

Texas Chiropractic Board Report

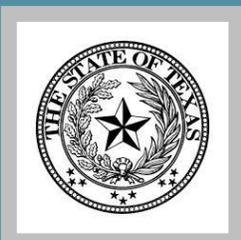


November 2019
Issue Three

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tbce@tbce.state.tx.us



Summary of Actions



A regular quarterly meeting of the Texas Board of Chiropractic Examiners (Board) was held September 12, 2019, in Austin. The following is a summary of Board actions taken during this meeting. The proposed rulemaking actions were published in the October 4, 2019, issue of the Texas Register and comments were due no later than 30 days from the publication date

The Board voted to adopt the following new rules:

Rule 75.7 – This new rule moves the language regarding the display of a license from Rule 75.6 (Mandatory Notice to Public) into a stand-alone rule.

Rule 75.8 – This new rule establishes basic sanitary and safety standards for locations where chiropractic is practiced. This rule-making is also in response to a recommendation made by the Texas Sunset Commission as part of its review of agency policies, procedures, and operations.

Rule 80.9 – This new rule moves the temporary license suspension provisions that were in Rule 80.2 into a new stand-alone rule. The new rule is intended to make those provisions easier for readers to find.

The Board voted to adopt the amendment of the following rules:

Rule 78.14 – The rule relating to acupuncture was amended to clarify the requirements for obtaining an acupuncture permit for those licensees who have been practicing since before 2010.

Rule 77.4 – The rule relating to misleading claims was amended to make clear that claims, if untrue or exaggerated, regarding the negative consequences of not receiving chiropractic treatment may also be misleading. The amendments further update the rule by eliminating superfluous language.

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... Summary of Actions

The Board voted to adopt the repeal of the following rule:

Rule 79.3 – As discussed at the January 31, 2019, Board meeting, it is staff's legal opinion that this rule exceeded the Board's statutory authority contained in Texas Occupations Code §201.156 (Board Duties Regarding Complaints). The repeal and replacement of Rule 80.3 addresses this issue by making it clear when the Board will not report minor administrative violations to the national database.

The Board voted to adopt the repeal and replacement of the following rules:

Rule 72.19 – The rule relating to the Board's fee schedule was repealed and replaced with a new rule intended to be more readable and accessible by incorporating the separate fee schedule into the body of the rule. It also removes fees related to the registration of radiologic technicians and unnecessary language relating to public information requests.

Rule 75.2 – The rule relating to out of facility practice was repealed and replaced with a new rule intended to remove references to chiropractic facilities and to make the rule more readable. The rule has been renamed to "Place of Business."

Rule 75.6 – The mandatory notice to the public rule was repealed and replaced with a new rule intended to make the rule more readable and update the mandatory notice placard. It also removes language regarding the display of a license, which has been placed in a new stand-alone rule, Rule 75.7.

Rule 80.1 – The rule regarding the duty to respond to a complaint was repealed and replaced with a new rule in a clean-up intended to make the rule more readable and to remove references to chiropractic facilities.

Rule 80.3 – The disciplinary guidelines rule was repealed and replaced with a new rule in a clean-up intended to make the rule more readable, remove unnecessary language, and to make clear when the Board will not report minor administrative violations to the national database. This is in conjunction with the repeal of Rule 79.3.

Rule 80.5 – The expert review process rule was repealed and replaced with a new rule in a clean-up intended to make the rule more readable.

Rule 80.6 – The undercover investigations rule was repealed and replaced with a new rule in a clean-up intended to make the rule more readable.

Rule 80.7 – The rule regarding cease and desist orders was repealed and replaced in a clean-up intended to make the rule more readable and eliminate unnecessary verbiage.

The Board voted to propose three new rules, which will be posted in the Texas Register for a 30-day comment period:

Rule 78.4 – This action moves existing language relating to students and recent graduates from Rule 78.3 (General Delegation of Responsibility) into a stand-alone rule. The new rule clarifies when a licensee may delegate responsibility to a student or recent graduate, the limits on that delegation, and the requirements to notify the Board when employing or supervising those individuals. The Board's intent is to make the requirements for students and recent graduates easier to both find and read. The Board is repealing and replacing the general delegation rule (Rule 78.3) in separate rulemaking actions.

