate, Jr., M.D. Committee members present were Julie Attebury, Melinda S. Fredricks, Manuel Guajardo, M.D., Eddie J. Miles, Jr., Jose Benavides, M.D., Charles Oswalt, M.D., Larry Price, D.O., and Annette P. Raggette.

Agenda Item 3 Discussion, recommendation, and possible action regarding applicants appearing for rehearing concerning eligibility There were none.

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

Item 4a Requests for Rehearing Applicant #474's request for rehearing was considered. Dr. Price moved to recommend to the full board that the request for rehearing be approved, pending the applicant's achievement of six months of sobriety and subsequent reevaluation by the board's psychiatric consultant. Dr. Oswalt seconded the motion. All voted in favor. The motion passed.

Item 4b Request for Waiver of Acupuncture License Requirements There were none.

Agenda Item 10 - Discussion, recommendation, and possible action regarding requests for approval of fellowships Dr. Price recused himself from this agenda item. Robert C. Canby, M.D. presented the request from Texas Cardiac Arrhythmia seeking approval of a fellowship in Cardiac Pacing & Electrophysiology. Dr. Oswalt moved to recommend to the full board that the request be approved. Ms. Fredricks seconded the motion. Dr. Pate, Ms. Attebury, Ms. Fredricks, Dr. Oswalt, and Ms. Raggette voted in favor. Mr. Miles and Dr. Guajardo were opposed. Dr. Benavides abstained. The motion passed.

Agenda Item 5 Reports on:

Item 5a Proposed orders for restriction of physician licensure and physician in training permit applicants Mr. Simpson reported that one applicant had been offered an order for a license to practice administrative medicine, and that the order would be included on the full board agenda for approval.

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 PMs. Meyer presented a report on one applicant who graduated from D.Y. Patil Medical College, Shivaji University in India. The applicant's medical education has been reviewed by the Executive Director and staff and found to meet appropriate board rules and statute.

Item 5c m/span>Letters of eligibility of physician licensure applicants PTwo letters from the Government of Sint Maarten in the Netherlands Antilles and the Medical Council of Ireland were reviewed.

Item 5d PApplicant 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 June 6, 2006 through August 22, 2006.

Item 5e PPhysician licensure process statistics - Ms. Garanflo presented the August 15, 2006 Customer Affairs Workload Report. Of note, a significant increase in the quantity of application received accounts for the current processing backlog.

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 PThere 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 26 to be cancelled for non-payment and 1 for cancellation by request. **Dr. Benavides moved to recommend to the full board that the licenses be cancelled. Dr. Guajardo seconded the motion. All voted in favor. The motion passed**

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 8 applications for initial certification as a Nonprofit Health Organization for approval. **Mr. Miles moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. Ms. Raggette seconded the motion. All voted in favor. The motion passed.**

Item 9b - Requests for biennial recertification - There were 11 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. Mr. Miles seconded the motion.** Dr. Benavides mentioned that some Nonprofit Health Organizations do not appear to be solely nonprofit. He asked the General Counsel to review the statute regarding Nonprofit Health Organizations in the Medical Practice Act as well as regulations regarding the nonprofit tax status of organizations, then report to the board whether any clarifications in terminology are possible. **All voted in favor. The motion passed.**

Item 9c - Cancellation of organizations certified as Nonprofit Health Organizations - There were none.

Agenda Item 11 - Discussion, recommendation, and possible action regarding unsigned orders from previous meetings PThese will be presented to the Committee at the October 2006 meeting.

Agenda Item 14 - Discussion, recommendation, and possible action regarding request by Nix Health Care System for use of surgical suites by military physicians for procedures to be performed on active duty service men and women and their dependents and retired service men and women and their dependents - The request was considered. **Dr. Guajardo moved to recommend to the full board that the request be approved. Dr. Price seconded the motion. All voted in favor. The motion passed.**

Executive Session was considered. Dr. Price moved, Ms. Fredricks seconded, and the motion passed at 11:35 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 General's Opinion No. H-484. Open session resumed at 4:47 p.m. and the Chair announced that no final action or decision was taken during the executive session. A certified agenda 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 General's Opinion No. H-484. Following the hearings, the Committee reconvened and considered the applications.

