

TEXAS BOARD OF CHIROPRACTIC EXAMINERS

William P. Hobby Building
333 Guadalupe, Suite 3-825
Austin, Texas 78701

ANNOUNCEMENT OF BOARD MEETING

2nd Amended Notice: Item #37 (Definitions) was incorrectly listed
1st Amended Notice: Item #45 (Lack of Diligence) was incorrectly listed

Date: **Thursday, September 12, 2019**

Time: **9:00 a.m. until final adjournment**

Location: **William P. Hobby Building**
333 Guadalupe, Tower 2, Room 225
Austin, Texas 78701

BOARD MEETING AGENDA

Pursuant to Texas Occupations Code §201.058, the Texas Board of Chiropractic Examiners (Board) will meet in open session and, after determining the presence of a quorum, deliberate and possibly take formal action, including emergency action, on any of the following agenda items.

Proceedings of the Board shall be conducted under modified Robert's Rules of Order. The President of the Board reserves the right to alter the order of agenda items in his discretion as circumstances warrant. Agenda items that have been adopted, delayed, or tabled for another meeting may be considered or reconsidered at the same meeting.

The Board may, when required, meet and discuss in closed executive session and take action in a subsequent open meeting on any item on the agenda to the extent the Board is authorized to do so pursuant to Texas Government Code §§551.071 (Consultation with Attorney), 551.073 (Deliberation Regarding Prospective Gift), 551.074 (Personnel Matters), or 551.076 (Deliberation Regarding Security Devices or Security Audits).

Opening Matters:

1. Call to order and roll call.

2. Discussion and action to approve the minutes for the Board meeting held on:

May 16, 2019

Board and Staff Reports:

3. President's report and comments.
4. Staff reports: The Board will hear from staff on general agency operations.
 - a. Executive Director
 - b. Director of Licensing
 - c. Director of Operations
 - d. Director of Enforcement
5. Board Committee reports: The Board will hear general committee reports, if any. The Board may discuss but take no formal action on these reports. The Board may direct staff as a result of the discussions.
 - a. Rules Committee
 - b. Licensing Committee
 - c. Education Standards Committee
 - d. Enforcement Committee

Board Policy Discussions: The Board may discuss but take no formal action on these items. The Board may give direction to staff as a result of the discussions.

6. Discussion on the relevancy of out of scope continuing education courses for licensees.
7. Discussion on the use of the term "Dr." by retired former licensees.
8. Discussion on the use of video demonstrations of chiropractic procedures by licensees.
9. Discussion on the results of the July 30, 2019, stakeholder meeting regarding patient records.

Public Comments:

10. Public Comment: the Board will entertain general comments from the public on matters not specifically announced elsewhere in this agenda. Individuals wishing to speak must register their names on the sign-in sheets located at the entrance to the meeting room. The Board President may, in his discretion, limit the length of public comments in the interest of time. Individuals who wish to register a comment with the Board but not speak may do so by providing a written statement to Board staff.

Licensing Matters:

11. Discussion and possible action on requests to sit for the Texas Jurisprudence Examination pursuant to Texas Occupations Code §201.304(a)(2):

- a. Jongchan Lim
- b. Melva Mitchell-Gray
- c. Angel Rivas
- d. Brett Greenberg

Enforcement Matters:

12. Discussion and possible action on proposed final decision (PFD) orders pursuant to Texas Occupations Code §201.555 and 22 TAC §81.10:

None for this meeting

13. Discussion and possible action on proposed cease and desist orders pursuant to Texas Occupations Code §201.6015 and Texas Government Code §2001.056:

None for this meeting

14. Discussion and possible action on default orders pursuant to Texas Occupations Code §201.0555, Texas Government Code §§2001.056(4) and 2001.058(d-1), and 22 TAC §81.6(b):

None for this meeting

15. Discussion and possible action on proposed agreed orders pursuant to Texas Occupations Code §201.504(a)(1):

- a. Mark A. Dennis, License No. 11418, TBCE Case No. 2017-440
- b. Patrick L. McCabe, License No. 12906, TBCE Case No. 2018-041
- c. Robert Scott Small, License No. 13440, TBCE Case No. 2018-079
- d. Jaime R. Morales, License No. 6462, TBCE Case No. 2018-156
- e. Dwane Davis, License No. 13115, TBCE Case No. 2018-162
- f. Richard Brian Shaffer, License No. 7885, TBCE Case No. 2018-170

16. Discussion and possible action on required suspension or revocation of licenses for certain offenses pursuant to Texas Occupations Code §201.5065:

- a. David Gosalvez III, License No. 12099, TBCE Case No. 2019-252

Rules for Adoption:

17. Discussion and possible action on adopting the repeal and replacement of certain Board rules relating to license applications and renewals:
22 TAC §72.19 (Fees)
18. Discussion and possible action on adopting the repeal and replacement of certain Board rules relating to business practices:
22 TAC §75.2 (Out-of-Facility Practice)
19. Discussion and possible action on adopting the repeal and replacement of certain Board rules relating to business practices:
22 TAC §75.6 (Mandatory Notice to Public)
20. Discussion and possible action on adopting a new rule relating to certain business practices:
22 TAC §75.7 (Mandatory Display of License)
21. Discussion and possible action on adopting a new rule relating to business practices:
22 TAC §75.8 (Unsafe and Unsanitary Conditions)
22. Discussion and possible action on adopting the repeal of certain rules relating to unprofessional conduct:
22 TAC §79.3 (Disciplinary Records)
23. Discussion and possible action on adopting the repeal and replacement of certain rules relating to complaints:
22 TAC §80.1 (Duty to Respond to Complaint)
24. Discussion and possible action on adopting the repeal and replacement of certain rules relating to complaints:
22 TAC §80.2 (Complaint Procedures)
25. Discussion and possible action on adopting the repeal and replacement of certain rules relating to complaints:
22 TAC §80.3 (Disciplinary Guidelines)
26. Discussion and possible action on adopting the repeal and replacement of certain rules relating to complaints:
22 TAC §80.5 (Expert Review Process)
27. Discussion and possible action on adopting the repeal and replacement of certain rules relating to complaints:
22 TAC §80.6 (Undercover Investigations)

