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**TEXAS PHYSICIAN ASSISTANT BOARD**  
**TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS**  
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## 2000 Medical Board Meeting Minutes

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### August 25-26, 2000

The meeting was called to order at 1:35 p.m. by Board President, William H. Fleming III, M.D. Board members present were: Lee S. Anderson, M.D.; Penny Angelo; Jose M. Benavides, M.D.; William H. Fleming III, M.D.; David E. Garza, D.O.; Edward S. Hicks, Sr.; Thomas D. Kirksey, M.D.; Eddie J. Miles, Jr.; Larry Price, D.O.; Joyce A. Roberts, M.D.; Vernon L. Ryan, M.D.; Nancy M. Seliger; R. Russell Thomas, Jr., D.O.; Janet Tomelli-Mitchell, M.D.; and Jenat T. Turner, J.D. Staff members present were F.M. Langley, D.V.M., M.D., J.D., Executive Director; Bruce A. Levy, M.D., J.D., former Executive Director; John S. Teer, J.D., General Counsel; and various other staff.

Dr. Thomas moved, Dr. Tomelli-Mitchell seconded, and the motion passed to go into executive session at 1:36 p.m. under the authority of the Open Meetings Act, ' 551.071 of the Government Code; and the Medical Practice Act, Texas Occupations Code Annotated, Subtitle B, ' 152.009, 160.005, 160.006, 164.202, 164.203; and Attorney General's Opinion No. H-484, for private consultation and advice of counsel concerning litigation relative to possible disciplinary action and for consideration of possible rehabilitation orders. Open session resumed at 2:50 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made.

A proposal for decision was heard regarding Arthur N. Tallant, M.D. Dr. Fleming read the recusal statement and Mrs. Turner was recused. Dr. Tallant appeared with his attorney, Jimmy Alan Hall; Michael Borklund was the administrative law judge (ALJ); and Rick Wootton was the staff attorney representing the board. Following presentations by Judge Borklund and both attorneys, Dr. Thomas moved, Dr. Anderson seconded, and the motion passed to accept the ALJ's Findings of Fact and Conclusions of Law and adopt the modified order recommended by staff.

It was announced that Dr. Thomas would preside over the next case, a proposal for decision regarding Jacques S. Jaikaran, M.D. Dr. Thomas read the recusal statement and Dr. Fleming was recused. Dr. Jaikaran appeared without counsel; Carol Wood was the administrative law judge; and Jon Porter was the staff attorney representing the Board. Following discussion regarding whether or not the crime committed by Dr. Jaikaran was a crime of moral turpitude, Mrs. Angelo moved, Dr. Kirksey seconded, and the motion passed to accept the staff-proposed order with the addition that Dr. Jaikaran should undergo a full psychiatric evaluation by a Board certified psychiatrist approved by the executive director.

Dr. Fleming resumed the Chair.

The Executive Director's report was next on the agenda. Dr. Levy gave a report detailing the meetings he had attended since the last Board meeting, including the Texas Medical Association's and Texas Osteopathic Medical Association's annual meetings. Dr. Levy stated that this is his last Board meeting and that he will miss the Board members and staff. The new Executive Director, Dr. Langley, also gave a short report, stating that the transition is going very well. He commended the hard-working staff and vowed to carry on the good work that Dr. Levy started. He further reported that he and Dr. Levy were invited to attend a press conference by Attorney General, John Cornyn, at which General Cornyn announced that the Office of the Attorney General was filing suit against two on-line pharmacies. In addition, Dr. Langley and several senior staff attended a budget hearing at the Legislative Budget Board.

Consideration of the approval of the minutes from the May Board meeting was next. Mrs. Angelo moved, Mr. Hicks seconded, and the motion passed to approve the May 18-19, 2000 Board meeting minutes.

Consideration of the approval of the minutes from the May 19, 2000 Search Committee meeting was

next. Mr. Hicks moved, Dr. Benavides seconded, and the motion passed to approve the Search Committee minutes.

Consideration of the approval of the minutes from the May 19, 2000 Telemedicine Committee meeting was next. Dr. Tomelli-Mitchell moved, Mr. Miles seconded, and the motion passed to approve the Telemedicine Committee minutes.

