

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

August 23, 2007

The meeting was called to order at 10:03 a.m. by Chair, Keith E. Miller, M.D. Committee members present were Michael Arambula, M.D., Julie Attebury, Jose M. Benavides, M.D., Manuel Guajardo, M.D., Charles Oswalt, M.D., Larry Price, D.O., Paulette B. Southard, Timothy J. Turner, and Timothy Webb.

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

Executive Session was considered. Dr. Price moved, Dr. Benavides seconded, and the motion passed at 10:04 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 Generals Opinion No. H-484.

There was no final action, decision, or vote with regard to any matter considered or discussed in executive session. The executive session ended at 1:55 p.m. A certified agenda of the executive session 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 Generals Opinion No. H-484. Following the hearings, the Committee reconvened and considered the applications.

Item 2a Physician licensure and Physician in Training permit

Applicant #577 appeared before the Committee in executive session on referral by the Executive Director. In open session, **Mr. Webb moved to recommend to the full Board that the applicant be granted a Physician in Training permit under a non-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 a mental condition that may affect the practice of medicine, namely, Bipolar Disorder. Factors contributing to this recommendation include the applicants acknowledgment of the mental condition and history of compliance with treatment since 2004. **Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

Applicant #572 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Mr. Turner moved to recommend to the full Board that the applicant be granted a Physician in Training permit under a non-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 a mental condition that may affect the practice of medicine, namely, Major Depressive Disorder. Factors contributing to this recommendation include reports from the treating physician that the applicant has achieved a stable remission of symptoms, and has been symptom-free for at least two years. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #575 appeared 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 physician licensure due to a mental condition that may affect the practice of medicine, namely, Bipolar Disorder, and not having actively practiced medicine full-time for one of the two years preceding the date of application.** Factors contributing to this recommendation include a long history of treatment for Bipolar Disorder; withdrawal from a training program for medical reasons; and non-disciplinary action by two other state medical boards relating to the applicants mental condition. **Further, Ms. Southard moved to recommend to the full board that upon receipt of a request for a Physician in Training permit for a fellowship program of no less than one year in internal medicine, the Physician in Training permit may be granted by the Executive Director under a non-public, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the Committee.** Factors contributing to this recommendation include the applicants acknowledgment of the mental condition and history of compliance with treatment. **Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

Applicant #576 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Ms. Attebury moved to recommend to the full Board that the**

applicant be granted an unrestricted license . Dr. Benavides seconded the motion. All voted in favor. The motion passed.

Applicant #362 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Ms. Attebury moved to recommend to the full Board that the applicant be granted a Texas medical license under a non-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 action is due to the applicants history of alcohol abuse. Factors contributing to this recommendation include a sobriety date of 1995; an evaluation from the applicants current place of employment that does not indicate any problems; and the recommendation of the Boards consultant that the applicant be monitored if granted a license. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #241 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Mr. Webb moved to recommend to the full Board that the applicant be granted a Texas medical license under a non-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 mental conditions that may affect the practice of medicine, namely, Major Depressive Disorder and Attention Deficit Disorder. Factors contributing to this recommendation include the applicants successful compliance with a non-public, non-disciplinary rehabilitation order while under a Physician in Training permit. **Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

Applicant #564 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Dr. Oswalt 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 #567 appeared 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 a Texas medical license under a non-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 the applicants history of alcohol abuse. Factors contributing to this recommendation include that three of the applicants four alcohol related

arrests took place ten years ago when the applicant was a minor; and the recommendation of the Boards consultant that the applicant be monitored if granted a license. **Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

Applicant #559 appeared before the Committee with counsel in executive session on 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 non-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 a mental condition that may affect the practice of medicine, namely, Major Depressive Disorder. Factors contributing to this recommendation include reports from the treating physician that the applicant has achieved a stable remission of symptoms, and has been symptom-free for several years. **Mr. Webb seconded. All voted in favor. The motion passed.**

Applicant #421 appeared before the Committee with counsel in executive session on referral by the Executive Director. In open session, **Dr. Guajardo moved to recommend to the full board that the applicant be granted a Texas medical license under a non-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 the applicants history of substance abuse. Factors contributing to this recommendation include the applicants successful compliance with a non-public, non-disciplinary rehabilitation order while under a Physician in Training permit. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #565 appeared before the Committee in executive session on referral by the Executive Director. In open session, **Mr. Webb moved to recommend to the full Board that the applicant be granted a Physician in Training permit under a non-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 the applicants history of substance abuse. Factors contributing to this recommendation include four years of sobriety, and successful completion of four years of a five-year written agreement with the Committee for Physicians Health. **Dr. Oswalt seconded. All voted in favor. The motion passed.**

Applicant #571 appeared before the Committee with counsel 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 an unrestricted license . Mr. Turner seconded. All voted in favor. The motion passed.

Applicant #566 appeared before the Committee in executive session on referral by the Executive Director. In open session, **Dr. Oswalt moved to recommend to the full Board that the applicant be granted an unrestricted license . Mr. Turner seconded the motion. All voted in favor. The motion passed.**

Item 2b Acudetox certification - There were none.

Item 2c Surgical assistant licensure - There were none.

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

Item 3a Physician licensure and physician in training permit There were none.

Item 3b Acudetox certification - There were none.

Item 3c Surgical assistant licensure - There were none.

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

Item 4a Requests for Rehearing Applicant #557's request for rehearing was considered. Dr. Oswalt recused himself. **Mr. Turner moved to recommend to the full board that the request for rehearing be denied. Dr. Guajardo seconded the motion. All voted in favor. The motion passed.**

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

a.

