



Texas Chiropractic Board Report

The mission of the Texas Board of Chiropractic Examiners is to execute the statutory authority of the Texas Chiropractic Act and to promote, preserve, and protect the health, safety, and welfare of the people of Texas by licensing skilled professionals and enforcing standards of practice.

January 2015
Volume II, Issue 3

Special Interest Articles:

- Rules, Laws & Policy
- Records Requests and Letters of Protection
- hCG & Weight Loss Treatment
- Legislative Session: Bills to Watch
- How Does the Legislature Decide How Much Money We Get?

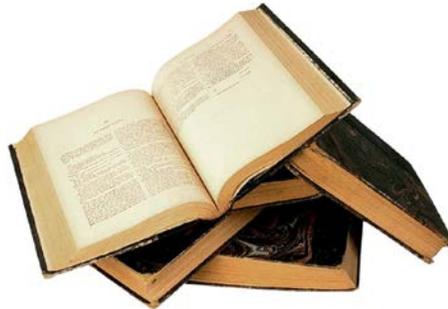
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Rules, Laws and Policy – What’s the Difference?

- by Bryan Snoddy, General Counsel



Perhaps no subject is less understood or gets more confused among the general public than the difference between agency rules, statutes and laws, or policies and guidelines. In fact, there is probably no better way to describe the interplay between these concepts than a short discussion concerning what each is and how they have come about by examining the history of chiropractic care in Texas.

Any discussion should always begin with an examination of the Texas Chiropractic Act. The earliest set of law, or statute, was signed by Governor Coke Stevenson in 1943 but was ruled unconstitutional. Thus, in 1949, the Legislature enacted the present chiropractic act which is commonly known as the Texas Chiropractic Act.

The [Texas Chiropractic Act](#) is what lawyers refer to as the statutory (or enacted) language. A statute is quite simply a formal written law passed by a legislative body. Because the Texas Constitution grants the Legislature the power to make all laws in Texas not contrary to the

Texas Constitution, the Legislature has the power to create agencies to regulate the practice of professions in Texas.

Because Texas’ Legislature only meets bi-annually or every second year, the Legislature has created a system of agencies to manage the regulation of the professions in a manner that ensures the welfare and safety of the public. In short, the Legislature has given agencies the power to regulate in its place. This process is formally known as delegation.

For instance, the Legislature has adopted language in the Chiropractic Act that grants the Texas Board of Chiropractic Examiners (Board) the ability to create and establish an enforcement committee. There are other sections of the law which permit the Board to issue and suspend/revoke a license to practice chiropractic or setup a registered facility. In fact, every action that the Board takes must be based upon the law and the power granted by the Legislature.

So, you’re probably wondering – ‘okay, I understand the law, but where do the rules come from?’ That’s a great question. It is important to think of the Chiropractic Act as only the foundation and framework that makes up the house. But no one would want to live in a house with just a bare foundation and frame.

This is where the rules come in. Board rules essentially finish (con’t on page 6)



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Chiropractic
Examiners**

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Executive Director

A Message from the Executive Director



Welcome to 2015!

I hope you all had a wonderful holiday season and are settling into the new year. The holiday season was a busy one around the TBCE office and the beginning of 2015 is proving to be no different. From the finalization of our comprehensive rules review to the beginning of the 84th Legislative Session, there is no shortage of work in our office!

Speaking of the legislative session, this issue of the *Report* contains helpful information about bills concerning Doctors of Chiropractic, as well as information on how to monitor proposed legislation. It also contains information regarding the legislative appropriations process and how TBCE is appropriated money to operate. Unfortunately, the agency is only appropriated a portion of the fees we collect – a fact that is relatively unknown to licensees.

Also in this issue of the *Report* is information on the difference between agency rules, the law, and agency policy, as well as information on letters of protection and how they impact patient records requests. These issues are the topic of many phone calls to our legal and enforcement staff.

I am very sad to see the terms of three Board members come to an end – Dr. Larry Montgomery, Dr. Patrick Thomas, and Ms. Anne Boatright. Each of them has brought a great deal of experience and wisdom to the Board that will be missed tremendously. I sincerely appreciate all they have done by dedicating countless hours of their time to issues such as enforcement, licensing, continuing education, and rules.

I look forward to where this new year takes us and welcome any comments or concerns, as always!

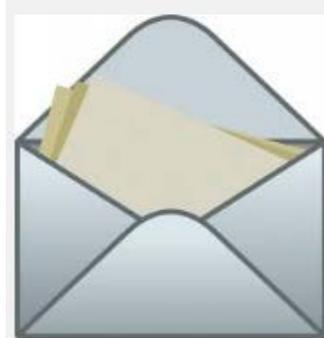
Yvette Yarbrough – Executive Director

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Records Requests and Letters of Protection

- by Scott Parker, Director of Enforcement & Investigations



While investigating Failure to Furnish Records complaints,

TBCE investigators often receive written responses from licensees or facility owners confirming that they failed to release the requested records in a timely manner. The main two reasons the licensees or facility owners give for failing to furnish the request records is because the patient's attorney failed to provide them with a Letter of Protection (LOP) or the patient has an outstanding balance for services rendered.

The Board Rules, as stated in the Texas Administrative Code, regarding *Request for Information and Records from Licensees* clearly state chiropractic records requested pursuant to a written request signed by the patient; the patient's personal representative if the patient is deceased; a parent or legal guardian if the patient is a minor; a legal guardian if the patient has been adjudicated incompetent to manage his or her personal affairs; or an attorney ad litem for the patient as authorized by law "may not be withheld based on a past due account for care or treatment previously rendered to the patient or based on the lack of a letter of protection or other similar document."

The rule does allow a licensee or facility owner to charge a reasonable fee for furnishing the records. A reasonable fee of a paper copy shall not exceed \$30 for retrieval of records and processing the request, including copies for the first 10 pages, \$1.00 per page for pages 11-60; \$0.50 per page for pages 61-400; and \$0.25 per page for pages over 400.

