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September 6-7, 2001

The meeting was called to order on September 6, 2001 at 10:15 a.m. by Lee S. Anderson, M.D., Board President. 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.; Elvira Pascua-Lim, M.D.; Larry Price, D.O.; Joyce A. Roberts, M.D.; Nancy M. Seliger; Paulette B. Southard; R. Russell Thomas, Jr., D.O.; Janet Tornelli-Mitchell, M.D.; and Teddy Turner, J.D. Staff members present were Jerry T. Walker, Interim Executive Director; Michele Shackelford, J.D., General Counsel; Jennifer Soffer, J.D., Assistant General Counsel; and various other staff.

Dr. Anderson announced that the locations of the Finance Committee and the Ad Hoc Committee to Study Chapter 187 of Board Rules would be switched and instructed staff to post signs accordingly.

Agenda item #3, regarding the recommendation of the Search Committee relating to the employment of an Executive Director, was next. Dr. Kirksey moved, Mr. Hicks seconded, and the motion passed to approve Donald W. Patrick, M.D., J.D., as the Executive Director.

Dr. Fleming announced that former board member, Dr. John Boyd, passed away on Monday, September 3, 2001. A moment of silence was observed in memory of Dr. Boyd.

Agenda item #4, regarding board briefings, was next. Jane McFarland, Director of Physician Profile, updated the board on the Physician Profile project and the Physician Annual Registration Application form. She announced that the first profile reports had been published the previous week and that profile reports are now required of all physicians when they renew their licenses. The board delayed the completion of this discussion in order to move to agenda item #6.

Agenda item #6, regarding a presentation by The Honorable Kyle Janek, was next. Representative Janek presented information regarding the legislative intent of Senate Bill 544 and the responsibilities of the Texas State Board of Medical Examiners. He emphasized that he believed the legislation would reduce costs to Texas physicians and would keep the credentialing process simpler. Representative Janek encouraged the board to keep him advised of any roadblocks encountered and stated that his goal is to make sure that funding is available to complete this project. Representative Janek answered the board members' questions and thanked the board for inviting him to share his thoughts regarding credentials verification.

The board returned to the discussion of agenda item #4. Ivan Hurwitz, Director of Licensure, explained that if a physician does not complete the profile information during this first year of required submission, the physician's annual registration will be processed and the information will be gathered at a later time.

Agenda item #5, regarding the Physician Annual Registration Application Form, was next. Dr. Thomas moved, Dr. Tornelli-Mitchell seconded, and the motion passed to approve the form.

Agenda item #2, regarding executive session, was next. Dr. Tornelli-Mitchell moved, Dr. Thomas seconded, and the motion passed to go into executive session at 10:55 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 11:31 a.m. and it was announced that no action was taken during executive session. A certified agenda was made.

Agenda item #7, regarding a proposal for decision relating to Jack Dunn III, M.D., was next. The recusal statement was read and no one was recused. Dr. Dunn appeared with his attorney, James McClendon; Renee Rusch was the Administrative Law Judge; and Steve White, Director of Litigation, represented the board. Judge Rusch gave her report and recommendations and answered the board members' questions. Presentations were made by Mr. McClendon and Mr. White. Following a lengthy discussion regarding credibility issues, **Dr. Tornelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to go into executive session at 12:29 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 12:40 p.m. and it was announced that no action was taken during executive session. A certified agenda was made. Mr. McClendon stated for the record that he objected to any member of the board considering evidence that was not included in the proposal for decision. **Dr. Tornelli-Mitchell moved, Mrs. Angelo seconded, and the motion passed to deny Dr. Dunn's request to stay his suspension and directed the General Counsel to prepare an order reflecting the board's discussion.**

The meeting recessed at 12:41 p.m. and reconvened on September 7, 2001, at 2:10 p.m.

Dr. Anderson presented a certificate of appreciation to Jerry Walker, Interim Executive Director, for his work during the time the board was searching for a new Executive Director. In addition, he thanked Michele Shackelford, General Counsel, for her assistance during this time.