Consideration of the approval of the minutes from the June 29, 2000 Disciplinary Panel meeting was next. Dr. Tomelli-Mitchell moved, Mrs. Angelo seconded, and the motion passed to approve the Disciplinary Panel minutes.

Consideration of the approval to send representatives to the Federation Symposium, "Medical Licensure in the 21<sup>st</sup> Century" was next. Dr. Tomelli-Mitchell moved, Dr. Thomas seconded, and the motion passed to send Dr. Anderson, Dr. Langley, and Denise Meyer.

Dr. Fleming recommended that the following Board members serve on the Executive Director Transition Committee: Dr. Anderson, Mrs. Angelo, Dr. Fleming, Mr. Hicks, Dr. Kirksey, and Dr. Thomas. Dr. Tomelli-Mitchell moved, Dr. Ryan seconded, and the motion passed to approve the members of the Transition Committee.

Discussion, recommendation, and possible action regarding proposed changes to the Federation of State Medical Boards' Bylaws was next. Following discussion, the Board determined there were no recommendations to make at this time.

Dr. Thomas moved, Dr. Tomelli-Mitchell seconded, and the motion passed to go into executive session at 3:54 p.m. under the authority of the Open Meetings Act, ' 551.071 of the Government Code; and the Medical Practice Act, Texas Occupations Code Annotated, Subtitle B, ' 152.009, 160.005, 160.006, 164.202, 164.203; and Attorney General's Opinion H-484, for private consultation and advice of counsel concerning litigation relative to possible disciplinary action. Dr. Thomas resumed the Chair. Open session resumed at 4:03 p.m. and it was announced that no action was taken during executive session. A certified agenda of the executive session was made. Mrs. Angelo moved, Dr. Tomelli-Mitchell seconded, and the motion passed to reconsider the action regarding Jacques S. Jaikaran, M.D.

Dr. Fleming resumed the Chair.

Mrs. Angelo moved, Dr. Thomas seconded, and the motion passed to accept the staff-proposed order regarding Dr. Jaikaran with no additions.

Dr. Fleming read a proclamation from Governor George W. Bush in appreciation of Dr. Levy. Mrs. Angelo presented a plaque to Dr. Levy, along with a Texas flag that was flown over the capitol. Dr. Levy expressed his appreciation to the Board members and staff.

The meeting recessed at 4:10 p.m. and reconvened on Saturday, August 26, at 8:35 a.m.

Board members present were: Lee S. Anderson, M.D.; Penny Angelo; Jose M. Benavides, M.D.; William H. Fleming III, M.D.; David E. Garza, D.O.; Edward S. Hicks, Sr.; Eddie J. Miles, Jr.; Larry Price, D.O.; Joyce A. Roberts, M.D.; Vernon L. Ryan, M.D.; Nancy M. Seliger; R. Russell Thomas, Jr., D.O.; Janet Tomelli-Mitchell, M.D.; and Jenat T. Turner, J.D. Staff members present were F.M.

Langley, D.V.M., M.D., J.D., Executive Director; John S. Teer, J.D., General Counsel; and various other staff.

A public hearing and consideration of the cancellation of licenses for non-payment or by request was next. Henry L. Huckaby, M.D., was present to request a waiver of the continuing medical education requirements in order to continue his license. Following discussion with Dr. Huckaby, Dr. Thomas moved, Mrs. Turner seconded, and the motion passed to grant a continuing medical education temporary license to allow Dr. Huckaby an additional 90 days to obtain his CME hours, and to deny Dr. Huckaby's request to waive the continuing medical education requirements.

The Board considered the list of physicians to be cancelled for non-payment of registration fees and the list of physicians to be cancelled at the physicians' request. Mr. Hicks moved, Dr. Thomas seconded, and the motion passed to approve the list of cancellations for non-payment. Dr. Tomelli-Mitchell moved, Dr. Ryan seconded, and the motion passed to approve the list of cancellations by request.

The Board held a public hearing and considered adoption of proposed rule changes. Proposed amendment to 166.2 regarding penalty fees for failure to comply with continuing medical education

amendment to 100.2 regarding penalty fees for failure to comply with continuing medical education requirements was first. No comments were received. Dr. Garza moved, Dr. Ryan seconded, and the motion passed to adopt the amendment as published.