A reasonable fee for copies of films or other static diagnostic imaging studies shall be a charge not to

exceed \$45 for retrieval and processing, including copies for the first 10 pages, and \$1.00 for each additional page over 10.

The reasonable fees may also include the actual cost for mailing, shipping or delivery.

The rule does allow a licensee or facility owner to require payment in advance except from another licensee or other health care provider, including a chiropractor licensed by any other state, territory, or insular possession of the United States or any state or province of Canada, if required for purposes or emergency or acute medical care.

Just a reminder, a licensee or facility owner may not charge a fee for a medical or mental health record requested by a patient or former patient, or by an attorney or other authorized representative of the patient or former patient, for the use in supporting an application for disability benefits or other benefits or assistance the patient or former patient may be eligible to receive based on the patient's or former patient's disability, or an appeal relating to denial of those benefits or assistance under:

Chapter 31, Human Resources Code; the state Medicaid program; Title II, the federal Social Security Act, as amended (42 USC Section 401 et seq.); Title XVI, the federal Social Security Act, as amended (42 USC Section 1382 et seq.); Title XVIII, the federal Social Security Act, as amended (42 USC Section 1395 et seq.); 38 USC, Section 1101 et seq., as amended; or 38 USC, Section 1501 et seq., as amended.

The Board encourages licensees and facility owners to be knowledgeable of the provisions of the *Request for Information and Records from Licensees* rule and comply appropriately with all written records requests. ♦



What's all the Buzz about Continuing Education?



Every licensee renewing an active chiropractic license must meet the CE requirements outlined in [Board Rule 75.5](#).

Basically, you must complete 16 hours of Continuing Education (CE) each renewal cycle, four of which are in Board-required topics. No more than six hours may be obtained through online courses. However, webinars are treated as live courses in Texas.

The 16 hours may be completed at any course or seminar chosen by the licensee, as long as the course or seminar has been approved in advance by the Board. (You can check on approved courses on our homepage at www.tbce.state.tx.us under the "[Continuing Education](#)" link.)

If you fail to complete your 16 hours, your license will be renewed, but it will be placed in a probated status for up to 12 months.

At the conclusion of the 12 months, if you still have not remedied the delinquent CE hours, your license will be considered expired, backdated to the beginning date of the probationary year.

Note, this renders your license non-renewable, and you will need to apply as a new licensee for a new license.

All licensees were required to obtain eight hours of CE during either calendar year 2011 or 2012 in Medicare coding and documentation. (These eight hours could be counted as part of that year's 16 CE hours.) If you failed to complete these eight hours in Medicare coding and documentation, the same probation period applies as previously described.

Bottom line: Your CE course sponsor is responsible for submitting a roster to the Board, which we use to credit licensee hours.

The Board is auditing licensee CE completion UPON renewal and is checking to make sure everyone is current on CE requirements. Don't risk your license by not completing your hours.

To check on whether your hours are up-to-date and complete, contact Sarah Matthews, Licensing Assistant, at sarah@tbce.state.tx.us or 512-305-6707. ♦

Agency Licensing & Registration Information through 01/27/15



Number of Chiropractic Doctors	
Active License	5021
Expired License	271
Inactive License	611
Non-Renewable License	2339
Probated License	17
Probated-CE License	372
Suspended License	3

Number of Chiropractic Facilities	
Active Registration	4138
Expired Registration	197

Number of Radiologic Technologists	
Active Registration	88
Expired Registration	52

human Chorionic Gonadotropin and Weight-Loss Treatment – Is This Legal?



- by Bryan Snoddy, General Counsel

The answer to the subject questions are No and Yes.

And thus, ends the shortest TBCE newsletter article ever!

But maybe that is the wrong question. The more interesting inquiry is really “why is a substance or procedure legal or illegal” or what folks might conversationally say “in scope.”

Scope of practice questions are really not very difficult. The first step in discovering whether some procedure or device is within scope of practice is the [Chiropractic Act](#).

If you were to call and request an opinion from the Legal Division, the instinctive and first course of action is to review the language of the Act to see if what is being described is within the scope of practice.

The language is quite simple. Section 201.002 starts off by defining the words that are critical in providing the scope of practice language with an understood meaning. The following subsection then proceeds to explain that which is permitted and the concluding subsection discusses the practices that are prohibited.

The initial question is whether hCG is a controlled substance. The definition of a controlled substance is contained within section 481.002 of the Health and Safety Code.

There it says, “Controlled substance’ means a substance, including a drug, an adulterant, and a “dilutant”, listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance.”

The schedules talked about in that definition are found in the Federal Controlled Substances Act or 21 U.S.C. Section 801 et seq. A quick check with the Food and Drug Administration indicates that hCG or human chorionic gonadotropin, a hormone produced during pregnancy, is a prescription medication that has been clinically approved to treat fertility issues.

The second most common use is as an illegal anabolic steroid adjunct to prevent testicular atrophy. Further, the Mayo Clinic has advised that hCG is not approved for over-the-counter use nor has it been clinically proven to assist in weight loss.

Indeed, companies that sell over-the-counter hCG weight-loss products are breaking the law and likely perpetrating economic fraud on consumers.

In addition to the fact that no evidence exists to show that oral over-the-counter products are effective, according to experts in the supplement industry and some basic chemical tests, hCG, which is a peptide hormone, is broken down by the stomach and rendered ineffective.

It is beyond the scope of chiropractic to perform an incisive or surgical procedure such as an injection of hCG. (con't on page 16)



Rules, Laws & Policy (con't from front page)

out the house and provide the details. It would be impossible and inefficient for the Legislature to try and provide every single detail concerning the regulation of the practice of chiropractic in Texas. Instead, the Legislature has left the finishing touches to the Board. Because the Board is limited to do only that which the Legislature gives the Board the authority to do, we must first go back to the statute and find the language in the law that permits the Board to adopt rules.