Agenda item #9, Executive Director's Report, was next. Mr. Walker asked Ms. Shackelford to summarize recent Attorney General Opinions and the response from the State Office of Administrative Hearings (SOAH) regarding the board's interlocutory appeal. The board directed staff to develop a list of concerns regarding SOAH procedures and present them at the Sunset hearings. Mr. Walker reported on some of the accomplishments of the staff during FY01, including the recent audit, redesign of the agency's web-site, computer re-write, the profile project, management of the current year's budget and development of the budget for FY02, support of the Ad Hoc Committee to Study Board Rule 187, working with the Federation regarding FCVS, and preparing for three board meetings which were held in the same week. Mr. Walker commended staff for their hard work throughout the summer months and thanked them for their support.

Agenda item #10, regarding the legislative update, was next. Ms. McFarland reported on recent legislation and asked the board members to review the summary provided to them.

Agenda item #11, regarding a proposal for decision on Alvin J. Levenson, M.D., was next. Dr. Levenson did not appear at the hearing or the board meeting. Scott Tatum, staff attorney representing the board, made a brief presentation. **Dr. Thomas moved, Dr. Fleming seconded, and the motion passed to accept the proposal for decision recommended by the administrative law judge and suspend Dr. Levenson's license.**

Agenda item #12, regarding a proposal for decision on John Paul Spencer, M.D., was next. Dr. Spencer did not appear at the hearing or the board meeting. Steve White, Director of Litigation, made a brief presentation. **Dr. Tornelli-Mitchell moved, Ms. Southard seconded, and the motion passed to adopt the administrative law judge's recommendation and revoke Dr. Spencer's license.**

Agenda item #13, regarding proposed rule changes, was next. No written comments were received on the proposed rules and no one was present to present testimony. **Dr. Tornelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to adopt the proposed rules on Chapter 161, General Provisions; Chapter 163, Licensure; Chapter 166, Physician Registration; and Chapter 167, Reinstatement.**

Agenda item #15, regarding rehabilitation orders, was next. Dr. Tornelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to go into executive session at 2:35 p.m. for 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, 160.006, 164.007, and 164.203; and Attorney General's Opinion No. H-484. Dr. Tornelli-Mitchell moved, Ms. Turner seconded, and the motion passed to approve rehabilitation orders #159, 160, 162, 163

seconded, and the motion passed to approve rehabilitation orders #159, 160, 162, 163, 164, 165, 166, 167, and 168; request for modification of rehabilitation orders #46, 54, 82, 97, 114, 120, and 129; and request for termination of rehabilitation orders #20, 21, 27, 38, 42, 69, and 104. Dr. Tornelli-Mitchell moved, Mrs. Angelo seconded, and the motion passed to change rehabilitation #161 from a 3-year order to a 5-year order.

Agenda item #14, regarding cancellation of licenses, was considered. Ivan Hurwitz, Director of Licensure, explained that notice had been given to each licensee and asked for approval to cancel the licenses. Dr. Thomas moved, Dr. Tornelli-Mitchell seconded, and the motion passed to approve cancellation of the licenses as presented.

Agenda item #16, regarding agreed board orders, was considered. Dr. Chang moved, Ms. Southard seconded, and the motion passed to approve the orders en masse, with the exception of Billy H. Puryear, D.O.; Dario Zuniga, M.D.; and James M. Stanton. The approved orders included: Andrew Blinkov, M.D.; Lloyd G. Thompson, M.D.; Dubose W. Murray, M.D.; Michael Eric Freeburger, M.D.; James Nolan Fontenot, Jr., M.D.; Troy Arthur Caldwell, Jr., M.D.; Jeffrey R. Keim, M.D.; Steven Mathieu Payne, M.D.; Rezik Saqer, M.D.; William John Lasher, M.D.; John Howard Simmons II, M.D.; Robert T. Berwind, M.D.; Cesar P. Gregorio, M.D.; Rafael Fermin Garcia, M.D.; John B. Payne, D.O.; Charles W. Castle, M.D.; Bryan Edward Bledsoe, D.O.; Wasim Mohammad Khan, M.D.; R.E. Hearn, M.D.; Richard Spencer Gist, M.D.; Felix Sabates, Jr., M.D.; Jaime R. Minjares, M.D.; Paul H. Crumpler, M.D.; Cesar E. Maldonado, M.D.; David L. Hankins, D.O.; Maxie Courtlandt Sprott II, M.D.; Robert Roland Perry, M.D.; Alfredo Luis Santibanez, M.D.; Ricardo A. Rocha, M.D.; and Vladimir Zalmanovitch Rizov, M.D.

