

**TEXAS MEDICAL BOARD**  
**LICENSURE COMMITTEE MEETING MINUTES**

November 5, 2009

The meeting was called to order at 10:02 a.m. by Chair, Michael Arambula, M.D. Committee members present were Jose M. Benavides, M.D., John D. Ellis, Jr.; James Scott Holliday, D.O. and Paulette B. Southard.

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

**and**

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

**Dr. Holliday** moved, **Dr. Benavides** seconded, that the Committee close the meeting to the public and continue in Executive Session for deliberations concerning licensure applications and return to active status applications for licensees in retired status. The motion passed. Dr. Arambula announced that the meeting would be closed for deliberations at 10:04 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.

Mr. Webb entered the meeting at 10:17 a.m.

The Executive Session ended at 3:12 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. and 2. Physician Licensure and Physician in Training Permit applicants

**Applicant #882** appeared before the Committee, in executive session, on appeal of an order proposed 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, subject to the administrative penalty of \$4000 proposed by the Executive Director.** This recommendation is due to providing false or misleading information to the Board. Factors contributing to this recommendation include the committees determination that the falsification was intentional. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant #867** 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, upon compliance with all further eligibility requirements, the applicant be granted a Physician in Training permit (PIT) subject to the following conditions: completion of 10 hours of continuing medical education in ethics and 6 hours of continuing medical education in disruptive behavior within one year and payment an administrative penalty of \$4000 within 180 days.** This recommendation is due to unprofessional or dishonorable conduct likely to deceive, defraud or injure the public; disciplinary action by a health care entity based on unprofessional conduct or professional incompetence likely to harm the public; and submission of a false statement in an application for licensure. Factors contributing to this recommendation include disciplinary action by training program that included warnings, placement on probation, and withdrawal of offer for additional training due to concerns about unprofessionalism and patient care; and failure to report action by training program on applications for PIT and for full licensure. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #843** 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: completion of 10 hours continuing medical education in medical ethics and 24 hours classroom continuing medical education in Emergency Medicine approved by the Executive Director both to be completed within one year; an administrative penalty in the amount of \$2000, and referral to the Physicians Health Program.** This recommendation is due to time out of the active practice of medicine, placement on pretrial diversion for a felony offense relating to evading arrest for a traffic violation and failure to disclose arrest history on a previous Physician in Training permit application. Factors contributing to this recommendation include the applicant has not actively practiced medicine since April 2008; the Applicant was arrested on 4/8/09

for evading arrest, a felony offense for which the applicant was placed on pretrial diversion for two years on 6/22/09, and the Committee's determination that the falsification was intentional. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant #866** 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 the applicant's application be deferred to allow the applicant one additional attempt on USMLE 2.** The applicant must pass USMLE 2 in one attempt and prior to December 31, 2011, to be considered eligible for licensure, provided no new violations of the Medical Practice Act or Board rules occur to render Applicant ineligible for licensure. If the applicant does not fulfill eligibility requirements by the time the application expires, the applicant will have to reapply. Factors contributing to this determination include that the applicant has already passed USMLE 2, but must take it again in order to comply with statutory requirements regarding length of time to complete a licensing exam sequence, and that a second passage of that step should not count against the applicant's exam attempt limits. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #879** 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 determined ineligible for a Texas medical license.** This recommendation is due to the applicant's non-compliance with the Board's 10-year rule that requires applicants to demonstrate passage of a licensure examination within the 10 years prior to the date of application. Factors contributing to this recommendation include that the applicant has not taken and passed an acceptable examination since 1974. **Dr. Holliday seconded the motion. All voted in favor. The motion passed.**

**Applicant #800** did not appear before the Committee but his application was considered following appearance and deferral before the Licensure Committee in August 2009. In open session, **Dr. Holliday moved to recommend to the full Board that the applicant's application for relicensure be deferred and an extension on the application and fees be granted for 6 months to allow applicant to complete a KSTAR evaluation and mini-residency. Upon successful completion of the mini-residency relicensure may be granted under a public order that includes the requirements specified in the Order Checklist that has been distributed to the members of the committee.** This recommendation is due to time out of the active practice of medicine; intemperate use of alcohol and drugs that renders applicant unable to safely practice medicine; disciplinary action taken by peers; and prior action taken by TMB. Factors contributing to this recommendation include that the applicant has not actively practiced

medicine since 1999; has a long history of alcohol and chemical dependency with multiple relapses; disciplinary action taken by residency training program and peers due to chemical dependency that affected applicants performance; placement on two orders with TMB related to alcoholism and chemical dependency; noncompliance with terms of previous private rehabilitation order with TMB from 2000; and the following mitigating factors - applicants sobriety for the past three years; commitment to treatment for dependency issues; and compliance since 2006 with contract with the Professionals Assistance Program in New Jersey. **Mr. Webb seconded the motion. All voted in favor. The motion passed.**