If you've had a chance (and probably not unless you needed some good sleep-inducing bed-time material) to review all of the Chiropractic Act, you might have noticed that the Act is very uniquely structured. The hierarchy of the law in Texas consists of codes, titles, subtitles, chapters and subchapters. When you have a quick moment, take the opportunity to go to the following URL link:

<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.201.htm>.

At the very top of the page, you will see that the Texas Chiropractic Act is located under Chapter 201 of the Occupations Code. Each chapter within the Occupations Code typically corresponds to a different profession. But in this case, we are only interested in Chapter 201 and its various subchapters.

The subchapters break out the different parts of the chapter for ease of reference, and they relate to how the Board is to perform their delegated tasks. Subchapter D is labeled "Board Powers and Duties." It is under this subchapter that the Board is given most of its rule making power. The interesting language is found under section 201.152 which states the Board "may adopt rules and bylaws:

- (1) necessary to:
 - (A) perform the board's duties; and
 - (B) regulate the practice of chiropractic; and
- (2) relating to the board's proceedings and the board's examination of an applicant for a license to practice chiropractic.

There are other more specific parts that require the Board to adopt certain rules. But in general, the Board is one of limited power and everything that it does is to regulate the practice of chiropractic in Texas and ensure the health, welfare and safety of its citizens. Thus, the primary vehicle that the Board has in its control to finish out the house is the creation of rules. However, the Board cannot create rules on a whim.

The Board follows a process of collecting stakeholder comments – that includes DCs, professional associations, and members of the public - among others. Once that input is collected, it is provided to the Board's Rules Committee to assist it in taking into consideration the concerns of various stakeholders.

The Rules Committee has the power to propose amendments and repeal or create new rule language that it may present to the Board for a vote. A rule that is presented to the Board may be further modified or changed, but the Board must vote on whether to accept the proposed rule language for publication in the Texas Register.



Click Texas Register logo for link.

The register is published by the Secretary of State and contains the official record of all official actions taken by a state agency. After a rule has been published for a 30-day open comment period, the rule may then be brought back before the Board for a vote on whether to adopt the rule as published, adopt with modification or take no action. If adopted and not otherwise specified, the rule takes effect 20

(con't on page 8)

A Tool for Your Practice Toolkit: TBCE Checklist

- by Yvette Yarbrough, TBCE Executive Director



As a Virgo, checklists are my best friend for the purposes of organization in both my professional and personal life. At work, I use multiple checklists on a daily basis to ensure that all of my professional responsibilities are completed. All Doctors of Chiropractic should be aware of their licensure requirements and can use this checklist to help keep them in compliance with Board rules and law. This checklist is not meant to be all-inclusive, but it covers the topics that most frequently result in disciplinary action against doctors.

- ✓ *Ensure that all continuing education (CE) courses taken are approved by the TBCE in order to get credit. (A list of approved courses can be found here: <https://www.tbce.state.tx.us/ce.html>)*
- ✓ *Ensure 16 hours of continuing education courses are completed (with at least 4 hours in Board required topics) and on record with the TBCE prior to renewing your license.*
- ✓ *Renew your license before the first day of your birth month.*
- ✓ *Renew your facility registration before the first day of your birth month. For non-DC facility owners, ensure you renew your facility registration before September 1st.*
- ✓ *Post your current license, facility registration, and public information placard (also known as the consumer complaint card) in a prominent place in your facility. If you do not own a facility, ensure your current license and a public information placard/consumer complaint card are posted, and ensure the facility registration posted is up-to-date.*
- ✓ *Report a change of address (home, office, or mailing) to the TBCE in writing within 30 days of the change. (Note: changes made via Texas Online do NOT satisfy this requirement as those changes are not reported to the TBCE.)* ♦

Have You Moved?

"If you fail to notify the Board of a change in your address, you face a disciplinary action and up to a \$250 fine!"

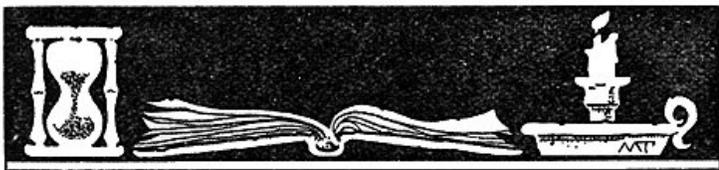


Board Rule 75.1 requires licensees to maintain a current physical home and business address with the Board.

The same rule also requires licensees to notify the Board in writing of any change in address within 30 days of that change. Additionally, [Board Rule 73.4](#) requires a facility to notify the Board in writing of any change in street or mailing address or ownership within 30 days of that change.

Please note that merely submitting a change through Texas Online when completing a license or registration renewal will NOT change your address with the Board. Unfortunately, we do not receive notice of those changes from Texas Online.

If you fail to notify the Board of a change in your address, you face a disciplinary action and **up to a \$250 fine!** Don't let this happen to you! ♦



Keeping Up With the Rules

Did you know that you can keep up with rules that the Texas Board of Chiropractic Examiners (TBCE) has proposed or adopted online?

The TBCE uploads all proposed and adopted rules onto our homepage at www.tbce.state.tx.us under the "[Rules-Recent & Proposed Changes](#)" link.

Additionally, you can view current rules from the Secretary of State website, which is linked to our homepage under the "[Statutes and Rules](#)" link.

All proposed and adopted rules are published in the *Texas Register*. Current and past issues are available at <http://www.sos.state.tx.us/texreg/portal.shtml>

If you'd like to be notified by email whenever the TBCE proposed, adopts or withdraws a rule or schedules an open meeting, you can contact the Texas Register at 512-463-5561 or register@sos.state.tx.us.