Applicants Appearing before Subcommittee A:

Applicant #492 appeared with counsel before the Committee in executive session after referral by the Executive Director. In open session, Dr. Oswalt moved to recommend to the full board that the applicant be granted a Physician in Training permit under a public, non-disciplinary rehabilitation order that includes the requirement for abstinence and drug and alcohol testing and other requirements specified in the Rehabilitation Checklist that has been distributed to the members of the committee. This order supersedes any previous order. This recommendation is due to substance abuse, criminal arrest, and action taken by the Texas Medical Board. Factors contributing to this recommendation include illegal activity and fraud involved with residency training in purchasing drugs. Mr. Miles seconded the motion. All voted in favor. The motion passed.

Applicant #483 appeared before the Committee in executive session after referral by the Executive Director. In open session, Ms. Fredericks moved to recommend to the full board that the applicant be granted a Physician in Training permit under a 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 mental impairment based on depression. Factors contributing to this recommendation include current treatment for depression and treating

physician's recommendation of continued care. **Mr. Miles seconded the motion. All voted in favor. The motion passed.**

Applicant #473 appeared before the Committee in executive session after referral by the Executive Director. In open session, Ms. Fredericks moved to recommend to the full board that decision on the application be deferred until such time that the application is updated and we receive results of an Independent Psychiatric Evaluation by a psychiatrist appointed by the Board. Once all information is received applicant will need to reappear before the Committee. The expiration date of the application shall be extended for 6 months without requiring repayment of the licensure fee. This recommendation is due to action taken by the family practice training program, resignation from a surgery training program, and falsification of the application. Factors contributing to this recommendation include intentional falsification of the application for licensure. Dr. Oswalt seconded the motion. All voted in favor. The motion passed.

Applicant # 486 appeared with counsel 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 the applicant be granted a physician in training permit under a 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 multiple arrests and citations that are primarily alcohol related. Factors contributing to this recommendation include multiple arrests and citations for alcohol related offenses and a conviction for driving while intoxicated within 5 years. **Ms. Fredricks seconded the motion. All voted in favor. The motion passed.**

Applicant #494 appeared before the Committee in executive session after referral by the Executive Director. In open session, Dr. Guajardo moved to recommend to the full board that the applicant be granted a Physician in Training permit under a 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 recent diagnosis of Psychosis, Not Otherwise Specified. Factors contributing to this recommendation include current treatment and an Independent Psychiatric Examination Report stating that the applicant's condition is "well controlled," that the applicant "does not appear to have any mental condition that would cause the applicant to be unable to practice safely and reliably," and that the "training permit should be conditioned upon continuation of

psychiatric care and upon notification of the applicant's attending physicians." **Ms. Attebury seconded the motion. All voted in favor. The motion passed.**

Applicant #478 appeared before the Committee in executive session after referral by the Executive Director. In open session, Dr. Guajardo moved to recommend to the full board that the applicant be granted a Physician in Training permit under a private, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the committee. The applicant will be allowed to withdraw the physician licensure application and then reapply after completing not less than six months in a fellowship program. This recommendation is due to mental impairment based on a diagnosis of Major Depressive Disorder. Factors contributing to this recommendation include current treatment and an Independent Psychiatric Examination Report stating that the applicant's "symptoms seems to be under good control" and that the applicant's "history of severe recurrent depression does indicate that the applicant needs ongoing treatment, including very likely treatment with an antidepressant." **Ms. Fredricks seconded the motion. All voted in favor. The motion passed.**

Applicant #495 appeared with counsel before the Committee in executive session after referral by the Executive Director. In open session, Dr. Oswald moved to recommend to the full Board that the Applicant be granted an unrestricted license. Ms. Fredericks seconded the motion. All voted in favor. The motion passed.

