

TEXAS MEDICAL BOARD
LICENSURE COMMITTEE MEETING MINUTES

February 5, 2009

The meeting was called to order at 10:10 a.m. by Chair, Michael Arambula, M.D. Committee members present were Julie Attebury; Jose M. Benavides, M.D.; James Scott Holliday, D.O.; Paulette B. Southard; Timothy J. Turner; Timothy Webb; and Irvin Zeitler, D.O.

Agenda Item 9 - Discussion, recommendation, and possible action regarding proposed additions and modifications to board rules:

1. Chapter 166 Physician Registration, Rule review and possible changes to 166.2
a. Continuing Medical Education

Dr. Alan Moore, TMB Medical Director, reported on his meetings with the Boards expert panelists and chart monitors. Dr. Moore submitted a proposed expert panelist tutorial and the suggested rule change to the Committee. Dr. Moore proposed that the Board approve the Expert Panelist Tutorial for one hour Continuing Medical Education (CME) in Ethics, and approve the rule change for publication, which would allow panelists and chart monitors to receive up to 12 formal hours CME per biennium for time spent evaluating physician competency or practice monitoring. **Mr. Turner moved to recommend to the full board that the expert panelist tutorial be approved for one hour Ethics CME and the rule be published as proposed in the Texas Register for public comment. Dr. Zeitler seconded the motion. All voted in favor. The motion passed.**

Item 9b Texas State Board of Acupuncture Examiners Rules. There were none.

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

Dr. Zeitler 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 10:40 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 the executive session was made.

The Executive Session ended at 1:57 p.m.

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.

1. Physician Licensure Applicants

Applicant #745 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 applicants application for re-licensure be granted. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Applicant #702 appeared, with counsel, before the Committee, in executive session, after being deferral for more information by the October 2008 Licensure Committee. In open session, **Mr. Turner 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 disciplinary action taken by a health care entity/peers and inability to practice medicine safely due to a mental condition. Factors contributing to this recommendation include placement on probation while in residency training due to failure maintain medical records, failure to attend required conference, dishonesty concerning ambulatory clinic attendance, and unprofessional conduct; and diagnosis of cognitive disorder that according to a psychiatric evaluation makes it likely for the applicant to repeat behaviors that led to disciplinary action by peers unless the applicant receives treatment to include a neurological evaluation and weekly psychotherapy. **Dr. Zeitler seconded the motion. After discussion, Ms. Southard amended the motion to remove the requirement for a neurological evaluation. Mr. Webb seconded the amendment to the motion. All voted in favor. The motion passed.**

Applicant #741 appeared, with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Zeitler moved to recommend to the full Board that the applicant be determined ineligible for a Texas medical license and be granted a Faculty Temporary License (FTL) subject to the following restrictions: Non-surgical urological practice only for first three months of practice with 100% chart monitoring; Clinical and pre-procedure second opinions on surgical cases during second three months, not to be lifted until evaluation by TMB Medical Director after the six months; Quarterly reports from the Department Chair; and Evaluation by TMB Medical Director after six months. If program director reports are favorable and no other adverse information is received, as determined by the Medical Director, all restrictions on the FTL shall be lifted and the order shall self-terminate. If reports are not favorable or other adverse information is received, then the applicant should be referred for an informal settlement conference; the applicant must reappear before the committee if application is made for full licensure.** This recommendation is due to action taken by health care entity/peers and time out of the active practice of medicine. Factors contributing to this recommendation include suspension and restriction of hospital privileges by employer in 2007 and 2008 due to concerns about medical knowledge, expertise and judgment that could potentially adversely affect patient care; applicant has not provided direct patient care since September 2006 and has not been on the teaching faculty of an acceptable, approved medical school. **Mr. Turner seconded the motion. All voted in favor. The motion passed.**

2. Physician in training permit applicants

Applicant #744 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 action taken by health care entity/peers and the inability to practice medicine due to a mental condition. Factors contributing to this recommendation include termination from a residency program in 2007 due to unauthorized leave, failing to document absences after repeatedly being reminded, problems with communication and professionalism, and demonstrating unsatisfactory medical knowledge with lack of effort or improvement; and suffering from depression and anxiety while in medical school and residency training that adversely affected his performance. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

3. Acudetox certification applicants There were none.

4. Surgical assistant licensure applicants There were none.

Item 2b Applicants appearing for rehearing concerning eligibility.

1. Physician Licensure Applicants There were none.
2. Physician in training permit applicants There were none.
3. Acudetox certification applicants There were none.
4. Surgical assistant licensure applicants - There were none.

