

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

April 7, 2011

The meeting was called to order at 8:05 a.m. on April 7, 2011 by Chair, Michael Arambula, M.D. Committee members present were, James “Scott” Holliday, D.O., Wynne M. Snoots, M.D., Timothy J. Turner and Paulette B. Southard.

Mr. John D. Ellis Jr. entered the meeting at 8:10 a.m.

Agenda Item 10 - Discussion, recommendation, and possible action regarding applicants found to have participated in postgraduate training programs without Physician in Training permit.

Following discussion, the Committee directed staff to issue a license or permit in cases where there is no proof an applicant purposefully practiced without a permit. Further, the Committee directed staff to notify the Program Directors of the training programs in which this occurs that if there is a second occurrence, the matter may be referred for investigation and that the Program Directors’ licenses may be subject to disciplinary action.

Jose M. Benavides, MD and Mr. Timothy Webb entered the meeting at 8:15 a.m.

Agenda Item 13 – Discussion, recommendation, and possible action regarding request to withdraw pain management clinic certification application. The committee discussed general policy issues related to allowing applicants to withdraw after being referred to the Licensure Committee for a determination of eligibility or being determined ineligible by the Executive Director. No action was taken on the withdrawal requests under consideration at this time.

Agenda Item 14 - Discussion, recommendation, and possible action regarding investigation of complaint against physician applicants. Ms. Robinson requested guidance on the recommended procedure for complaints received by the agency against applicants for licensure. Following discussion, the Committee directed that staff confer with the chair of the Licensure Committee, following the general policy that unless emergency action is needed or the complaint relates to the unlicensed practice of medicine on behalf of certain applicants, complaints are to be handled by the Licensure Division as part of the application process.

Agenda Item 13 – Discussion, recommendation, and possible action regarding request to withdraw pain management clinic certification application.

Arthur Hernandez, MD, owner, Southwest Pain Clinic appeared with counsel, on referral by the Executive Director for a determination as to whether withdrawal of his pain management clinic certification application would be allowed.

Ms. Southard moved, and Dr. Holliday 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 9:00 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 9:15 am.

Dr. Holliday moved to recommend to the full Board that Dr. Hernandez be allowed to withdraw his application for pain management clinic registration due to the fact that the evidence presented supported the conclusion that Dr. Hernandez' practice met the requirements for exemption. Mr. Ellis seconded the motion. Dr. Holliday, Mr. Ellis, Dr. Snoots, Mr. Turner, and Dr. Benavides voted in favor. Ms. Southard and Mr. Webb were opposed. The motion passed.

Gerald Ratinov, MD, owner, Abundant Health & Weight Loss Center/Astrodome Health Clinic, did not appear. Dr. Ratinov's application was considered on referral by the Executive Director for a determination as to whether withdrawal of his pain management clinic certification application would be allowed. **Dr. Snoots moved to recommend to the full Board that Dr. Ratinov's request be denied. Ms. Southard seconded the motion. All voted in favor and the motion passed.**

Agenda Item 2 - Discussion, recommendation and possible action regarding licensee requests:

Item 2a - Request of physician for activation of canceled physician licenses –

Applicant #1111's appeal of the Executive Director's determination to deny reinstatement of the applicant's cancelled license was considered. Following discussion, **Dr. Benavides moved to**

recommend to the full Board that the applicant's request be denied. Ms. Southard seconded the motion. This recommendation is due to the fact that the applicant decided not to register the applicant's license after being given proper notice by the board. **Dr. Benavides, Ms. Southard, Mr. Turner and Dr. Arambula voted in favor. Mr. Webb, Mr. Ellis, Dr Snoots and Dr Holliday were opposed as they felt the applicant had good cause, at the time, for deciding not to register the license. As Chair, Dr. Arambula rescinded his vote to break the tie and the motion failed.**

Dr Holliday moved to recommend to the full board that this appeal be referred to the full board for discussion and action. The motion was seconded by Ms. Southard. Dr. Snoots, Dr. Holliday, Ms. Southard and Mr. Turner were in favor. Mr. Webb, Dr. Benavides and Mr. Ellis were opposed. The motion passed.

Note – at the Full Board meeting on April 8, 2011, after discussion, **Dr. McMichael moved, Ms. Southard seconded, and the motion passed to denied to reinstate the licensure of Applicant 1111, because the applicant is not eligible for reinstatement.**

Item 2b - Request of physician to return to Active Status from Texas Retired Status – There were none.