Applicant #485 appeared with counsel before the Committee in executive session after referral by the Executive Director. In open session, Dr. Oswald moved to recommend to the full board that the applicant be granted a Physician in Training permit under a 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 multiple arrests and convictions, including driving while intoxicated in February 2003, and disciplinary actions involving abuse of and dependency on alcohol, and outpatient treatment for alcohol abuse/dependency. Factors contributing to this recommendation include multiple incidents demonstrating the applicant's continued abuse and dependence on alcohol. **Mr. Miles seconded the motion. All voted in favor. The motion passed.**

Applicant #490 appeared with counsel 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

the applicant be granted a Physician in Training permit. Dr. Guajardo seconded the motion. All voted in favor. The motion passed.

Applicants Appearing before Subcommittee B:

Applicant #442 appeared before the Committee in executive session after referral by the Executive Director. In open session, Ms. Raggette moved to recommend to the full board that the applicant be granted a Physician in Training permit under a 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 conviction of a misdemeanor involving moral turpitude, impairment due to a diagnosis of Major Depression, Severe, without psychosis (in remission), and disciplinary action during training. Factors contributing to this recommendation include multiple issues raising concerns about the applicant's fitness to practice medicine. Dr. Benavides seconded the motion. All voted in favor. The motion passed.

Applicant #479 appeared before the Committee with counsel in executive session after referral by the Executive Director. In open session, Mr. Miles moved to recommend to the full board that the applicant be granted a physician in training permit under a 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 alcohol dependence and in-patient treatment for alcohol addiction. Factors contributing to this recommendation include four years of sobriety. Dr. Benavides seconded the motion. All voted in favor. The motion passed.

Applicant #496 appeared before the Committee with counsel in executive session on appeal of the Executive Director's determination of ineligibility. In open session, Ms. Raggette recommended to the full Board that the Applicant be granted a physician in training permit. Dr. Benavides seconded the motion. Factors contributing to this recommendation included that the criminal charges occurred eight years ago, for which the applicant received five years probation requiring completion of 1300 hours of community service and random drug screens. Since that time the applicant has graduated from college Magna Cum Laude and successfully completed medical school without any further incidents. Mr. Miles moved to offer a substitute motion recommending to the full Board that the applicant be granted a physician in training permit under a private, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the committee due to multiple convictions or community supervision for crimes related to alcohol

and drugs. Dr. Oswalt seconded this motion. The Committee Chair called for a vote on Mr. Miles' substitute motion. Ms. Attebury, Ms. Fredricks, Dr. Guajardo, Dr. Benavides, Dr. Price, and Ms. Raggette voted against. The motion failed. The Committee Chair called for a vote on Ms. Raggette's original motion. Ms. Attebury, Ms. Fredricks, Dr. Guajardo, Dr. Benavides, Dr. Oswalt, Dr. Price, and Ms. Raggette voted in favor. Mr. Miles voted against. The motion passed.

Applicant #475 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 certified as an Acudetox Specialist to practice auricular acupuncture for the limited purpose of treating alcoholism, substance abuse, and chemical dependency. Ms. Raggette seconded the motion. All voted in favor. The motion passed.

Applicant #272 appeared before the Committee 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 a license under a private, non-disciplinary rehabilitation order as specified in the Rehabilitation Checklist that has been distributed to the members of the committee. This recommendation is due to diagnosis of Major Depressive Disorder, Recurrent, Unspecified. Factors contributing to this recommendation include continued treatment for depressive disorder and successful compliance with confidential rehabilitation order entered on issuance of physician in training permit. Ms. Raggette seconded the motion. All voted in favor. The motion passed.

Applicant # 488 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 a decision on this licensure application be deferred until such time that the application is updated and we receive results of an Independent Psychiatric Evaluation by a psychiatrist appointed by the Board. Once all information is received applicant will need to reappear before the Committee. The expiration date of the application shall be extended for 6 months without requiring repayment of the licensure fee. This recommendation is due to disciplinary action taken by a training program and falsification of the licensure application. Factors contributing to this recommendation include multiple examples of interpersonal conflicts with co-workers and peers. Ms. Raggette seconded. All voted in favor. The motion passed.