We encourage all licensees to monitor proposed rules published in the *Texas Register* and to regularly comment on these proposed rules. Comments must be in writing and sent to the Executive Director via mail or email rules@tbce.state.tx.us within the specified time period. ♦



TBCE Board Meeting Schedule

TBCE Board Meetings

Hobby Building, Tower 2, Room 225

- February 19, 2015 (1:00 pm)
- May 21, 2015 (1:00 pm)
- August 20, 2015 (1:00 pm)
- November 19, 2015 (1:00 pm)
- February 18, 2016 (1:00 pm)



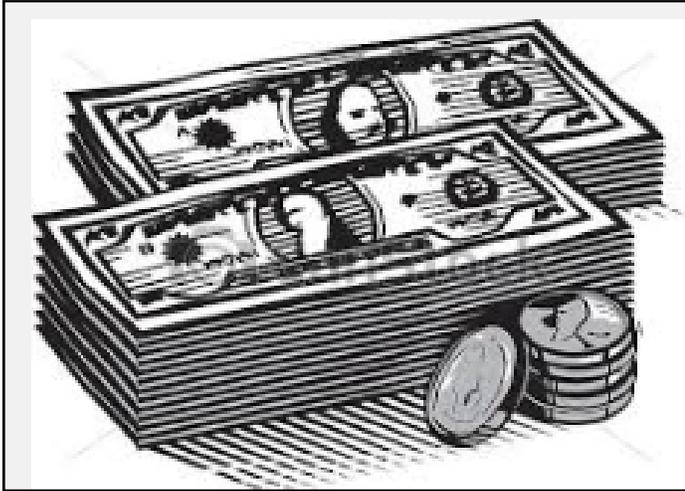
Rules, Laws & Policy (con't from page 6)

days after the rule amendment being adopted is received by the Texas Register. If no action is taken on the rule after six months from publication, it is void and withdrawn from consideration by the effect of law. Most actions that an agency takes are found within the rules, but some matters are even more specific. This level of regulation is commonly referred to as agency policy or guidelines. Taking our house example, imagine that this is the selection of the drapes or the positioning of the furniture. Certainly, these are important considerations, but no Board could function if they had to handle incidental details such as the creation of a form for reporting a change of address, etc. These activities fall to the Board's staff with whom many of you communicate each day to help you provide high quality health care in Texas.

A proper understanding of the difference between the law (and statute), the rules and policy/guidelines is critical to your success. Knowing the distinction will assist you in providing care to your patients under the law, giving guidance to your staff to keep you in compliance with Board rules and/or helping Board staff respond to your daily inquiries. Please recognize that the Board can only follow the law – not change it. This should help to keep you from getting frustrated the next time you wonder why do I have to file this form or why is the Board always seeking stakeholder input before changing a rule. Your knowledge of the structure of the law can go a long way toward a successful practice. ♦

How Does the Legislature Decide How Much Money TBCE Gets?

- by Yvette Yarbrough, Executive Director



Contrary to popular belief, the TBCE does not get to keep all of the application and renewal fees you pay each year. Minus an \$8.00 newsletter fee that the Board does get to keep from license renewal fees, all other money goes straight to the state's General Revenue Fund. (Revenue from that \$8.00 newsletter fee is called "appropriated receipts.") All other money that the TBCE uses to operate comes from funds appropriated back to the agency by the Legislature during the biennial legislative session. These funds appropriated back to the agency are a small percentage of the total revenue collected by the TBCE and deposited in the General Revenue Fund.

The Legislative Appropriations Process

About a year before the legislative session begins, all agencies begin the legislative appropriations process. During the summer of the even-numbered year preceding the legislative session, agencies file their Strategic Plan with the Legislature. This document outlines the agencies' long-term, future-oriented process of assessment, goal setting, and decision-making. It communicates its goals, directions, and desired outcomes for the next five years, along with the fiscal impact to the state.

(More information on the Strategic Plan can be found here:

<http://www.lbb.state.tx.us/Documents/Instructions/1584StrategicPlanningInstructions2015-2019.pdf>)

During the fall of that same even-numbered year, agencies then file their Legislative Appropriations Request (LAR). The LAR begins with a base budget that normally does not exceed the previous biennium's appropriations. Agencies can then request additional funds – or exceptional items – for consideration by the legislature.

At the beginning of the legislative session, the Legislative Budget Board (LBB) sets forth its recommendations for proposed budget for the Legislature to consider, and then both the House and Senate propose their own beginning budgets. Normally, the LBB recommendations, as well as the House and Senate proposed budgets, begin with the agencies' base budgets as listed in their LARs. During budget hearings, agencies must explain why their exceptional items should be considered. Then the legislative committees (House Appropriations Subcommittee/Committee and the Senate Finance Committee) make a decision on whether to grant those exceptional items and include them in the final budget appropriating agencies money.

If exceptional items are granted and are included in the agencies' appropriations in the final budget, normally a rider is included requiring the agencies' to increase their revenue to compensate for the increase in appropriations. This increase in revenue normally requires an increase in fees, like what you saw in recent years.

The 84th Legislative Session and the TBCE Legislative Appropriations Request

The TBCE Strategic Plan and LAR can both be found on our homepage at www.tbce.state.tx.us. For fiscal years 2016-2017, TBCE has requested a few exceptional items. However, because we deposit an amount of money into the General Revenue Fund exceeding what is appropriated back to us and because of our current revenue levels, we are hopeful that the Legislature will not require us to increase revenue (and thereby increase fees).