The board members discussed the orders on Billy H. Puryear, D.O.; Dario Zuniga, M.D.; and James M. Stanton. Ms. Southard moved, Mr. Hicks seconded, and the motion passed to approve the orders subject to a nunc pro tunc order being approved at the next meeting to correct a typographical error on Dr. Stanton's order.

Agenda item #17, regarding modification request/termination request orders, was considered. Dr. Fleming moved, Ms. Southard seconded, and the motion passed to approve the orders en masse with the exception of James Gordon Casey, M.D. and William Marks Taylor, M.D. The approved orders included: Richard D. Yentis, M.D.; Castilla A. Darby, Jr., M.D.; Clarence Gordon King, Jr., M.D.; William Justus Head III, M.D.; Maxwell Curtis Scarlett, M.D.; Conrado G. Galindo III, M.D.; Russell W. Zepeda, M.D.; Eugene N. Clayton III, M.D.; Michael C. Leath, M.D.; Dipakkumar D. Patel, M.D.; Enrique Antonio Martinez, M.D.; Myron C. Harrison, M.D.; Robert Hugh Trimble, M.D.; Dale Leonard Messer, M.D.; Charles Carroll Bittle, M.D.; Michael Gellatly Iversen, M.D.; Antonio Panganiban Serrano, M.D.; Miguel B. Banta, Jr., M.D.; Cordell Clark, M.D.; Avri B. Rush, M.D.; Carl C. Davis, Jr., M.D.; Peter D. Doyle, M.D.; Mark D. Gilliland, M.D.; Robert H. Steward, M.D.; William Warren Prater, M.D.; Francisco Basil Saucedo, M.D.; John H. Shary, III, M.D.; Jon F. Tessmer, M.D.; and Walter Joseph Turkowski, M.D.

Dr. Fleming moved, Mrs. Angelo seconded, and the motion passed to go into executive session at 3:15 p.m. for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action 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, and 164.007; and Attorney General's Opinion No. H-484. Open session resumed at 3:25 p.m. and it was announced that no action was taken during executive session. A certified agenda was made. Following discussion, Dr. Thomas moved, Dr. Roberts seconded, and the motion passed to approve the order on James Gordon Casey, M.D. Dr. Tornelli-Mitchell moved, Ms. Southard seconded, and the motion passed to approve the order on William Marks Taylor, M.D.

There were no orders to be considered on agenda item #18.

Agenda item #19, regarding nunc pro tunc orders, was considered. Ms. Turner moved, Dr. Tornelli-Mitchell seconded, and the motion passed to approve the order on Norman J. McCall, M.D.

Agenda item #20, regarding mediated settlement orders, was considered. Following discussion, Dr. Thomas moved, Ms. Southard seconded, and the motion passed to approve the orders on Floyd Hardimon, D.O.; Eric Heston Scheffey, M.D.; and Thomas Sterling Parker, M.D.

Agenda items #21 and 22, regarding termination of suspension orders and report on temporary suspension/automatic orders/automatic actions, were not necessary, as there were no orders to be considered.

Discussion item #2, regarding the May 18, 2001 board meeting minutes, was considered. Mr. Hicks moved, Ms. Southard seconded, and the motion passed to approve the minutes.

Discussion item #3, regarding the July 13, 2001 Executive Committee meeting minutes, was considered. Dr. Tornelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to approve the minutes.