Item 2c Proposed orders offered by the Executive Director.

1. Physician Licensure Applicants Ms. Knight reported on three orders offered by the Executive Director. **Mr. Turner moved to recommend to the full Board that all three orders be approved. Ms. Southard seconded. All voted in favor and the motion passed.**
2. Physician in training permit applicants There were none.
3. Acudetox certification applicants - There were none.
4. Surgical assistant licensure applicants - There were none.

Item 2d Applicants determined by staff to meet eligibility requirements.

1. Physician Licensure Applicants - There were 399 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 399 physician licensure applicants determined to meet eligibility requirements by staff be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**
2. Acudetox certification applicants There were none
3. Surgical assistant licensure applicants - There were seven surgical assistant licensure applicants to be considered for approval. **Mr. Turner moved to recommend to the full Board that all 7 surgical assistant licensure 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 Discussion, recommendation, and possible action regarding applicant requests:

Item 3a Requests for Rehearing There were none

Item 3b Request for Waiver of Acupuncture License Requirements There were none.

Agenda Item 4 Discussion, recommendation and possible action regarding unsigned orders from previous meetings.

Ms. Knight reported that of the two orders offered at the December 2008 Board meeting, both have been accepted. One order is still pending from April 2007. **Ms. Southard moved to recommend to the full Board that Applicant #542, who was offered a non-public rehabilitation order as a condition for a Physician in Training permit at the April 2007 Board meeting, be determined ineligible for a Physician in Training permit, due to failure to accept the order. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

Agenda Item 5 Reports on:

Item 5a Applicant determinations of eligibility made by the Executive Director in the last period -

Ms. Knight presented a report on applicant determinations of eligibility made by the Executive Director for the period December 2, 2008 through January 27, 2009.

Item 5b Physician licensure process statistics Ms. Knight presented physician licensure statistics for applicants considered for licensure at this meeting, as of several days ago. The average time to process all applicants was 34 days.

Agenda Item 6 Discussion, recommendation, and possible action regarding licensee requests:

Item 6a - Request of physician for activation of canceled physician licenses There were none.

Item 6b - Request of physician to return to Active Status from Texas Retired Status There were none

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 none.

Agenda Item 8 Discussion, recommendation, and possible action regarding Nonprofit Health Organizations:

Item 8a - 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 requests for initial certification as a Nonprofit Health Organization be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Item 8b - Requests for biennial recertification - There were 12 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. Dr. Zeitler seconded the motion. All voted in favor. The motion passed.**

Item 8c - Cancellation of organizations certified as Nonprofit Health Organizations - There were nine requests for decertification as a Nonprofit Health Organization for approval. **Mr. Turner moved to recommend to the full board that the requests for decertification as a Nonprofit Health Organization be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.**

Agenda Item 10 - Discussion, recommendation, and possible action regarding international medical education Ms. Knight reported on statutory requirements regarding international medical graduates who must prove that their education is substantial equivalent to education obtained at a Texas medical school. The Committee discussed whether specialty board certification by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists, or the American Board of Oral and Maxillofacial Surgery would be an appropriate indicator that an applicant is satisfactorily skilled and trained, despite deficits in medical education, and would be considered an acceptable alternative to demonstrating substantial equivalence. **The Committee directed staff to continue to pursue this as an option for applicants who must prove substantial equivalence.**

Agenda Item 11 - Discussion, recommendation, and possible action regarding licensure application and additional forms Ms. Knight reported on suggested changes to the licensure application, including changes suggested by the Designated Institution Officers. The Committee discussed all the proposed revisions. **Mr. Webb moved to recommend to the full Board that the revisions be accepted as**

presented, with certain changes as noted. Mr. Turner seconded the motion. All voted in favor. The motion passed.

Agenda Item 12 - Discussion, recommendation and possible action regarding refunds of fees Ms. Knight discussed practices involving refunds and extension of fees in certain situations that conflict with existing Board rules. **The Committee directed staff to present proposed rule language to allow refunds and extensions of fees in certain situations.**

Agenda Item 13 - Discussion, recommendation, and possible action regarding resolution to the Federation of State Medical Boards regarding reporting of licensure application withdrawals The Committee considered a resolution to be presented to the Federation of State Medical Boards in regards to the reporting of application withdrawals. **Mr. Webb moved to recommend to the full Board that the resolution be presented to the Federation of State Medical Boards, with changes as proposed by Mr. Turner. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

Agenda Item 14 - There being no further business, Dr. Arambula adjourned the meeting at 2:40 p.m.