Agenda Item 12 Discussion, recommendation, and possible action regarding board approved fellowships:

Vascular Neurology Clinical Research University of Texas Health Science Center at Houston

James Grotta, MD, Program Director, Vascular Neurology Clinical Research Fellowship, University of Texas Health Science Center at Houston; James Willerson, MD, President, University of Texas Health Science Center at Houston; and Amy Nilsen, Counsel, University of Texas Health Science Center at Houston, appeared to discuss the request for approval of the second year of this fellowship program. Following discussion, **Dr. Oswalt moved to recommend to the full board that the fellowship be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Agenda Item 5 Reports on:

Item 5a Proposed orders for restriction of physician licensure and physician in training permit applicants Ms. Garanflo reported on one order for a Physician in Training permit holder who applied for full licensure and who will be offered an order with similar terms and conditions, and one order to be offered restricting the physicians practice to administrative medicine.

Item 5b Approvals by the Executive Director of physician licensure applicants who are graduates of medical schools from which the Board has not previously licensed Ms. Garanflo presented a report on an applicant who graduated from Semnan University of Medical Sciences & Health Services, Semnan, Iran. The applicants medical education has been reviewed by the Executive Director and staff and found to meet appropriate board rules and statute.

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 June 5, 2007 through August 9, 2007.

Item 5e Physician licensure process statistics Ms. Garanflo presented a report on various statistics related to the Licensure and Customer Affairs Division.

Agenda Item 6 Discussion, recommendation, and possible action regarding unsigned orders from previous meetings. Ms. Garanflo reported that of the three orders offered at the June 2007 Board meeting, all have been accepted. Two orders are still pending from previous meetings.

Agenda Item 7 Discussion, recommendation, and possible action regarding applicants to be considered for licensure, permits, or certification:

Item 7a Physician licensure applicants - There were 840 applicants who met all requirements to be considered for permanent licensure by the full Board. There were 140 applicants who met all requirements to be considered for Telemedicine licensure by the full Board. **Mr. Turner moved to recommend to the full board that all 840 applicants for permanent licensure and all 140 applicants for Telemedicine licensure be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Item 7b - Acudetox certification applicants - There were 2 Acudetox certification applicants to be considered for approval. **Mr. Webb moved to recommend to the full board that the 2 Acudetox certification applicants be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Item 7c - Surgical assistant licensure applicants - There were none.

Agenda Item 8 - Discussion, recommendation, and possible action regarding licensee requests:

Item 8a - Request of physician for activation of canceled physician licenses There were none.

Item 8b - Request of physician to return to Active Status from Texas Retired Status There were none.

Agenda Item 9 - Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration.

Item 9a Surgical Assistants There were none.

Item 9b Acudetox There were 11 acudetox certificate holders to be canceled for non-payment. **Mr. Turner** moved to recommend to the full board that the certificates be canceled. **Ms. Southard** seconded the motion. All voted in favor. The motion passed

Agenda Item 10 - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations:

Item 10a - Applicants for initial certification - There were 7 applications for initial certification as a Nonprofit Health Organization for approval. **Ms. Southard** moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. **Mr. Turner** seconded the motion. All voted in favor. The motion passed.

Item 10b - Requests for biennial recertification - There were 19 applications for biennial recertification as a Nonprofit Health Organization for approval. **Mr. Turner** moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. **Ms. Southard** seconded the motion. All voted in favor. The motion passed.

Item 10c - Cancellation of organizations certified as Nonprofit Health Organizations - There were 14 cancellations of organizations certified as Nonprofit Health Organizations to be considered. **Mr. Turner** moved to recommend to the full board that Nonprofit Health Organizations be decertified. **Ms. Southard** seconded the motion. All voted in favor. The motion passed.

Agenda Item 11 - Discussion, recommendation, and possible action regarding proposed additions and modifications to board rules:

Item 11a Texas Medical Board Rules. Ms. Garanflo presented the following recommendations:

1. Discussion, recommendation and possible action regarding rule review and proposed amendments to **Chapter 162**, Supervision of Medical School Students, to include changes to 162.1 relating to Supervision of Medical Students.
2. Discussion, recommendation, and possible action regarding rule review and proposed amendments to Chapter 173, **Physician Profiles**, to include changes to 173.1 relating to

Profile Contents, 173.2 Profile Update and Correction Form, and 173.5 Updates to the Physician's Profile Due to Information Received by a Third Party.

Mr. Turner moved to recommend to the full board that the rules be published as proposed in the Texas Register for public comment. Ms. Southard seconded. All voted in favor and the motion passed.

Item 11b Texas Physician Assistant Board Rules. There were none.

Item 11c Texas State Board of Acupuncture Examiners Rules. There were none.

Agenda Item 13 - Discussion, recommendation, and possible action regarding Texas Medical Jurisprudence Examination administration and format. Mr. Simpson presented a plan to seek bids to outsource an official study guide for the Texas medical jurisprudence exam to a vendor. The Committee directed staff to move forward with the proposed plan.

Agenda Item 14 - Discussion, recommendation, and possible action regarding guidelines for prioritizing applications for physicians who will be serving Medicare and Medicaid patients, practicing in rural communities, practicing in medically underserved areas, and/or practicing in health professional shortage areas. The Committee directed staff to use the proposed guidelines for prioritization; to continue to rely on the Office of Rural and Community Affairs as the entity to determine rural areas; and, to use the agreement presented, with additional language regarding the consequences of non-compliance with the agreement, for physician applicants requesting priority in application processing due to their plans to treat Medicare and Medicaid patients.

Agenda Item 15 - There being no further business, Dr. Miller adjourned the meeting at 3:15 p.m.