Rule review and proposed amendments to " 183.1-183.5, repeal of " 183.6-183.23, and new " 183.6-183.21 regarding acupuncture was considered. No comments were received. Dr. Benavides moved, Mr. Miles seconded, and the motion passed to adopt the amendments, repeals and new sections as published.

Rule review and proposed amendments to " 185.2, 185.4-185.7, 185.14, 185.6-185.17, repeal of " 185.18-185.29, and new " 185.18-185.28 regarding physician assistants was considered. No comments were received. Dr. Tomelli-Mitchell moved, Dr. Benavides seconded, and the motion passed to adopt the amendments, repeals, and new sections as published.

Proposed amendment to ' 187.33 regarding requests for oral arguments during proposals for decisions was considered. No comments were received. Dr. Ryan moved, Dr. Tomelli-Mitchell seconded, and the motion passed to adopt the amendment as published.

Proposed new ' 193.10 regarding collaborative management of glaucoma was considered. Several written comments were discussed and one person was present to comment at the public hearing. Kathleen Goff, O.D., President, Texas Optometric Association, commented in support of the proposed rule. Following discussion, Mrs. Angelo moved, Dr. Thomas seconded, and the motion passed to adopt the rule as published.

Consideration of the approval of rehabilitation orders was next. Dr. Tomelli-Mitchell moved, Dr. Ryan seconded, and the motion passed to approve the rehabilitation orders en masse, with the exception of #125. The approved orders included rehabilitation orders #119-124 and #126-129; modification of rehabilitation orders #27, 68, 76, and 88; termination of rehabilitation order #24; and denial of the termination of rehabilitation order #21.

Rehabilitation order #125 was considered. Dr. Tomelli-Mitchell moved, Mrs. Angelo seconded, and the motion passed to approve the order with a change to make it a 5-year order.

Consideration of the approval of agreed board orders was next. The Board discussed the order on Richard P. Duncan, D.O. and noted two errors regarding the years of practice and the age of the physician. Dr. Anderson moved, Dr. Benavides seconded, and the motion passed to approve the order on Dr. Duncan with corrections as discussed.

The order on Ralph Cepero was discussed. Dr. Garza moved, Dr. Thomas seconded, and the motion passed to approve the order with corrections as discussed.

Following discussion regarding the order on Charles D. Sartor, M.D., Dr. Ryan moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the remainder of the proposed agreed orders. The orders included: H. Robinson Safford III, M.D.; Christopher L. Tye, M.D.; John B. Harmon, Jr., M.D.; Benjamin P. Fiedler, M.D.; Danny R. Johnson, M.D.; Mamerto M. Jose, M.D.; Minh Huy Le, M.D.; Michael A. Bartley, M.D.; Beverly A. Clark, M.D.; David L. Hankins, D.O.; William F. Alexander, II, M.D.; Darryl D. Nix, D.O.; Michael A. Crouch, M.D.; Robert S. Bell, M.D.; Barbara Briner, M.D.; Heinz Aeschbach, M.D.; Earle U. Scharff, Jr., M.D.; Dimitri E. Latoni, M.D.; John H. Simmons II, M.D.; Kennard L. Kollaus, M.D.; Darryl N. Steele, M.D.; Michael Mahl, M.D.; Peter Hyatt Marsh, M.D.; Charles Don Sartor, M.D.; David Gary Johnson, M.D.; Thomas D. Pettey, M.D.; Cynthia L. Ketterer, M.D.; Michael Q. Watson, M.D.; and Andrew M. O'Connor, M.D.

Consideration of the approval of the modification request/termination request orders was next. Dr. Tomelli-Mitchell moved, Dr. Benavides seconded, and the motion passed to approve the en masse. The approved orders included: Russell W. Zepeda, M.D.; Peter L. Hernal Jr., M.D.; Thomas C. Branch, M.D.; Alberto N. Martinez, M.D.; James G. Casey, M.D.; Earl M. Stenger, M.D.; Stephen H. Ware III, M.D.; Thomas A. Tucker, M.D.; Ibrahim Garcia Mowatt Jr., M.D.; Dell H. Braunsdorf, M.D.; Charles D. Chamberlain Jr., M.D.; Tevor Phillips, D.O.; Mark D. Gilliland, M.D.; James D. Chepko, M.D.; and Tayab R. Andrabi, M.D.

