

# **TEXAS MEDICAL BOARD**

## **LICENSURE COMMITTEE MEETING MINUTES**

**February 7, 2013**

The meeting was called to order at 11:01 a.m. on February 7, 2013 by Chair, Michael Arambula, M.D. Committee members present were Carlos L. Gallardo, Wynne M. Snoots, M.D., Paulette B. Southard, Timothy Webb, and Irvin E. Zeitler, Jr., D.O.

**Mr. Webb moved, Dr. Zeitler seconded, that the Committee close the meeting to the public and continue in Executive Session for deliberations concerning Agenda items 2a. The motion passed.** Dr. Arambula announced that the meeting would be closed for deliberations at 11:04 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.

The Executive Session ended at 3:23p.m.

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

**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.

**Applicant #1225** appeared before the Committee in executive session. In open session, **Mr. Webb 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 #1339** appeared before the Committee, in executive session. In open session, **Mr. Webb moved to recommend to the full Board that the applicant be determined ineligible for surgical assistant licensure due to failure to demonstrate compliance with Board rule that the applicant's**

**surgical assistant program be properly accredited.** Factors contributing to this recommendation include that the applicant's surgical first assist program was not accredited by the Commission on Accreditation of Allied Health Education (CAAHEP); and the applicant does not hold a registered nurse degree and therefore the program is not considered substantially equivalent as a registered nurse first assist program approved by the Texas Board of Nursing. **Ms. Southard seconded the motion. All voted in favor. The motion passed**

**Applicant #1343** appeared before the Committee, with counsel, in executive session. In open session, **Mr. Gallardo moved to recommend to the full Board that the applicant determined ineligible for licensure due to unprofessional conduct likely to deceive, defraud or injure the public.** Factors contributing to this recommendation include that in 1998, the applicant pled guilty to the felony offense of transportation of marijuana/possession for purpose of sale, for which the applicant was placed on probation and all charges were subsequently dismissed after the completion of three years on probation. **Ms. Southard seconded the motion. Dr. Snoots voted against the motion. All others voted in favor. The motion passed.**

**Applicant #1344** appeared before the Committee in executive session. In open session, **Ms. Southard moved to recommend to the full Board that the applicant be privately referred to the Texas Physician's Health Program (TXPHP) and upon resolution with the TXPHP be granted a Physician in Training license.** This recommendation is due to the applicant's diagnosis of Generalized Anxiety Disorder and Major Depressive Disorder in 2005, and diagnosis of Hypersomnolence in 2010. Factors contributing to this recommendation include the applicant's relapse of depression resulting in a medication overdose and hospitalization. **Mr. Gallardo seconded the motion. All voted in favor. The motion passed.**

**Applicant #1349** appeared before the Committee, with counsel, 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:**

- **8 hours of CME in Risk Management; and**
- **8 hours of CME in Professional Communications**

This recommendation is due to disciplinary action taken by a licensed hospital due to surrender of clinical privileges while under, or to avoid investigation, based on unprofessional conduct or professional incompetence likely to harm the public, and unprofessional conduct likely to deceive, defraud or injure the public. Factors contributing to this recommendation include the applicant surrendered hospital

privileges in 2010 while under investigation for delayed response to attending the delivery of an infant and failure to care for the infant. **Dr. Zeitler seconded the motion. All voted in favor. The motion passed.**

**Applicant #1350** appeared before the Committee, with counsel, in executive session. In open session, **Dr. Zeitler moved to recommend to the full Board that the applicant be determined ineligible for reissuance.** This recommendation is due to past disciplinary history with the board related to substance abuse; falsification of the Board licensure application; inability to safely practice medicine due to a mental impairment; and time out of the active practice of medicine. Factors contributing to this recommendation include in 2008 the applicant entered into an agreed order with the board due to substance abuse and diversion, and in 2009 the applicant's Texas medical license was automatically suspended due to violation of the 2008 order by testing positive on numerous occasions for EtG. Later that year the applicant surrendered the applicant's license under an agreed order. The applicant's substance abuse problem began in 2003 when the applicant sustained a physical injury and became addicted to pain medication; and within the past five years, the applicant has been treated for opiate addiction, alcohol abuse, and depression. The applicant has not practiced medicine since 2008 and the applicant has failed to demonstrate that if the applicant were to resume the practice of medicine it would be in the public's best interest. **Mr. Gallardo seconded the motion. All voted in favor. The motion passed.**

**Applicant #1351** appeared before the Committee, in executive session. In open session, **Dr. Snoots moved to recommend to the full Board that the applicant granted a Texas medical license, under a nondisciplinary remedial plan, subject to the following conditions:**

- **4 hours of CME in Ethics and**
- **4 hours of CME in Prescribing**

This recommendation is due to action taken by another state licensing entity due to professional incompetence or unprofessional conduct. Factors contributing to this recommendation include in 1998, the applicant's medical license in Ohio was suspended for one year and then placed on probation for 5 years. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