Agenda Item 3 - Discussion, recommendation and possible action regarding applicants for licensure, permits, and certification:

Item 3a - Applicants for pain management clinic certification.

Philip M. Cantu, MD, owner, Interventional Spine Solutions appeared with counsel, on referral by the Executive Director for a determination of eligibility. Mr. Ellis moved to recommend to the full board that Dr. Cantu's application for pain management clinic certification be denied. This recommendation is due to the terms of his August 21, 2009 Agreed Order, which constituted grounds for ineligibility for certification under Tex. Occ. Code, Sec. 167.201(a)(3), which provides that the owner or operator of a pain management clinic may not have been subject to disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying, or selling a controlled substance. **Ms. Southard seconded the motion. All voted in favor the and motion passed.**

Mr. Turner moved, Dr Holliday 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 9:55 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 5:37 p.m. Mr. Turner left the meeting while the Committee was still in Executive session.

Item 3b – 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 and Physician in Training Permit applicants –

Applicant #302 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, upon compliance with all further requirements of licensure, the applicant be granted a Texas medical license subject to the following conditions under an indefinite public disciplinary order: the applicant be referred to the Texas Physician's Health Program (TPHP) with the suggestion that the TPHP conduct a psychiatric evaluation to evaluate a possible personality disorder and applicant's interpersonal and communication skills; the applicant's practice be limited a group practice setting; a chart monitor be required for 8 monitoring cycles; within a one year period of time, the applicant be required to take 8 hours CME in Physician-Patient Relationships/Communications and 8 hours in Risk Management; and that modification or termination cannot be requested for at least two years from the date of the entry of this order.** This recommendation is due to disciplinary action taken by another state licensing board and a health care entity due to unprofessional conduct or professional incompetence likely to harm the public; failure to practice medicine in a manner consistent with public health and welfare; and time out of the active practice of medicine. Factors contributing to this recommendation include: that the applicant's Indiana medical license was indefinitely suspended in 1999

as a result of substandard care provided to patients and disciplinary action taken by a hospital; the applicant's Ohio license was revoked as a result of action taken by the Indiana medical board; the applicant has undergone the KSTAR program in order to address out of practice issues; although both the Indiana and Ohio licenses have been reinstated, there is sufficient evidence from the initial evaluation from the KSTAR program to identify issues that warrant further remediation; and the Indiana Board identified issues requiring a psychiatric evaluation. **Dr. Holliday seconded the motion. All voted in favor. The motion passed.**

Applicant #447 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 a decision on this application be deferred and the question of whether the applicant's practice under his current license is consistent with the scope of that license be referred to the Investigations Department for review. Upon the completion of that investigation, the results of that investigation will be provided to the Committee for review and to the Board for whatever action is deemed necessary at that time. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #687 appeared before the Committee with counsel in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant's Texas medical license be reissued under a public order that includes the requirements specified in the checklist that has been distributed to the members of the Committee.** This recommendation is due to the applicant's history of substance abuse; disciplinary history with the board based on substance abuse, including licensure suspension based on intemperate use of alcohol; criminal history including two arrests for driving while under the influence; and time out of the active practice of medicine since 2003. Factors contributing to this recommendation include the applicant's demonstrated sobriety including AA participation and PHR County medical society activities, CME obtained since 2004, statement by treating psychiatrist supporting the applicant's fitness to practice medicine, completion of the KSTAR program with excellent evaluations and recommendations, and the applicant's demonstration that the applicant's return to medicine is in the public's best interest. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #889 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 denied reissuance of applicant's prior medical license.** This recommendation is due to the applicant's past disciplinary history with board including multiple orders eventually resulting in the