The first exceptional item requests funding for merit
(con't on page 15)

TBCE Welcomes New DC Licensees Issued October through December 2014

David Aguilar, D.C.	Alejandro Huerta, D.C.	Keith Reynolds, D.C
Demetrius Anderson, D.C.	Robert Ihrig, D.C.	Mendy Sandoval, D.C.
Abigail Barnwell, D.C.	Michael Johnsey, D.C.	Michael Scaperato, D.C.
David Baum, D.C.	Andrew Kubosumi, D.C.	Michael Schimming, D.C.
Jillian Bones, D.C.	Casey Lanier, D.C.	Melissa Sell, D.C.
Katrina Cardwell, D.C.	Allison Long, D.C.	Jake Simmons, D.C.
Nicole Carson, D.C.	Jorge Malouf, D.C.	Ephrian Spraberry, D.C.
William Chang, D.C.	Nicholas Manteris, D.C.	Deandra Stewart, D.C.
Joseph Chmielewski, D.C.	Farzad Marzban, D.C.	Todd Stranahan, D.C.
John Coughlin, D.C.	Annie McKinnon, D.C.	Jimmy Sullivan, D.C.
Jennifer Davis, D.C.	Billy Melot, D.C.	Tyler Taumoli, D.C.
David Davis, D.C.	Adam Morrell, D.C.	Thien Tran, D.C.
Whitney Fuqua, D.C.	Andrew Newell, D.C.	Katrina Turcotte, D.C.
Walter Green, III, D.C.	Daniel Noffsinger, D.C.	Mario Valdez, D.C.
Jaspreet Grewal, D.C.	Alex Nowasell, D.C.	Chase Vincent, D.C.
Jordan Habben, D.C.	Ehidiamen Oamen, D.C.	Lyndy Vines, D.C.
Marita Harrell, D.C.	Gavin Olds, D.C.	Billy Wallar, D.C.
Shadana Hill, D.C.	Jessica Perhealth, D.C.	Robert Weaver, D.C.
Steven Hobbs, D.C.	Charles Phelps, D.C.	Stephanie Williams, D.C.
Gary Hourani, D.C.	Patrick Platzer, D.C.	Lance Wittwer, D.C.
Austin Hoyt, D.C.	Anthony Ramos, D.C.	Gavin Wolff, D.C.
Alejandro Huerta, D.C.	Mikel Richter, D.C.	



Reminder: Continuing Education for New Licensees

Your first renewal cycle is pro-rated and is usually not a full twelve months long, so completion of your Continuing Education (CE) requirements is not required until after your first license renewal. When you renew your license for the second time, you should have completed sixteen (16) hours of approved CE, including the four (4) hours in Board-required topics.

You must also complete at least eight hours of CE in Medicare coding/documentation within twelve (12) months of when you received your license. These hours can count towards your regular CE requirement.

Therefore, if you are born in February and licensed on November 1, 2014, you are required to complete eight (8) hours of Medicare coding/documentation CE by November 1, 2015. You would then need to complete another eight (8) hours of CE, including the four (4) Board-required hours by February 1, 2016.

If you have questions regarding these requirements, please read through [Board Rule 75.5](#). You may also contact Jennifer Hertsenber, Director of Licensure, at jennifer@tbce.state.tx.us or Sarah Matthews, Licensing Assistant, at sarah@tbce.state.tx.us. A list of all approved CE courses can be found on the [TBCE website](#) under the “[Continuing Education](#)” link. ♦

Board Disciplinary Actions Taken October through December 2014

To view the actual Board Order, visit: <https://www.tbce.state.tx.us/verify.html>

AMERICAN CHOICE, Lic. No. 05610, Highland Village
On November 13, 2014, the Board and American Choice entered into an Agreed Order requiring American Choice to pay an administrative penalty of \$250. The Board found American Choice failed to notify the Board of ownership of the facility.

HOMERO CAVAZOS, D.C., Lic. No. 11011, Plano
On November 13, 2014, the Board and Homero Cavazos, D.C., entered into an Agreed Order requiring Dr. Cavazos to pay an administrative penalty of \$1,000. The Board found Dr. Cavazos failed to furnish records, failed to maintain records, and used prohibited/deceptive advertising by maintaining a website which advertised treatment for asthma, ADHD, and other ailments outside the scope of chiropractic practice.

HOMERO CAVAZOS, D.C., Lic. No. 11011, Plano
On November 13, 2014, the Board and Homero Cavazos, D.C., entered into an Agreed Order requiring Dr. Cavazos to pay an administrative penalty of \$500. The Board found Dr. Cavazos advertised services not within the scope of practice and practiced outside of scope.

SAM EDET, Facility Reg. No. F007148, Houston
On November 13, 2014, the Board issued a Board Order revoking Mr. Sam Edet's facility registration. The Board found Mr. Edet failed to obey a Board Order and failed to respond to Board inquiries.

JAMES EDWARDS, D.C., Lic. No. 10558, Brownsville
On November 13, 2014, the Board and James Edwards, D.C., entered into an Agreed Order requiring Dr. Edwards to pay an administrative penalty of \$1,000. The Board found Dr. Edwards exhibited unprofessional and dishonorable conduct by violating Penal Code, Section 38.12 (soliciting a person at the time of a motor vehicle accident). **NOTE: This licensee is NOT James Dale Edwards, Lic. No. 9104, from Austin.**

KENNETH EFIRD, D.C., Lic. No. 09958, Houston
On November 13, 2014, the Board and Kenneth Efird, D.C., entered into an Agreed Order requiring Dr. Efird to receive a Letter of Reprimand. The Board found Dr. Efird failed to timely notify the Board of a change of address.

ALFREDO ESPINOZA, D.C., Lic. No. 11725, Austin
On November 13, 2014, the Board and Alfredo Espinoza, D.C., entered into an Agreed Order requiring Dr. Espinoza to pay an administrative penalty of \$1,250. The Board found Dr. Espinoza failed to timely notify the Board of his change of address and failed to respond to a Board inquiry.

SAMER FAYSAL, D.C., Lic. No. 08953, Magnolia
On November 13, 2014, the Board and Samer Faysal, D.C., entered into an Agreed Order requiring Dr. Faysal to pay an administrative penalty of \$250. The Board found Dr. Faysal failed to timely notify the Board of his change of address.

