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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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### December 7-8, 2000

The meeting was called to order at 9:10 a.m. by Board President, Lee S. Anderson, M.D. Board members present were: Lee S. Anderson, M.D.; Penny Angelo; Jose M. Benavides, M.D.; Peter Chang, 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; Paulette B. Southard; 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; Jerry Walker, Chief Operating Officer; Michele Shackelford, J.D., General Counsel; Jennifer Soffer, J.D., Assistant General Counsel; and various other staff.

Agenda item #2, regarding executive session, was next. Dr. Thomas moved, Dr. Tomelli-Mitchell seconded, and the motion passed to go into executive session at 9:11 a.m. for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and deliberation concerning licensure applications, disciplinary action, and private rehabilitation orders, or matters involving personnel under the authority of the Open Meetings Act, Government Code, ' ' 551.071 and 551.074; and the Medical Practice Act, Texas Occupations Code Annotated, ' ' 152.009, 160.006, 164.007, and 164.203; and Attorney General's Opinion No. H-484. Open session resumed at 10:05 a.m. and it was announced that no action was taken during executive session. A certified agenda was made.

Agenda item #3, regarding the Physician Licensure Assessment Service, was next. Carol Clothier, Federation of State Medical Boards, made a presentation regarding the Physician Licensure Assessment Service, and answered board members' questions. Bruce A. Levy, M.D., J.D., Deputy Vice President of the Federation, also made comments and explained ways in which the board could utilize this service.

Agenda item #4, regarding a proposal for decision on Anthony W. Vila, D.O., was considered. Dr. Anderson read the recusal statement and no one wished to recuse. Dr. Vila appeared with his attorney, Susan Henricks; Barbara Marquardt was the administrative law judge; and Jon Porter, J.D., Director of Compliance, represented the board. It was noted that Judge Marquardt did not hear the case, but wrote the proposal for decision. Judge Marquardt gave her report and recommended revocation of Dr. Vila's license. Ms. Henricks and Mr. Porter made presentations and Judge Marquardt answered the board members' questions. Dr. Tomelli-Mitchell moved and Dr. Garza seconded the motion to adopt the proposal for decision as written. Following comments made by Dr. Thomas, Dr. Tomelli-Mitchell withdrew her motion. The board members discussed the proposal further and asked additional questions. Dr. Thomas moved, Mrs. Southard seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law in the proposal, suspend the license, stay the suspension, and place Dr. Vila's license on probation for five years with the following requirements: complete 50 hours of continuing medical education, 10 of which must be in pain management; take and pass the SPEX within three attempts; receive training on proper documentation; surrender Department of Public Safety and Drug Enforcement Agency schedules II-V; prescribe dangerous drugs only; appear before a committee of the board; and maintain a log of dangerous drugs that have the potential for abuse. In addition, a substitute order to voluntarily surrender his license was offered.

Agenda item #5, regarding a proposal for decision on Timothy J. Wright, D.O., was considered. The recusal statement was read and no one wished to recuse. Dr. Wright appeared with his attorney, E. Earl Hanson; Ann Landeros was the administrative law judge; and Steve White, Director of Litigation, represented the board. Judge Landeros gave her report and recommendations and answered questions. Dr. Tomelli-Mitchell moved and Mrs. Seliger seconded the motion to accept the Findings of Fact and Conclusions of Law, except #8; further, based on Findings of Fact #11-34 and Conclusions of Law #1-7 the board should change Conclusions of Law #8 to revoke Dr. Wright's

Conclusions of Law #7, the board should change Conclusions of Law #6 to revoke Dr. Jaikaran's license. Following questions and clarification that the order should correctly reflect revocation where it appears throughout the order, the motion passed.

Agenda item #6, regarding a rehearing of the proposal for decision on Jacques S. Jaikaran, M.D., was considered. The recusal statement was read and no one was recused. Dr. Jaikaran appeared with his attorney, Randall C. Doubrava; Carol Wood was the administrative law judge; and Jon Porter, Director of Compliance, represented the board. Judge Wood gave her report and recommendations. Following presentations by both attorneys, Dr. Thomas moved, Mrs. Angelo seconded, and the motion passed to adopt the Findings of Fact and Conclusions of Law of the previous order regarding Dr. Jaikaran, to suspend the license, stay the suspension, and place on probation for five years with the following conditions: standard monitoring; monitor approved by the executive director; complete 50 hours of Category 1 continuing medical education within one year, at least 10 hours of which must be in ethics; pass the jurisprudence examination in three attempts within one year; and appear before the board once per year.

Agenda item #7, regarding board staff's interlocutory appeal, was next. It was announced that staff was withdrawing this agenda item.

The meeting recessed at 12:52 p.m. and reconvened on December 8, 2000, at 1:00 p.m. Board members present were Lee S. Anderson, M.D.; Jose M. Benavides, M.D.; Peter Chang, 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; Paulette B. Southard; 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; Jerry Walker, Chief Operating Officer; Michele Shackelford, J.D., General Counsel; Jennifer Soffer, J.D., Assistant General Counsel; and various other staff.