suspension and revocation of the applicant's license, time out of the active practice of medicine, and failure to demonstrate that reissuance is in the public's best interest. Factors influencing this recommendation include that Texas Medical Board actions were related to intemperate use of alcohol and drugs, writing fraudulent prescriptions and the applicant's criminal history including multiple DWIs, and felony conviction for intoxicated assault with a motor vehicle and failure to render aid resulting in serious injuries to two pedestrians for which applicant was subsequently incarcerated for two years; that the applicant has not practiced medicine since March 2005; and the applicant's failure to show that the applicant's services are needed and would benefit the citizens of Texas. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #937 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 a telemedicine license.** This recommendation is due to a conviction of a felony, unprofessional or dishonorable conduct likely to deceive, defraud or injure the public and disciplinary action by another state licensing entity. Factors contributing to this recommendation include the applicant being convicted of a felony for a sex offense against a child and that medical boards in four other states took disciplinary action against the applicant's medical licenses based on the applicant's felony conviction. **Dr Benavides seconded the motion. Dr. Benavides, Ms. Southard, Mr. Webb, Mr. Ellis, and Dr. Holliday voted in favor. Dr. Snoots abstained. The motion passed.**

Applicant #1036 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Snoots 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 #1058 appeared with counsel, before the Committee, in executive session, on appeal of the administrative penalty proposed by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that applicant be granted a license subject to an administrative penalty in the amount of \$8000.** This recommendation is due to providing false or misleading information to the Board on multiple applications for licensure. Factors contributing to this recommendation include the committee's determination that the falsification was intentional. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1059 did not appear before the Committee, but requested the appeal of the Executive Director's determination of ineligibility be considered. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be determined ineligible for licensure for failure to pass a licensure examination within the required number of years.** Factors contributing to this recommendation include: that the applicant required 14 years to pass all sections of the USMLE, which is 7 more years than is allowed by Sec. 155.051 of the Tex. Occ. Code. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #1060 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to: inability to safely practice medicine due to intemperate use of drugs or alcohol; disciplinary action taken by a health care entity based on unprofessional conduct or professional incompetence likely to harm the public; placement on deferred adjudication community supervision for a felony; action taken by another state licensing board. Factors contributing to this recommendation include the applicant's history of substance abuse; while in residency training; that the applicant was placed on probation due to the applicant's substance abuse, and when the applicant relapsed, the applicant resigned from the program in lieu of further disciplinary action; that the applicant was placed on deferred adjudication community supervision for the felony offense of obtaining a controlled substance by fraud; and that the applicant was required to sign a five-year agreement that included drug testing and participation in a 12-step recovery program as a condition for licensure in another state based on substance abuse history. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #1061 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr Holliday moved to recommend to the full Board that the applicant be granted an unrestricted license. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1062 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 granted an unrestricted license. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1070 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 determined ineligible for licensure.** This recommendation is due to disciplinary action taken by a health care entity based on unprofessional or dishonorable conduct; failure to practice medicine in an acceptable manner consistent with public health and welfare due to failure to exercise diligence in the applicant's professional practice; and concern regarding the applicant's possible impairment due to mental condition. Factors contributing to this recommendation include the applicant being placed on academic warning on two occasions while in medical school due to failure to pass classes. While in residency training, the applicant was placed on a remedial plan due to several unexcused absences and tardiness. The applicant subsequently resigned in 2010 due to personal reasons while under investigation. **In addition, Mr. Webb moved to recommend to the full Board that upon the Board's receipt, within one calendar year of the Board's decision on this matter, of a request for a physician-in-training permit of no less than two years in duration, the physician-in-training permit may be granted by the Executive Director at the same time that the applicant is referred to the Texas Physician Health Program. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1071 appeared, with counsel, before the Committee, in executive session, on appeal of the Executive Director's determination. In open session, **Mr. Ellis 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 #1074 appeared with counsel, before the Committee, in executive session, on appeal of the Executive Director's determination. In open session, **Dr. Benavides moved to recommend to the full Board that applicant be granted a license subject to an administrative penalty in the amount of \$2000.** This recommendation is due to providing false or misleading information to the Board. Factors contributing to this recommendation include the committee's determination that the falsification was intentional. **Dr. Holliday seconded the motion. All voted in favor. The motion passed.**

Applicant #1075 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be granted a Texas medical license subject to the following terms and conditions: an Administrative Penalty in the amount of \$2000, referral to the Texas Physician's Health Program within 6 months, and restriction to a group/institutional practice setting approved by the Executive Director for a period of two years** This recommendation is due to disciplinary action taken by a health

care entity related to unprofessional conduct or professional incompetence likely to harm the public and falsification of an application for licensure. Factors contributing to this recommendation include applicant being placed on academic warning in 2004 and required to take a three-month leave of absence in 2005 while in medical school due to poor academic performance; the applicant being placed on professional remediation in 2008 and on probation in 2009 while in residency training due to absenteeism; and the applicant's failure to report the actions taken while in medical school on application for licensure. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1081 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be granted an unrestricted license. Mr. Webb seconded the motion. All voted in favor. The motion passed**