JOSHUA FERRELL, Lic. No. 09974, Frisco
On November 13, 2014, the Board issued a Board Order requiring Dr. Joshua Ferrell, D.C., to pay an administrative penalty of \$2,000. The Board found Dr. Ferrell failed to discontinue chiropractic treatment and refund Complainant's payments upon Complainant's request and failed to respond to Board inquiries

GENENE GONSER-PRADO, D.C., Lic. No. 06945, Liberty Hill
On November 13, 2014, the Board and Genene Gonser-Prado, D.C., entered into an Agreed Order requiring Dr. Gonser-Prado to pay an administrative penalty of \$1,500. The Board found that Dr. Gonser-Prado ran an advertisement in the Austin American Statesman for services outside of a chiropractor's scope of practice.

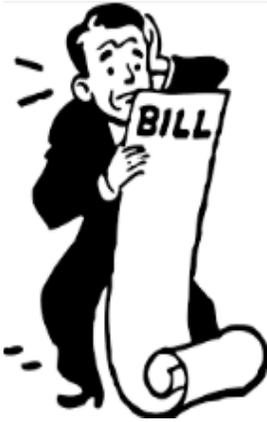
MICHAEL GRAY, D.C., Lic. No. 06865, Houston
On November 13, 2014, the Board and Michael Gray, D.C., entered into an Agreed Order requiring Dr. Gray to receive a Letter of Reprimand. The Board found Dr. Gray failed to timely notify the Board of a change of address.

TRAVIS HALL, Lic. No. 09915, League City
On November 13, 2014, the Board issued a Board Order revoking the chiropractic license of Travis Hall. The Board found Mr. Hall repeatedly failed to respond to Board inquiries.

DANIELLE HARKINS, D.C., Lic. No. 11997, Euless
On November 13, 2014, the Board and Danielle Harkins, D.C., entered into an Agreed Order requiring Dr. Harkins
(con't on page 13)

84th Legislature: Bills to Watch

- by Yvette Yarbrough, TBCE Executive Director



It's that time again – time for the Legislature to convene in their biennial session and consider issues such as border protection, open carry, and taxes.

According to bills already filed in the House and Senate, the Legislature will also consider issues such as the ability of Doctors of Chiropractic to issue handicap placards (HB 126), nondiscriminatory payments of managed care plan network practitioners (HB 761), and chiropractic medical assistance reimbursements (HB 762). All three of these bills were filed with the support of the Texas Chiropractic Association and their lobby team Gov-Biz Partners.

Also of note are three identical House bills dealing with cardiac assessments of participants of UIL-

sponsored extracurricular activities (HB 677, HB 767, and HB 779). While these three bills do not explicitly deal with chiropractic, it will bear watching to see if any modifications are made to the bills to reflect the Sunset Advisory Commission's recommendations from the UIL's recent review.

A bill can be tracked through the legislative process by using the website Texas Legislature Online: (<http://www.capitol.state.tx.us/Home.aspx>). This website has features where one can find all filed bills in the House and Senate: (<http://www.capitol.state.tx.us/Reports/General.aspx>), one can create a Bill List to easily see a list of selected bills and their progress (<http://www.capitol.state.tx.us/MnuMyTLO.aspx>), and one can monitor Committee actions in both the House and Senate (<http://www.capitol.state.tx.us/MnuCommittees.aspx>).

The 84th Legislative Session convened on January 13th. The last day to file bills is March 13th, and the session ends on June 1st. ♦

Current Law Concerning Disabled Parking Placards

Licensees routinely contact the Board asking if they can sign off for the issuance of disabled parking placards for their patients. The short answer is no.



Under current law, the "Disability Statement" on [Form VTR-214](#) must be signed by a physician licensed to practice medicine in Texas, Arkansas, Louisiana, New Mexico or Oklahoma; a physician's assistant in those states if the applicant/patient lives in a county with a population of 125,000 or less; a physician practicing medicine in the U.S. military on a military installation in Texas; a physician practicing medicine in a hospital or other health facility of the Department of Veterans Affairs; or a person licensed to practice podiatry or optometry in Texas, Arkansas, Louisiana, New Mexico or Oklahoma. ♦

Board Disciplinary Actions Taken October through December 2014 (con't from page 11)

to pay an administrative penalty of \$1,000. The Board found Dr. Harkins failed to properly supervise an employee.

RANDALL JOHNS, D.C., Lic. No. 09359, Texarkana On November 13, 2014, the Board and Randall Johns, D.C., entered into an Agreed Order requiring Dr. Johns to receive a Letter of Reprimand. The Board found Dr. Johns appeared in a YouTube video in which he is identified as a doctor of chiropractic, co-founder of Elevation Health and engaged and professionally associated with a person whom he knew to have a suspended license and who identified himself as a doctor on the video.

JIMMY LABRECQUE, D.C., Lic. No. 08106, Colleyville On November 13, 2014, the Board and Jimmy Labrecque, D.C., entered into an Agreed Order requiring Dr. Labrecque to receive a Letter of Reprimand. The Board found Dr. Labrecque appeared on a YouTube video in which he is identified as a doctor of chiropractic, co-founder of Elevation Health and engaged and professionally associated with a person whom he knew to have a suspended license and who identified himself as a doctor on the video.

SHUKURA LEO, D.C., Lic. No. 12087, McKinney On November 13, 2014, the Board and Shukura Leo, D.C., entered into an Agreed Order requiring Dr. Leo to receive a Letter of Reprimand. The Board found Dr. Leo used the terms "Dr.," "doctor," "D.C.," and "chiropractor," along with her name and her photographic images in correspondence to the Board, advertising, and promotional materials found on Facebook, YouTube, and on her chiropractic facility website before she was a licensed chiropractor.

DEREK MARTIN, D.C., Lic. No.06883, Humble On November 13, 2014, the Board and Derek Martin, D.C., entered into an Agreed Order requiring Dr. Martin to pay an administrative penalty of \$500. The Board found Dr. Martin practiced chiropractic with an expired license for over three (3) months.