Discussion item #4, regarding the July 13-14, 2001 Search Committee meeting minutes, was considered. Mr. Hicks moved, Ms. Southard seconded, and the motion passed to approve the minutes.

Discussion item #5, regarding the August 10, 2001 Ad Hoc Committee to Study Chapter 187 of Board Rules meeting minutes, was considered. Ms. Southard moved, Mr. Hicks seconded, and the motion passed to approve the minutes.

Discussion item #6, regarding appointment of the Disciplinary Panels, was next. Dr. Anderson appointed the following to the October-December, 2001 Disciplinary Panel: Dr. Benavides, Chair; Mr. Hicks; Dr. Kirksey; Dr. Roberts; and Dr. Thomas. Dr. Anderson also appointed the following to the January-March, 2001 Disciplinary Panel: Mr. Miles, Chair; Dr. Anderson; Dr. Price; Ms. Seliger; and Ms. Southard.

Discussion item #7, regarding the appointment of a board representative to the Pharmacy Board Task Force, was next. Ms. Shackelford explained the mandate of Senate Bill 768 regarding the development of dispensing directives. Dr. Anderson appointed Dr. Thomas to serve on the Task Force.

Discussion item #1, regarding a board member report, was next. Dr. Garza and Jon Porter, Director of Compliance, reported on their visit to Denver, Colorado, to attend a meeting concerning the Physician Licensure Assessment System (PLAS). Dr. Thomas also reported that he assisted the General Counsel in developing comments to address the Texas Department of Health's proposed rules concerning midwifery.

Dr. Anderson presented a report of the Search Committee meeting. **Dr. Anderson moved, Dr. Tornelli-Mitchell seconded, and the motion passed to approve the minutes and action items.**

Mr. Hicks presented a report of the Finance Committee meeting. **Mr. Hicks moved, Dr. Fleming seconded, and the motion passed to approve the minutes and action items.**

Dr. Garza presented a report of the Licensure Committee meeting. **Dr. Tornelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to approve the minutes and action items.**

Dr. Anderson presented a report of the Executive Committee meeting. **Dr. Price moved, Dr. Tornelli-Mitchell seconded, and the motion passed to approve the minutes and action items, with a correction to the minutes as discussed.**

Ms. Southard presented a report of the Public Information/Profile Committee meeting. **Ms. Southard moved, Dr. Thomas seconded, and the motion passed to approve the minutes and action items, with a correction to the minutes as discussed.**

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

Dr. Kirksey presented a report of the Disciplinary Process Review Committee meeting. **Mr. Hicks moved, Dr. Thomas seconded, and the motion passed to approve the minutes and action items.**

Dr. Benavides presented a report of the Non-Profit Committee meeting. **Dr. Benavides moved, Ms. Seliger seconded, and the motion passed to approve the minutes and action items.**

Dr. Price presented a report of the Ad Hoc Committee to Study Chapter 187 of Board Rules meeting. **Dr. Price moved, Ms. Southard seconded, and the motion passed to approve the minutes and action items.**

Dr. Thomas presented a report of the Standing Orders Committee meeting. **Dr. Thomas moved, Ms. Southard seconded, and the motion passed to approve the minutes and action items, with corrections to the minutes as discussed.**

Ms. Seliger presented a report of the Legislative/Long Range Planning Committee meeting. **Mr. Hicks moved, Ms. Southard seconded, and the motion passed to approve the minutes and action items.**

Dr. Kirksey presented a report of the Surgical Assistants Committee meeting. **Dr. Kirksey moved, Dr. Thomas seconded, and the motion passed to approve the minutes and action items.**

Dr. Tornelli-Mitchell presented a report of the Credentials Verification Study Committee meeting. **Dr. Tornelli-Mitchell moved, Dr. Benavides seconded, and the motion passed to approve the minutes and action items.**

There being no further business, **Dr. Tornelli-Mitchell moved, Mr. Hicks seconded, and the motion passed to adjourn the meeting at 5:11 p.m.**

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