Applicant #1083 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be granted an Administrative Medicine license. Dr. Benavides seconded the motion. All voted in favor. The motion passed**

Applicant #1084 appeared, with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be granted an unrestricted license. Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Applicant #1086 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Holliday moved to recommend to the full Board that the applicant be granted an unrestricted license. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1089 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to the applicant's inability to safely practice medicine due to a mental condition; failure to practice medicine in an acceptable manner consistent with public health and welfare; unprofessional or dishonorable conduct likely to deceive, defraud, or injure the public; and action taken by a health care entity due to

unprofessional conduct or professional incompetence likely to harm the public. Factors contributing to this recommendation include: that the applicant has attention deficit disorder that adversely impacted the applicant's performance while in medical school and residency training; in 2009 while in residency training, the applicant was placed on academic probation due to competency and professionalism issues; the applicant's contract was subsequently not renewed; in 2010 at a second residency training program, and the applicant resigned from the program in lieu of termination due to failure of three rotations and lack of professionalism. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Applicant #1091 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to the applicant's prior disciplinary history with the Texas Medical Board and disciplinary actions by health care entities; commission of a felony and misdemeanor related to alcohol consumption and violation of federal and state laws related to the practice of medicine; inability to safely practice medicine due to intemperate use of drugs or alcohol; and time out of the active practice of medicine. Factors contributing to this recommendation include discipline by the Board in 1992 due to standard of care and substance abuse issues, a subsequent surrender of the applicant's license in 1992 due drug diversion, and denial of reinstatement of licensure in 2000. As a result of the Board's disciplinary actions, the applicant was excluded from Medicaid and Medicare and hospital clinical privileges were suspended. Additional factors include the applicant's conviction of a third degree felony and placement on probation for 10 years for the offense of Obtaining a Dangerous Drug by Fraud; a 1996 conviction of driving while ability impaired; the applicant's long history of substance abuse with multiple relapses; and that the applicant has not practiced medicine since 1992 and has not taken sufficient steps to keep medical knowledge current. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Applicant #1092 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 determined ineligible for a Texas medical license.** This recommendation is due to the applicant being convicted of a felony, prior disciplinary action taken by the Texas Medical Board, intemperate use of drugs or alcohol and time out of the active practice of medicine. Factors contributing to this recommendation including the applicant being convicted of possession of child pornography in 2000 and subsequent incarceration for 41 months followed by placement on supervised release for 5 years; the applicant's Texas medical license was suspended in 2002 due to the applicant's incarceration and

subsequently revoked in 2003 based upon applicant's final conviction of a felony; the applicant's history of alcohol abuse; and that the applicant has not practiced medicine since September 2000. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1100 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Holliday 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 #1101 appeared, with counsel, before the Committee, in executive session, on appeal of the Executive Director's determination. In open session, **Mr. Ellis moved to recommend to the full Board that applicant be granted a license subject to an administrative penalty in the amount of \$2000.** This recommendation is due to providing false or misleading information to the Board. Factors contributing to this recommendation include the committee's determination that the falsification was intentional. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #1103 appeared, with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Holliday 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 #1104 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis 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 #1107 appeared before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Snoots moved to recommend to the full Board that the applicant be granted a physician in training permit subject to the applicant's completion of the Vanderbilt University course in professional boundary violations within six months of the date of the entry of this order.** This recommendation is due to disciplinary action taken by a health care entity based on unprofessional conduct or professional incompetence likely to harm the public. Factors contributing to this recommendation include the applicant was counseled and warned in 2008 while in residency training due to professional issues and in 2010, the applicant was terminated from residency training after a

determination that the applicant had engaged in inappropriate workplace conduct. **Dr. Holliday seconded the motion. All voted in favor. The motion passed.**