Consideration of the approval of reinstatement request orders was next. Dr. Tomelli-Mitchell moved, Mrs. Turner seconded, and the motion passed to approve the orders on John Hall Thomas, M.D.; and David B. Raine, M.D.

A report was made regarding the temporary suspension/automatic orders on Cynthia L. Ketterer, M.D., and R.L. Nelms, D.O.

Consideration of the approval of termination of suspension orders was next. Dr. Tomelli-Mitchell moved, Mrs. Turner seconded, and the motion passed to approve the order on Kelly R. Danks, M.D., with the change to make it a 10-year order. Dr. Thomas moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the order on Stephen C. Thomas, M.D.

There were no nunc pro tunc orders to be considered.

Appointment of Disciplinary Panels was next on the agenda. Dr. Fleming recommended the following members for the October-December 2000 Disciplinary Panel: Mrs. Seliger, Chairman; Dr. Tomelli-Mitchell; Dr. Thomas; Mr. Miles; and Dr. Ryan, alternate. Dr. Tomelli-Mitchell moved, Dr. Benavides seconded, and the motion passed to approve the Panel.

Mr. Teer reported that to date no response has been received concerning the request for an Attorney General Opinion regarding whether the Texas State Board of Medical Examiners may certify a foreign corporation as a non-profit health organization.

Mrs. Angelo gave a report on the Finance Committee meeting. Dr. Tomelli-Mitchell moved, Dr. Benavides seconded, and the motion passed to approve the minutes and action items.

Dr. Price gave a report on the Disciplinary Process Review Committee meeting. Dr. Benavides moved and Dr. Tomelli-Mitchell seconded the motion to approve the minutes and action items. Dr. Fleming allowed Dr. William Miles to make some comments regarding the proposed rule regarding advertising. Following discussion, Dr. Benavides motion passed.

Dr. Anderson gave a report of the Ad Hoc Committee for Optometric Issues meeting. Mr. Hicks moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the minutes and action items.

Dr. Ryan gave a report of the Standing Orders Committee meeting. Dr. Tomelli-Mitchell moved, Mrs. Angelo seconded, and the motion passed to approve the minutes and action items with corrections as discussed.

Dr. Tomelli-Mitchell gave a report of the Licensure Committee meeting. Mrs. Turner moved, Mr. Hicks seconded, and the motion passed to approve the minutes and action items with corrections as discussed.

Dr. Price gave a report of the Telemedicine Committee meeting. Dr. Price moved, Dr. Garza seconded, and the motion passed to approve the minutes and action items.

Dr. Ryan gave a report of the Ad Hoc Committee to Study Office-Based Anesthesia meeting. Dr. Thomas moved, Dr. Benavides seconded, and the motion passed to approve the minutes and action items with corrections as discussed.

Dr. Garza gave a report of the Non-Profit Health Organizations Committee meeting. Dr. Tomelli-Mitchell moved, Dr. Benavides seconded, and the motion passed to approve the minutes and action items.

Dr. Thomas gave a report of the Executive Committee meeting and moved approval of the minutes and action items. Dr. Tomelli-Mitchell seconded the motion, which passed.

Dr. Anderson gave a report of the Public Information/Profile Committee meeting and moved approval of the minutes and action items. Dr. Tomelli-Mitchell seconded the motion, which passed.

Dr. Fleming stated that the Governor will be naming a new President of the Board and wanted to take this opportunity to express his appreciation to the staff for their support through his tenures as President. For the record, Dr. Tomelli-Mitchell expressed appreciation for Dr. Fleming's work, both as President of the Texas Board of Medical Examiners, as well as the offices he has held in the Federation of State Medical Boards.

There being no further business, Dr. Thomas moved, Mrs. Angelo seconded, and the motion passed to adjourn the meeting at 10:50 a.m.

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