Applicant #493 appeared before the Committee in executive session on appeal of the Executive Director's determination of ineligibility. In open session, Dr. Benavides moved to recommend to the

full board the applicant be determined ineligible for licensure due to statutory ineligibility based on failure to successfully complete 3 years of graduate medical training in the U.S. Factors contributing to this recommendation include statutory requirements that may not be waived. **Mr. Miles seconded the motion. All voted in favor. The motion passed.**

Applicant # 489 appeared before the Committee with counsel in executive session after referral by the Executive Director. In open session, **Ms. Raggette moved to recommend to the full board that the applicant be allowed to withdraw the application for a physician in training permit, reapply with true and correct responses, and, upon compliance with all further requirements be granted a physician in training permit.** Factors contributing to this recommendation include unintentional falsification of the application for licensure. **Mr. Miles seconded the motion. All voted in favor. The motion passed.**

Applicant #484 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 granted a physician in training permit. Ms. Raggette seconded the motion. All voted in favor. The motion passed.**

Applicant #476 appeared before the Committee in executive session on referral by the Executive Director. In open session, **Ms. Raggette moved to recommend to the full board that the applicant be certified as an Acudetox Specialist to practice auricular acupuncture for the limited purpose of treating alcoholism, substance abuse, and chemical dependency. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

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

Item 6a ÆPhysician licensure applicants - There were 894 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 894 applicants for permanent licensure be approved. Ms. Attebury seconded the motion. All voted in favor. The motion passed.**



Item 6b - Acudetox certification applicants - There were 3 Acudetox applicants to be considered for approval. Dr. Oswalt moved to recommend to the full board that the 3 Acudetox applicants be approved. Mr. Miles seconded the motion. All voted in favor. The motion passed.

Item 6c - Surgical assistant licensure applicants - There were none.

Agenda Item 13 - Discussion, recommendation, and possible action regarding proposed

improvements to licensure process - Ms. Garanflo presented a report outlining proposed improvements to the licensure process. The Committee directed staff to collect information on applicants being reviewed for professional liability suits and claims and present a report to the Committee comparing the outcomes of such reviews, categorized by suits and claims, and include the status of the suit or claim at the time of review. Staff requested the Committee's approval to add three medical schools to the list of schools whose graduates do not need to demonstrate substantial equivalence of their education. The schools are the American University of the Caribbean School of Medicine in the Netherlands Antilles, St. George's University School of Medicine in Grenada, and the Universidad Autonoma de Guadalajara in Mexico. The Committee referred this request to the full board with the Committee's recommendation for approval.

Agenda Item 12 - Discussion, recommendation, and possible action regarding proposed additions and modifications to board rules:

Item 12a - Chapter 163.2, Licensure, Full Texas Medical License, Chapter 163.5, Licensure Documentation, and Chapter 163.6, Licensure, Examinations Accepted for Licensure, for streamlining of documentation and general rule cleanup.

Dr. Oswalt moved to publish Chapter 163.2, as proposed in the Texas Register for public comment. Ms. Raggette seconded. All voted in favor and the motion passed.

Ms. Raggette moved to publish Chapter 163.6, as proposed in the Texas Register for public comment. Ms. Attebury seconded. All voted in favor and the motion passed.

Dr. Oswalt moved to publish Chapter 163.5, with the exception of the change to eliminate Form I, as proposed in the Texas Register for public comment. Ms. Attebury seconded. All voted in favor and the motion passed.

Item 12b - Chapter 172.14, Temporary and Limited Licenses, to include the addition of a Limited License for Practice of Administrative Medicine - **Mr. Miles moved to publish the rules as proposed in the Texas Register for public comment. Dr. Oswalt seconded. All voted in favor and the motion passed.**

Agenda Item 15 - 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 6:33 p.m.**