Applicant #1108 appeared before the Committee, in executive session, on appeal of the Executive Director's determination. In open session, **Mr. Ellis 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 an administrative penalty in the amount of \$5,000.** This recommendation is due to failure to practice medicine in a professional manner consistent with public health and welfare; dishonorable or unprofessional conduct likely to deceive, defraud or injure the public; disciplinary action by a health care entity based on conduct or professional incompetence likely to harm the public; and submission of a false or misleading statement on an application for licensure. Factors contributing to this recommendation include: while in residency training in 1999, the applicant was placed on probation and was subsequently terminated due to unprofessional conduct, lack of diligence, and poor performance; the applicant subsequently participated in a two-year family medicine residency and met all requirements; the applicant failed to report the applicant's participation in and subsequent training probation during residency training in 1999; the applicant failed to report a 2007 arrest for reckless driving on licensure application; and the applicant admitted that a third party submitted the application without the applicant's review. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Applicant #1110 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Mr. Ellis moved** to recommend to the full Board that the applicant is not deemed ineligible for relicensure pursuant to Board rule 163.7, as the applicant has demonstrated good cause under Section 156.005 of the Medical Practice Act. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

2. Acudetox certification applicants – There were none.
3. Surgical assistant licensure applicants –

Applicant #1090 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 granted a surgical assistant license subject to an administrative penalty in the amount of \$2,000.** This recommendation is due to providing false or misleading information to the Board. Factors contributing to this recommendation include the committee's determination that the falsification was intentional. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Dr. Holliday moved, Ms. Southard 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 7:30 p.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 8:15 p.m.

Item 3b was resumed – Applicants appearing concerning eligibility.

Applicant #928 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr Snoots moved to recommend to the full Board that the applicant be determined ineligible for licensure.** This recommendation is due to unprofessional or dishonorable conduct likely to deceive, defraud or injure the public; inability to safely practice medicine due to a mental health condition; failure to practice medicine in an acceptable manner consistent with public health and welfare; disciplinary action by health care entity based on unprofessional conduct or professional incompetence likely to harm the public; prior disciplinary action by TMB; disciplinary action taken by other state medical boards; and time out of the active practice of medicine. Factors contributing to this recommendation include that the applicant was arrested in 2003 for criminally negligent homicide; in 2001, the applicant's hospital privileges were suspended due to the applicant's failure to meet the standard of care in the treatment of a terminal patient; in 2002, the TMB temporarily suspended the applicant's license due to standard of care violations and subsequently revoked the applicant's license in 2003 based on the applicant's failure to meet the standard of care in the treatment of a terminal patient; in 2006, the Pennsylvania medical board revoked the applicant's license based on the TMB revocation; the applicant has not actively practiced medicine since August 2002; and the applicant was diagnosed with Narcissistic Personality Disorder that has adversely impacted patient care. **Further, Dr. Snoots moved to recommend to the full board that upon receipt within one year of an application for a physician in training permit (PIT), that the applicant be granted a PIT subject to the following conditions: the training must be for a one-year period in a training program approved by the executive director.** This recommendation is based on the KSTAR assessment recommending additional training to address

competency issues. **Ms. Southard seconded the motion. Dr. Snoots voted in favor. Mr. Webb, Dr. Benavides, Mr. Ellis and Ms. Southard were opposed. Dr. Holliday abstained. The motion failed.**

Mr. Webb then moved to recommend to the full Board that the committee refer the applicant to the full board for a determination. Dr. Holliday seconded the motion. In discussion Mr. Webb clarified that the referral should be made to the June 3, 2011 full Board meeting to allow the applicant to have counsel present and to allow the full Board time to read the materials. This recommendation is due to the gravity of the case and the magnitude of the determination. **Mr. Webb, Dr. Benavidez, Mr. Ellis, and Dr. Holliday voted in favor. Ms. Southard was opposed and Dr. Snoots abstained. The motion passed.**

Item 3c – Applicants appearing for rehearing concerning eligibility–

Applicant #998 appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Holliday 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: within 30 days of entry of the order the applicant must provide a written protocol of a process to be developed by the applicant whereby all records for Texas patients will be over-read by another Texas board certified radiologist; the names and credentials of the radiologist or radiologists who will perform the over-reads be submitted to the Executive Director in advance for approval; the over-reading process be in place for a period of one year; independent corroboration of the over-reads be submitted directly to the board; and that within 30 days of approval by the Executive Director the applicant implement the protocol.** This recommendation is due to disciplinary action taken by peers due to unprofessional conduct or professional incompetence and failure to practice medicine consistent with public health and welfare. Factors contributing to this recommendation include: placement on academic probation during residency training due to academic deficiencies and that the Applicant subsequently resigned from the program; Applicant resigned from hospital clinical position during a pending investigation of allegations concerning quality of care involving computerized tomography (C.T.) readings of two patients, and recommendation by the medical executive committee that Applicant's C.T. privileges be temporarily suspended until the completion of a three-month fellowship, and a subsequent evaluation of Applicant's C.T. cases for six months; two health care liability claims from 2005 in which the Applicant violated the standard of care, causing one patient to have residual neurological deficits; Applicant has undergone recent peer review and