JOHN MORRISON, D.C., Lic. No. 06577, San Benito, On November 13, 2014, the Board and John Morrison, Jr., D.C.,

entered into an Agreed Order requiring Dr. Morrison to pay an administrative penalty of \$500. The Board found Dr. Morrison operated an unregistered chiropractic facility.

JOHN MORRISON, D.C., Lic. No. 06577, San Benito, Case On November 13, 2014, the Board and John Morrison, Jr., D.C., entered into an Agreed Order requiring Dr. Morrison to pay an administrative penalty of \$1,000. The Board found Dr. Morrison practiced chiropractic with an expired license for over four (4) months.

LAZARO OLIVARES, D.C., Lic. No. 05934, Beeville On November 13, 2014, the Board and Lazaro Olivares, D.C., entered into an Agreed Order requiring Dr. Olivares to be granted a reinstated license that is suspended for three years with three years to be probated with the further condition that he submit to bi-annual, random alcohol and drug-testing at his own expense. The Board found Dr. Olivares had his license revoked in 2010 for felony convictions for repeated DWI. As such, the Board found Dr. Olivares had demonstrated past unfitness to perform the duties and discharge the responsibilities of a licensed chiropractor.

ORLANDO OLIVER, D.C., Lic. No. 09760, Deer Park On November 13, 2014, the Board and Orlando Oliver, D.C., entered into an Agreed Order requiring Dr. Oliver to pay an administrative penalty of \$250. The Board found Dr. Oliver failed to timely notify the Board of his change of address.

JOE RODRIGUEZ, D.C., Lic. No.08175, Pflugerville On November 13, 2014, the Board and Joe Rodriguez, D.C., entered into an Agreed Order requiring Dr. Rodriguez to accept a Letter of Reprimand and to pay an administrative penalty of \$500. The Board found Dr. Rodriguez failed to obey a Board Order.

ELOY SALAZAR, Facility Reg. No. F008501, Weslaco On November 13, 2014, the Board issued a Board Order revoking Mr. Salazar's facility registration. The Board found Mr. Salazar operated a facility

(con't on next page)

Board Disciplinary Actions (con't from page 13)

with an expired registration for over 14 months over the span of three years and failed to respond to Board inquiries

STEPHEN SUMMERS, D.C., Lic. No. 02770, Austin On November 13, 2014, the Board and Stephen Summers, D.C., entered into an Agreed Order requiring Dr. Summers to receive a Letter of Reprimand and to pay an administrative penalty of \$500. The Board found Dr. Summers operated an unregistered chiropractic facility and for submitting a false statement on his application for registration.

MAXIE VIGE', D.C., Lic. No. 09381, League City On November 13, 2014, the Board and Maxie Vige', D.C., entered into an Agreed Order requiring Dr. Vige' to receive a Letter of Reprimand and to pay an administrative penalty of \$1,750. The Board found Dr. Vige' operated an unregistered chiropractic facility and failed to respond to Board inquiries regarding a complaint against him.

ROBERT WILSON, D.C., Lic. No. 04621, Beaumont On November 13, 2014, the Board and Robert Wilson, D.C., entered into an Agreed Order requiring Dr. Wilson to pay an administrative penalty of \$500. The Board found Dr. Wilson failed to maintain patient records, failed to furnish records, and overcharged for records by asking his patient to pay an invoice for \$157.70.

ROBERT VASQUEZ, D.C., Lic. No.07892, Bedford On November 13, 2014, the Board and Robert Vasquez, D.C., entered into an Agreed Order requiring Dr. Vasquez to accept a Letter of Reprimand. The Board found Dr. Vasquez appeared on a YouTube video in which he was identified as a doctor of chiropractic and co-founder of Elevation Health, and by engaging and professionally associating with a person whom he knew to have a suspended license and who identified himself as a doctor on the video. ♦



**“If I have done the public
any service, it is due to my
patient thought”**

-Isaac Newton

The Texas Board of Chiropractic Examiners would like to thank three of our Board members for their service. Dr. Larry Montgomery and Dr. Patrick Thomas have both served terms that began in March of 2009, and Anne Boatright joined us in 2012. We are so grateful for all of their contributions and send each of them our very best wishes!



How Does the Legislature Decide How Much Money TBCE Gets? (con't from page 9)

pay increases for three key staff members – the Director of Licensure, Director of Enforcement, and Chief Financial Officer. These three individuals are in management positions and are instrumental in keeping the agency operating smoothly. However, they are all paid at the very bottom of their respective salary groups and much lower than like positions at other state agencies.

This is dangerous because key employee turnover is a huge concern to the agency. If any of these individuals left the TBCE for a higher paying position at another agency, a major area of operation for the agency would come to a halt until the position could be refilled and the new employee trained. This exceptional item (\$28,402 per year) would raise these key employees' salaries to only the midpoint of their respective salary groups, paying them a salary commensurate with like positions at other state agencies.

The second exceptional item requests funding to allow the enforcement division to more fully utilize an investigative tool called CLEAR. This tool is a computer-based research platform used by many state agencies' investigators. Currently, CLEAR costs the TBCE approximately \$165 per month for only one user. This exceptional item (\$5,940 per year) requests funding for the agency's three other investigators to be able to use CLEAR.

The third exceptional item requests funding to allow the agency to participate in the FBI's "rapback"

program. Currently, all applicants for licensure are fingerprinted before licensure, and a background check is run using those fingerprints. After licensure, if a licensee who was previously fingerprinted is arrested, we receive notification from the Texas Department of Public Safety.

Unfortunately, if a licensee is arrested in another state, we receive no notification. This leads to instances of Texas chiropractors being arrested in other states for insurance fraud, Medicare fraud, staged accident schemes, etc. without the TBCE's knowledge until, for instance, a reporter calls asking for a comment or asking why that doctor still has an active license in Texas. Thankfully, these instances are the exception and not the rule, but the TBCE would like the ability to be notified of licensee arrests in states other than Texas ("rapbacks") so that we can fully protect the citizens of Texas. The cost of this program is \$13.00 per applicant. With roughly 315 applicants per year, the cost of this exceptional item is approximately \$4,095 per year.