Agenda item #11, regarding board briefings, was next. Steve White, Director of Litigation, made a presentation regarding the informal settlement conference and formal hearing processes.

Discussion item #11, election of the Vice President and Secretary-Treasurer, was next. Dr. Benavides nominated Mr. Hicks for Secretary-Treasurer. Dr. Price seconded the nomination. There were no further nominations. Mr. Hicks stated that he would be happy to have the opportunity to serve the board in this capacity. Dr. Fleming moved, Dr. Kirksey seconded, and the motion passed to elect Mr. Hicks by acclamation. Mr. Miles nominated Dr. Tomelli-Mitchell for Vice President. Mrs. Turner seconded the motion. There were no further nominations. Dr. Kirksey moved, Mr. Hicks seconded, and the motion passed to close the nominations and elect Dr. Tomelli-Mitchell by acclamation. Dr. Tomelli-Mitchell made a statement and thanked the board for electing her as Vice President.

Discussion item #12, regarding committee appointments, was next. Dr. Anderson asked the board members to let him know of their interest in serving on particular committees. Dr. Anderson also announced that he was appointing Dr. Price to the Executive Committee.

Agenda item #9, regarding cancellation of licenses, was considered. Mr. Hicks moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the lists for cancellation by request and for nonpayment of renewal fees.

Agenda item #12, regarding non-public rehabilitation orders, was considered. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to go into executive session at 1:45 p.m. under the authority of the Open Meetings Act, Government Code, ' 551.071; and the Medical Practice Act, Texas Occupations Code Annotated, ' 152.009, 160.006, 164.007, and 164.203; and Attorney General's Opinion No. H-484. Open session resumed at 2:10 p.m. and it was announced that no action was taken during executive session. A certified agenda was made. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the rehabilitation orders en masse, with the exception of #136. The approved orders included rehabilitation orders #137 and 138; modification of rehabilitation orders #49, 53, 64, 65, 85, and 96; and termination of rehabilitation orders #5, 35, 59, and 98. Regarding rehabilitation order #136, Dr. Fleming moved and Mrs. Turner seconded the motion to send the order back to the informal settlement conference panel for further review and action. Following discussion, the motion was withdrawn. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to have the applicant appear before the full board.

Agenda item #13, regarding agreed board orders, was considered. Dr. Chang moved, Mrs. Southard seconded, and the motion passed to approve the orders en masse, with the exception of Steward R. Keller, D.O.; Booker T. Rogers, Jr., M.D.; and Price Edward Hale, M.D. The approved orders included: John E. Galewater, D.O.; Arturo D. Imperial, M.D.; Ira M. Levin, M.D.; Carl Jacob Fuchs, M.D.; Mark R. Rogers, M.D.; and Young S. Kim, M.D.

Following discussion regarding the order on Steward R. Keller, D.O., Dr. Tomelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to approve the order on Steward R. Keller, D.O., with the following changes: the physician must pass the jurisprudence examination within three attempts within one year and obtain 15 hours of continuing medical education in the area of ethics with the first year. The order is effective upon signature.

Following discussion regarding the order on Price Edward Hale, M.D., Dr. Tomelli-Mitchell moved, Mrs. Turner seconded, and the motion passed to approve the order on Price Edward Hale, M.D., with the following change: that the word "limited" be changed to "restricted." The order is effective upon signature.

Following discussion regarding the order on Booker T. Rogers, Jr., M.D., Dr. Tomelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to approve the order.

It was announced that there were no order to consider on agenda items #15 and #16.

Agenda item #17, regarding a report on temporary suspension/automatic orders/automatic actions, was next. This was an informational item only.

Agenda item #18, regarding termination of suspension orders, was next. Mr. Hicks moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the orders on Carrie S. Cannon, M.D.; and Eduardo Madiedo, Jr., M.D. Following discussion, Dr. Price moved, Dr. Ryan seconded, and the motion passed to approve the order on Terri M. Elkins, M.D. Dr. Tomelli-Mitchell abstained.

Agenda item #19, regarding mediated settlement agreement orders, was next. Mrs. Southard moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the orders on Ernesto A. Cantu, M.D.; and Richard A. Mosby, M.D.; and to proceed to a hearing at the State Office of Administrative Hearings, on the case of Alimadad M. Jatoi, M.D.

Agenda item #10, regarding a public hearing and consideration of adoption of proposed rule changes, was next. There was no one present to comment and no written comments were received regarding the proposed rules on Chapter 161, General Provisions, Chapter 173, Physician Profiles, and Chapter 199, Public Information. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to adopt the rules as published.