his discrepancy rate for 2010 was 0.0%; and, Applicant has been recently appointed Chairman of the Quality Assurance Council for a health care entity which is evidence of Applicant's current competency and ability **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Item 3d – Proposed orders offered by the Executive Director.

1. Physician Licensure– Ms. Kaufman reported on seven orders offered by the Executive Director and accepted by applicants. **Mr. Webb moved to recommend to the full Board that all 7 orders be approved. Dr. Holliday seconded. All voted in favor and the motion passed.**

2. Physician in Training Applicants - There were none.
3. Acudetox certification applicants - There were none.
4. Surgical assistant licensure applicants – There were none.

Item 3e – Applicants determined by staff to meet eligibility requirements.

1. Physician Licensure Applicants - There were 76 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 76 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 were none
3. Surgical assistant licensure applicants - There were eight surgical assistant applicants to be considered for approval. **Mr. Webb moved to recommend to the full Board that all 8 surgical assistant applicants determined to meet eligibility requirements by staff be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Item 3f – Applicants for Conversion to Administrative Medicine Licenses - Ms. Garanflo reported that nine physicians who had been issued licenses under orders limiting their practice to Administrative Medicine met requirements for conversion to the the recently implemented Administrative Medicine license type. **Ms. Southard moved to recommend to the full Board that all 9 conversions be approved. Mr. Webb seconded. All voted in favor and the motion passed.**

Item 4a – Requests for Rehearing – There were none

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

Agenda Item 5 – Discussion, recommendation and possible action regarding **unsigned orders from previous meetings** – There were none

Agenda Item 6 – Report on physician licensure statistics. Ms. Garanflo reported that the average time to complete applications for physician licensure was well within the 51 day target.

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 nine acudetox whose licenses have been delinquent for at least one year and who have not completed the registration process. **Mr. Webb moved to recommend to the full board that the acudetox licenses be cancelled. Ms. Southard seconded. All voted in favor and the motion passed.**

Agenda Item 8a - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Applicants for initial certification. There were nine applications for initial certification as a Nonprofit Health Organization for approval. **Mr. Webb moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. Ms. Southard seconded. All voted in favor and the motion passed.**

Agenda Item 8b - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Requests for biennial recertification - There were nine applications for biennial recertification as a Nonprofit Health Organization for approval. **Ms. Southard moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Agenda Item 8c - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: 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. 22 TAC 172 – Temporary and Limited Licenses
 1. 172.16 Provisional Licenses
- b. 22 TAC 175 – Fees
 1. 175.1 Application Fees
- c. 22 TAC 190 – Disciplinary Guidelines
 1. 190.8 Violation Guidelines
- d. 22 TAV 195 – Pain Management Clinics
 1. 195.2 – Certification of Pain Management Clinics
 2. 195.4 – Operation of Pain Management Clinics

Mr. Webb moved to recommend to the full board that the rules with stated modifications be published in the Texas Register for public comment. Dr. Holliday seconded. All voted in favor. The motion passed.

Agenda Item 11 - Discussion, recommendation, and possible action regarding disciplinary files related to recent licensure applicants. This item was deferred to the next meeting.

Agenda Item 12 - Discussion, recommendation, and possible action regarding request for approval of office-based anesthesia CME courses. Ms. Garanflo advised the committee the additional information requested regarding the CME courses was received today and more time was needed to evaluate it. The committee deferred action to the next meeting.

Agenda Item 15 - Discussion, recommendation, and possible action regarding non-profit health organizations' and license types allowed for directors of the organizations. Ms. Garanflo reported that the request for waiver from the previous meeting was no longer necessary due to changes being made by the non-profit health organization.

Agenda Items 16 - There being no further business, Dr. Arambula adjourned the meeting at 8:55 p.m.