The Bottom Line

The base request for the TBCE LAR for fiscal years 2016 and 2017 is roughly \$785,000 per fiscal year. The exceptional items total \$38,437 per fiscal year, making the TBCE total request approximately \$824,000 per fiscal year. By contrast, the TBCE deposited into the General Revenue Fund over \$2,698,000 in fiscal year 2014 alone. ♦



hCG and Weight-Loss Treatment – Is This Legal? (con't from page 5)

Chiropractors who perform injections risk being subjected to significant penalties of up to \$1,000 per occurrence.

In short, the use of hCG in chiropractic practice is not approved and should not be utilized.

The second half of the question still remains. Can I instruct my patient to use weight-loss techniques? This gets back to the heart of what it is to be a chiropractor in Texas.

A chiropractor practices in Texas by “[using] objective or subjective means to analyze, examine, or evaluate the biomechanical condition of the spine and musculoskeletal system of the human body” and/or “perform[ing] nonsurgical, non-incisive procedures, including adjustment and manipulation, to improve the subluxation complex or the biomechanics of the musculoskeletal system.”

The easy answer to this question is that yes, weight-loss may be used to as a tool in chiropractic care. Why? One need not be a rocket scientist to recognize the underlying rationale. It is commonly understood that the amount of mass (or weight) placed upon a human skeletal system has a direct impact upon the “biomechanical condition of the spine and the musculoskeletal system of the human body.”

It is this precise relationship which makes weight-loss treatment an appropriate procedure to employ in providing chiropractic care. Note that weight-loss is not the object. Weight-loss is simply a vehicle to transport the patient to the end goal of

“improve[ing] the subluxation complex or the biomechanics of the musculoskeletal system.”

This type of thought process extends to every question concerning scope of practice.

While we don't mind a phone call or an e-mail, the Board consistently relies upon the language of the Chiropractic Act to determine those procedures and techniques which are in the scope of practice and make clear distinctions from that which is outside the scope of practice. ♦

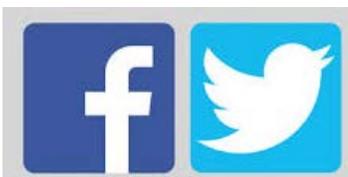


The offices of the Texas Board of Chiropractic Examiners will be closed on:

President's Day
February 16th

Texas Independence Day
March 2nd

San Jacinto Day
April 21st



Texas Chiropractic Board Report Memorials

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emorials are published at no cost as a tribute to deceased Texas Doctors of Chiropractic. Information included is primarily related to the individual's accomplishments in the chiropractic profession. To submit a memorial, please email tbce@tbce.state.tx.us or call (512) 305-6906 for more information.

"The purpose of life is to serve and to show compassion and the will to help others."

-Albert Schweitzer



Dr. William E. Polchinski, 57, Killeen, Texas, died on November 7th, 2014 from cancer. He is survived by his wife of 36 years, Sherry; his youngest son, Andrew; a daughter, Christina Marr-Adams and her husband

Nathan; granddaughters Alexis and Brianna Marr; his oldest son, Ryan Polchinski and his wife Lauren (and baby to be born in April), Mother, Elisabeth Polchinski; two brothers Arthur Polchinski Jr. and Joseph Polchinski; five sisters, Rosie Ross, Mary Hegedusich, Helen Guzman, Dorothy Polchinski and Teresa Gorres and numerous nieces, nephews and cousins.



Dr. Christian Lee "Doc" Antonsen, 61, of Blue Ridge, Texas, died November 16th, 2014 from cancer. He received his DC degree from the Logan College of Chiropractic in 1979. He is survived by his wife, Brenda "Kitty"

Antonsen; daughter, Jill Schneider and husband, Brad; son, Stephen Hadley and wife Summer; five grandchildren, Mia, Sawyer, Chloe, Avery and Hayden; sister-in-law, Pam Lusk and husband Roger; brother-in-law, Chuck Turner; father, Lee Antonsen; two brothers, Peter and Marcus Antonsen; and many cousins, nieces and nephews from both families.

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Office Hours and Location

The office of the Texas Board of Chiropractic Examiners is located in the William P. Hobby Building, at the corner of 4th Street and Guadalupe Street in downtown Austin. The mailing address is: 333 Guadalupe St., Suite 3-825, Austin, Texas 78701. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for designated holidays.

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OUR OFFICE HOURS are 8:00 am until 5:00 pm, Monday through Friday except for holidays.

LICENSING

Jennifer Hertsenberg, Director of Licensing 512-305-6702

- New DC Applications, DC Renewals and Inactive Status
- Facility Registration Applications and Renewals
- Radiologic Technologist Registration Applications and Renewals
- Approval of CE Course Applications

Sarah Matthews, Licensing Assistant 512-305-6707

- License and Continuing Education Verifications
- Changes of Address
- Open Records Requests

Mary Ann Garcia, Administrative Assistant 512-305-6703

- Sales of Demographic Lists

ENFORCEMENT

Scott Parker, Director of Enforcement 512-305-6708

Steve Franz, Investigator..... 512-305-6704

Bob Lawson, Dallas Field Investigator 214-534-1928

Michael Campos, Houston Field Investigator..... 713-376-2279

LEGAL

Bryan Snoddy, General Counsel 512-305-6715

Scott Stalnaker, Legal Assistant 512-305-6706

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Yvette Yarbrough, Executive Director..... 512-305-6716

Jo Manning, Executive Assistant 512-305-6906

Arlethia Middleton, Chief Financial Officer 512-305-6709

Nikell Williams, Programmer Analyst 512-305-7874