Agenda item #14, regarding modification request/termination request orders, was considered. Mrs. Turner moved, Dr. Fleming seconded, and the motion passed to approve the orders en masse, with the exception of the order on H. Shipley Hewes, D.O. The approved orders included: Rodolfo N. Trevino, M.D.; Juan J. Garza, M.D.; Jorge Guerrero, M.D.; Quentin T. Brooks, M.D.; Robert L. Gardner, M.D.; Stephen R. Fowler, M.D.; Gregory K. Phillips, M.D.; James W. Ferguson, M.D.; Joseph J. Martinez-

O◊Hara, M.D.; John H. Shary III, M.D.; Brian D. McDaniel, D.O.; Romeo Rojas-Walsson, M.D.; Kyler S. Knight, M.D.; Douglas R. Sharp, D.O.; Frank A. Vickers, M.D.; Ashokkumar G. Patel, M.D. Robert P. Kauffman, M.D.; Robert J. Just, M.D.; and Leo L. Altenberg, M.D. Mrs. Turner moved, Dr. Fleming seconded, and the motion passed to deny the request for termination regarding H. Shipley Hewes, D.O.

Discussion item #1, regarding the executive director's report, was next. Dr. Langley gave the executive director's report, which included the following:

- P Dr. Langley met with Senators Chris Harris, Bill Ratliff, and Mike Moncrief on various issues

P Staff made presentation at a meeting of the Texas Society of Medical Staff Services

P Dr. Langley and Mr. Hicks were speakers at a seminar in Corpus Christi

- P Dr. Langley attended a meeting of the Statewide Health Coordinating Council, the Federation Executive Management Seminar, and a law seminar
- P Dr. Langley and Mrs. Shackelford also attended a meeting sponsored by Seton Healthcare regarding medical error reporting
- P Dr. Langley announced that he would be meeting with representatives of Texas Medical Association (TMA) to discuss upcoming legislation and would be attending the TMA's Physician-Patient Advocacy Committee meeting

Mr. Walker gave an organizational update and announced that several seminars are planned

Mr. Harker gave an organizational update and announced that several seminars are planned, including a project management seminar for the senior and mid-level managers, a board member retreat, and a senior management retreat.

Mrs. Shackelford presented an update regarding the request for an Attorney General Opinion regarding foreign non-profit entities, reported that the board had been asked to comment on a request for an Attorney General Opinion regarding whether acupuncturists may perform spinal manipulation, a request regarding whether the board may prohibit advertising containing testimonials, and a request regarding narrow therapeutic index drugs.

Dr. Tomelli-Mitchell reported that she has spoken at several workshops regarding deceptive healthcare practices and stated that she would like to have the Ad Hoc Committee on Integrative and Complementary Medicine reactivated because she feels the board rules need to be updated. Dr. Kirksey moved, Dr. Tomelli-Mitchell seconded, and the motion passed to reactivate the committee. Mr. Hicks commended Dr. Tomelli-Mitchell for representing the board in these endeavors.

Discussion item #2, regarding the October 19-20, 2000 board meeting minutes, was considered. Dr. Fleming moved, Mr. Hicks seconded, and the motion passed to approve the minutes.

Discussion item #4, regarding the October 27, 2000 Disciplinary Panel meeting minutes, was next. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the minutes.

Discussion item #3, regarding the October 19, 2000 Disciplinary Panel meeting minutes, was next. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the minutes.

Discussion item #5, regarding the November 16, 2000 Disciplinary Panel meeting minutes, was next. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to approve the minutes.

Discussion item #6, regarding the October 28, 2000 Transition Committee meeting minutes, was next. Dr. Fleming moved, Dr. Kirksey seconded, and the motion passed to approve the minutes.

Discussion item #7, regarding call for resolution for the Federation of state medical Boards' Annual Meeting, was next. There were no resolutions to be considered at this time, but Dr. Anderson requested that the item be placed on the agenda for consideration at the next meeting.

Discussion item #8, regarding recommendations for changes to the Federation bylaws, was next. There were no suggestions at this time.

Discussion item #9, regarding the appointment of a representative to the Optometric Health Care Advisory Committee, was next. Dr. Anderson suggested that the board appoint Dr. Jeffrey Amoult and stated that he will contact him to ascertain his interest.

Discussion item #10, regarding the utilization of the Physician Licensure Assessment Service, was next. Following discussion, Dr. Price moved and Dr. Kirksey seconded the motion passed that the board utilize the Physician Licensure Assessment Service as a tool for evaluating a physician's competency. Dr. Fleming moved, Dr. Tomelli-Mitchell seconded, and the motion passed to go into executive session at 3:40 p.m. for private consultation and advice of counsel with respect to legal matters under the authority of the Open Meetings Act, Government Code, '551.071. Open session resumed at 3:46 p.m. and it was announced that no action was taken during executive session. A certified agenda was made. A vote was taken on Dr. Price's motion. The motion passed.

The board took a brief recess to review committee minutes.

Discussion item #13, committee reports and approval of minutes and action items, was next. Dr. Fleming moved, Mr. Hicks seconded, and the motion passed to approve all committee minutes and action items from the committees that met on December 7-8, 2000 and that the minutes and attachments be attached to the formal record.

Mr. Hicks moved, Dr. Tomelli-Mitchell seconded, and the motion passed to adjourn the meeting at 4:20 p.m.