28. Discussion and possible action on adopting the repeal and replacement of certain rules relating to complaints:

22 TAC §80.7 (Cease and Desist Orders)

29. Discussion and possible action on adopting a new rule relating to complaints:

22 TAC §80.9 (Temporary License Suspension)

Proposed Rules:

30. Discussion and possible action on proposing the repeal and replacement of certain rules relating to rulemaking:

22 TAC §71.1 (Definitions), change to "Petition for Adoption of Rules"

31. Discussion and possible action on proposing the repeal of certain rules relating to rulemaking:

22 TAC §71.2 (Petition for Adoption of Rules)

32. Discussion and possible action on proposing the repeal of certain rules relating to fees, license applications, and renewals:

22 TAC §72.1 (Definitions)

33. Discussion and possible action on proposing the repeal and replacement of certain rules relating to fees, license applications, and renewals:

22 TAC §72.10 (Jurisprudence Exam Disqualification)

34. Discussion and possible action on proposing the repeal and replacement of certain rules relating to fees, license applications, and renewals:

22 TAC §72.12 (Criminal History Evaluation Letters)

35. Discussion and possible action on proposing the repeal and replacement of certain rules relating to business practices:

22 TAC §75.1 (Code of Ethics)

36. Discussion and possible action on proposing the repeal and replacement of certain rules relating to business practices:

22 TAC §75.3 (Fraud Prevention)

37. Discussion and possible action on proposing the repeal and replacement of certain rules relating to advertising and public communications:

22 TAC §77.1 (Definitions), change to "Advertising and Public Communications"

38. Discussion and possible action on proposing the repeal and replacement of certain rules relating to advertising and public communications:
22 TAC §77.2 (Advertising, Public Communications, and Telemarketing), change to "Telemarketing"
39. Discussion and possible action on proposing the repeal and replacement of certain rules relating to advertising and public communications:
22 TAC §77.3 (Patient's Right to Disclosure of Charges)
40. Discussion and possible action on proposing the repeal and replacement of certain rules relating to scope of practice:
22 TAC §78.2 (Prohibitions)
41. Discussion and possible action on proposing the repeal and replacement of certain rules relating to scope of practice:
22 TAC §78.3 (Delegation of Authority), change to "General Delegation of Responsibility"
42. Discussion and possible action on proposing a new rule relating to scope of practice:
22 TAC §78.4 (Delegation to Chiropractic Students and Recent Graduates)
43. Discussion and possible action on proposing the repeal of certain rules relating to scope of practice:
22 TAC §78.5 (Spinal Screenings)
44. Discussion and possible action on proposing a new rule relating to scope of practice:
22 TAC §78.10 (Questions about Scope of Practice)
45. Discussion and possible action on proposing the repeal and replacement of certain rules relating to unprofessional conduct:
22 TAC §79.2 (Lack of Diligence)
46. Discussion and possible action on proposing the repeal and replacement of certain rules relating to unprofessional conduct:
22 TAC §79.4 (Impaired Licensees and Applicants)
47. Discussion and possible action on proposing a new rule relating to complaints:
22 TAC §80.10 (Time Limits for Filing Complaints)
48. Discussion and possible action on proposing the repeal of certain rules relating to enforcement actions and hearings:
22 TAC §81.1 (Definitions)

49. Discussion and possible action on proposing the repeal of certain rules relating to enforcement actions and hearings:

22 TAC §81.3 (Application Denial)

50. Discussion and possible action on proposing the repeal of certain rules relating to enforcement actions and hearings:

22 TAC §81.11 (Extensions of Time)

Legal Matters:

51. Closed session. The Board will receive will receive legal advice, if required, relating to on-going litigation from the General Counsel pursuant to Texas Government Code §551.071.

52. Closed session. The Board, if required, will discuss recent legislative changes relating to the compensation level of the Executive Director pursuant to Texas Government Code §551.074.

53. The Board, if necessary, will discuss and take action on on-going litigation as discussed in closed session under agenda item #51.

54. The Board, if necessary, will discuss and take action on the compensation level of the Executive Director as discussed in closed session under agenda item #52.

Additional Enforcement Matters:

55. Discussion and possible action on requests to expunge disciplinary records pursuant to Texas Occupations Code §201.156(c)(2) and 22 TAC §79.3:

a. Shukura B. Leo, License No. 12087 TBCE Case No. 2012-179

Concluding Matters:

56. Requests from Board members for future agenda items.

57. Adjournment.

For questions regarding items on this agenda, please contact Christopher Burnett, General Counsel, at 512-305-6700.

Note: Persons with disabilities who plan to attend the meeting and who may need auxiliary aids, services, or special accommodations should contact Shaquanda Banks at 512-305-6700 a minimum of two working days before the meeting so appropriate accommodations can be made.