

Brian K. Rich

Texas Has No Plan to License Certain Physicians Like Me

Testimony by Brian K Rich MD

Members of the Sunset Committee, thank you for the opportunity to appear before you today.

My name is Dr. Brian Rich. I am a physician living in Irving Texas but working in Oklahoma. I have practiced in Oklahoma since finishing my Sports Medicine fellowship in 2007. I am board certified in Family Medicine.

My goal and hope has always been to practice in my hometown of Irving, Texas. Along the way I have not made that goal easy. A brief history. In 2014 I applied for licensure here in Texas but was considered ineligible because of prior acts. These acts include unprofessional conduct and dishonesty not only to persons but on applications. When I applied for my Texas license all of my disciplinary actions had been resolved and probation ended. In June 2014 I appeared before the Licensure Committee of the Texas Medical Board. The Committee determined me ineligible for licensure.

My before mentioned actions had nothing to do with drugs, alcohol or mental health. Had my application involved any of these I could have become involved with the Texas Physician Health Program and more than likely been issued a license under contract with the Texas PHP. Nor did my issues involve patient care. My issues, which are now over eight years old, fall into what has been collectively described as a gray area, an area that current board rules allow broad discretion for the board.

As I started the process of trying to determine what I needed to do to get my license I sought counsel from those that have had over 30 years of experience of dealing with the Texas Medical Board. I was given the answer of "Time". No other word, just "Time". I started to notice very quickly there wasn't any formal process or plan that would guide me toward licensure. The process to figure what needed to be done started from a reverse engineering approach. Since most data is online I spent several hours researching what physicians just like me in the State of Texas had to do in order to get their license or keep their license over the past 3-5 years. I took the most consistent approach and applied it to what I had already completed or would be willing to complete and started a plan. As I compiled the plan I asked my local state Representative to intervene on my behalf with medical board staff and a member of the Licensure Committee. My Representative held those conversations and came away confused and concerned that no one could provide him with direction. My Representative believed it would take legislative changes to the medical practice act to create a law upon which the board could enact rules that would provide applicants with a process that would point to licensure. That is why I'm here today. I believe in creating a definitive and fair plan would help physicians like myself.

As part of the process I took the time to call a representative from each medical board across the country and I was able to reach all but a few. I gave them a quick and brief scenario of my background and asked them, should I be willing to come to them and have an agreed plan, or order do they have such plans in place. Of the 50 states 37 currently have an official or unofficial plan in place, which constitutes meeting with the physician going over the

information and trying to come to some sort of agreement for a period of of time. Four states have no official or unofficial plan. Five states follow a case by case basis on whether they would meet with the applicant, and four other states we were not able to be contact.

In closing I'm asking the Sunset Commission to consider legislation that would alter the current statute by adding language that would require the board to not consider certain actions that are over five years of age. This proposed legislation was drafted by previous employees of the Texas Medical Board with over 25 years of experience with Texas licensure, and a local health care attorney who was formally in the Texas State Legislature and previous general counsel for the Texas Medical Board.

ec. 155.003. GENERAL ELIGIBILITY REQUIREMENTS. (a) To be eligible for a license under this chapter, an applicant must present proof satisfactory to the board that the applicant:

(1) is at least 21 years of age;

(2) is of good professional character and has not within the five years preceding application violated

Section 164.051, 164.052, or 164.053 and has never been convicted of a second or third degree felony.