**Applicant #850** 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 a Texas medical license, subject to an administrative penalty of \$2000 and completion of 10 hours CME on medical ethics to be approved by the Executive Director and completed within one year.** This recommendation is due to providing false or misleading information to the Board and prior disciplinary action by the Rhode Island Board of Medical Licensure and Discipline. Factors contributing to this recommendation include the committees determination that the falsification was intentional and the applicant was placed on probation and received a restricted license in Rhode Island in 2005 due to the disciplinary actions that occurred while in medical school. **Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #858** 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 determined ineligible for a Physician in Training permit.** This recommendation is due to conviction of a felony. Factors contributing to this recommendation include a felony conviction for structuring currency transaction over \$10,000 in order to evade reporting for which he was incarcerated and placed on probation. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Applicant #869** appeared with counsel, before the Committee, in executive session, on referral by the Executive Director. In open session, **Dr. Benavides moved to recommend to the full Board that the Applicant be granted . Ms. Southard seconded the motion. All voted in favor. The motion passed.**

**Applicant #873** 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 . Mr. Webb 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. Kaufman reported on eight orders offered by the Executive Director and accepted by applicants. **Mr. Webb moved to recommend to the full Board that all eight orders be approved. Dr. Benavides seconded. All voted in favor and the motion passed.**
2. Physician in training permit applicants Ms. Kaufman reported on four orders offered by the Executive Director and accepted by applicants. **Mr. Webb moved to recommend to the full Board that all four orders be approved. Dr. Benavides seconded. All voted in favor and the motion passed.**
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 669 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 669 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 was one acudetox certification applicant to be considered for approval. **Dr. Holliday moved to recommend to the full Board that the acudetox certification applicant determined to meet eligibility requirements by staff be approved. Ms. Southard seconded the motion. All voted in favor. The motion passed.**
3. Surgical assistant licensure applicants - There were eight surgical assistant applicants to be considered for approval. **Ms. Southard moved to recommend to the full Board that all eight surgical assistant applicants determined to meet eligibility requirements by staff be approved. Dr. Holliday 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.** There were none.

**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 August 13, 2009 through October 27, 2009.

**Item 5b Physician licensure process statistics** Ms. Knight presented physician licensure statistics for applicants considered for licensure at this meeting. Estimated average time to complete applications for licensure in FY 10 Q1 is 47 days. Average time to complete applications for the full year FY 09 is 39 days.

**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**

**Applicant #884's** request to return to active status was considered. **Ms. Southard moved to recommend to the full Board that a decision on applicants request to return to active status be deferred until such time as applicant completes a KSTAR assessment and mini-residency.** This recommendation is due to time out of the active practice of medicine. **Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**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. **Ms. Southard moved to recommend to the full board that the requests for initial certification as a Nonprofit Health Organization be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Item 8b - Requests for biennial recertification** - There were seventy-four applications for biennial recertification as a Nonprofit Health Organization for approval. **Dr. Holliday moved to recommend to the full board that the requests for biennial recertification as a Nonprofit Health Organization be approved. Dr. Benavides seconded the motion. All voted in favor. The motion passed.**

**Item 8c - Cancellation of organizations certified as Nonprofit Health Organizations** - There was one request for cancellation by a Nonprofit Health Organization. **Dr. Benavides moved to recommend to the full Board that the request for cancellation of the Nonprofit Health Organization be granted. Ms. Southard seconded the motion. All voted in favor. The motion passed.**

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

a. 22 TAC 175.5 Payment of Fees or Penalties

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

**Agenda Item 10 Discussion, recommendation, and possible action regarding sponsorship waiver requests for provisional licenses.** The Committee directed staff to make determinations regarding sponsorship waiver requests.

**Agenda Item 11** Discussion, recommendation, and possible action regarding **physician in training permits for research**. The Committee directed staff to issue Physician in Training permits for the length of the program, but to create a process to identify a research year during the residency program. Only ACGME or AOA accredited research years are acceptable to meet training requirements for licensure eligibility. Physician in Training permit holders may take call during a research year. .

**Agenda Item 12** Discussion, recommendation, and possible action regarding **request for modification to previously approved acudetox training program**. The committee reviewed the request of the acudetox program to provide didactic education online, and the recommendation of the Acupuncture Board for approval. **Ms. Southard moved to recommend to the full Board that the request be approved. Mr. Webb seconded. All voted in favor and the motion passed.**

**Agenda Item 13** Discussion, recommendation, and possible action regarding **a process for submission of requests and approval of CME courses for ethics and/or professional responsibility**. The Committee delegated authority to the Executive Director to approve continuing medical education in ethics and/or professional responsibility.

**Agenda Item 14** - There being no further business, Dr. Arambula adjourned the meeting at 3:40 p.m.