**Applicant #1352** appeared before the Committee, in executive session. 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 the applicant's failure to practice medicine in an acceptable manner consistent with public health and welfare; unprofessional conduct likely to deceive, defraud or injure the

public; action taken by a health care entity due to professional incompetence or unprofessional conduct; and submission of a false statement on an application for licensure. Factors contributing to this recommendation include that the applicant was placed on formal remediation while in residency training in 2010 due to failure to meet the standard of care and fund of knowledge concerns; the applicant subsequently resigned from the program and has not practiced medicine since that time; and the applicant did not report on the application for licensure the action taken while in residency training or the resignation from the training program. **Further, Ms. Southard moved 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. Zeitler seconded the motion. All voted in favor. The motion passed.**

**Item 2b - Proposed orders offered by the Executive Director.**

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

**Item 2c – Physician licensure applicants to be licensed.**

There were 72 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 72 physician licensure applicants determined to meet eligibility requirements by staff be approved. Dr. Zeitler seconded the motion. All voted in favor. The motion passed.**

**Item 2d – Surgical assistant licensure applicants to be licensed**

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

**Item 2e – Acudetox applicants to be certified**

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

**Agenda Item 3 – Report on physician licensure statistics.** Ms. Knight reported that the average time to complete applications for physician licensure in the first quarter of FY 13 was 38 days.

**Agenda Item 4 – Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration.** There was one surgical assistant whose license has been delinquent for at least one year and who has not completed the registration process. **Mr. Webb moved to recommend to the full board that the surgical assistant license be cancelled. Ms. Southard seconded. All voted in favor and the motion passed.**

**Agenda Item 5a - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Applicants for initial certification.** There were four applications for initial certification as a Nonprofit Health Organization for approval. **Dr. Zeitler moved to recommend to the full Board that the four requests for initial certification as a Nonprofit Health Organization be approved. Mr. Gallardo seconded. All voted in favor and the motion passed.**

**Agenda Item 5b - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Requests for biennial recertification -** There were eight applications for biennial recertification as a Nonprofit Health Organization for approval. **Ms. Southard moved to recommend to the full Board that the eight requests for biennial recertification as a Nonprofit Health Organization be approved. Dr. Zeitler seconded. All voted in favor and the motion passed.**

**Agenda Item 6a - Discussion, recommendation, and possible action regarding proposed amendments to board rules:**

- a. 22 TAC 163.6 – Examinations Accepted for Licensure

**Ms. Southard moved to recommend to the full Board that the rule be published as presented in the Texas Register for public comment. Mr. Gallardo seconded. All voted in favor. The motion passed.**

**Agenda Item 6b - Discussion, recommendation, and possible action regarding proposed amendments to board rules:**

- b. 22 TAC 172.8 – Faculty Temporary License

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

**Agenda Item 6c - Discussion, recommendation, and possible action regarding proposed amendments to board rules:**

- c. 22 TAC 175.5 – Payment of Fees and Penalties

**Ms. Southard moved to recommend to the full Board that the rule be published as presented in the Texas Register for public comment. Mr. Gallardo seconded. All voted in favor. The motion passed.**

**Agenda Item 6d - Discussion, recommendation, and possible action regarding proposed amendments to board rules:**

- d. 22 TAC 197.3 – Offline Medical Director

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

**Agenda Item 7– Discussion, recommendation, and possible action on disciplinary terminology** Ms. Knight presented the feedback received from Texas medical schools and postgraduate training programs regarding the proposed disciplinary terminology. The Committee directed staff to clarify to the stakeholders that “Actions to Report/Disclose” was not an attempt to institute ongoing reporting requirements for medical schools, but rather to clarify terminology regarding events that the Board would be interested in, in the minority of cases where information is requested from medical schools. Staff was asked to solicit specific language for guidelines from the stakeholders and report in that at the April Board meeting. Staff was also directed to add discussion of this topic to the agenda for the planned July 10, 2013 Medical/Graduate Medical Education Stakeholders meeting.

**Agenda Item 8 - Discussion, recommendation, and possible action regarding remedial plans offered by the Executive Director.** Ms. Knight reported that in April 2010 the Board authorized the Executive Director in consultation with the Licensure Chair to offer orders with administrative penalties to applicants in keeping with the guidelines for Enforcement fast track penalty orders. Since then, those orders have been replaced with remedial plans. The Committee authorized the Executive Director in

consultation with the Licensure Chair to offer remedial plans to applicants in keeping with the current penalty guidelines.

**Agenda Item 9 - Discussion, recommendation, and possible action regarding licensure and registration forms.** Ms. Knight presented the Committee with proposed changes to the questions on the licensure application and registration forms. The Committee made some changes, but directed staff to pend any further action until specific input on the disciplinary terminology guidelines had been solicited from the Medical/Graduate Medical Education Stakeholders Workgroup, as that would impact the section on Medical Education and Training.

**Agenda Item 10** - There being no further business, Dr. Arambula adjourned the meeting at 4:22 p.m.