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Rule 78.10 – This action moves and updates existing language relating to questions to the Board about scope of practice from Rule 78.2 (Prohibitions) into a stand-alone rule. The new rule clarifies that the Board may only give informal answers to scope of practice questions.

Rule 80.10 – This action establishes a time limit for filing a complaint alleging a rule violation with the Board. The six year limit mirrors the length of time a licensee is required to maintain patient records.

The Board voted to propose the repeal and replacement of the following rules, which will be posted in the Texas Register for a 30-day comment period:

Rule 71.1 – The Board will replace this rule with updated language from the current Rule 71.2. The current Rule 71.1 is being repealed because it contains redundant definitions. The purpose of this action is to remove unneeded text, streamline the process, and make the Board's rules easier to read and navigate.

Rule 72.10 – This proposed rule updates the text relating to the process for an individual to appeal a Board denial of an application for a license by requesting a hearing at the State Office of Administrative Hearings. The Board will also repeal the now-redundant Rule 81.3 (Application Denial) in the Board's enforcement rules (22 Texas Administrative Code Chapter 81) because an appeal of a denial is not an enforcement action. The purpose is to update the text for clarity and make the Board's rules easier to navigate for applicants for a license.

Rule 72.12 – This proposed rule updates the text relating to the process for an individual to request a criminal history evaluation from the Board (under Texas Occupations Code Chapter 53) before beginning chiropractic training. The purpose is to update the text for clarity and make the Board's rules easier to navigate.

Rule 75.1 – This proposed rule updates the text relating to what constitutes the ethical practice of chiropractic for clarity. The purpose is to provide clearer guidance to the Board's licensees as to their ethical requirements.

Rule 75.3 – This proposed rule updates the text relating to a licensee's obligations concerning the prevention and reporting of fraud.

Rule 77.1 – This proposed new rule moves the language relating to advertising and public communication from the current Rule 77.2 (Advertising, Public Communications, and Telemarketing). The telemarketing language will remain in an updated Rule 77.2. The new rule further clarifies the requirements prohibiting false or misleading advertising, when a professional title is required in advertising, and when an individual may use the honorific "Dr." The purpose of this rulemaking is to make the Board's advertising rules clearer to licensees and the public.

Rule 77.2 – This proposed new rule updates and clarifies the language on telemarketing practices by licensees and their agents. The Board is moving the language in the current rule relating to advertising and public communication to a proposed new Rule 77.1 in a separate rulemaking. The purpose of this rulemaking is to make the Board's rules easier to navigate and read.

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Rule 77.3 – This proposed rule clarifies the text of a licensee's obligation to timely provide patients with a statement of charges. The purpose is simply to make the rule clearer and easier to read.

Rule 78.2 – This proposed rule reiterates the acts that are outside the scope of chiropractic practice under Texas Occupations Code Chapter 201. The new rule also makes clear that an individual operating outside the scope of practice may be subject to legal action by the Board and other regulatory agencies.

Rule 78.3 – This proposed rule clarifies the text relating to when and to whom a licensee may delegate certain tasks to a non-licensee. Language in the current rule relating to delegation to chiropractic students and recent graduates will be updated and moved to a new Rule 78.4 in a separate rulemaking action. The purpose is to update the text for clarity and make the Board's rules easier to navigate.

Rule 79.2 – This proposed rule updates the text relating to what constitutes the diligent practice of chiropractic for clarity. The purpose is to make the Board's rules easier to navigate for licensees.

Rule 79.4 – This proposed rule updates text of what grounds the Board will consider in determining if a licensee or applicant is incapable of holding a license due to substance abuse or health conditions. The rule also includes new language encouraging licensees or applicants to self-report any substance abuse or health issues to the Board.

The Board voted to propose the repeal of the following rules, which will be posted in the Texas Register for a 30-day comment period:

Rule 71.2 – The Board is proposing an updated version of the text of this rule in a new Rule 71.1 in a separate rulemaking action.

Rule 72.1 – The purpose of this action is to remove superfluous rules and make the Board's rules easier to read and navigate.

Rule 78.5 – This rule is no longer necessary as the Board's recently adopted rules on a licensee's place of business (Rule 75.2) and mandatory notices to the public (Rules 75.6 and 75.7) include the requirements applicable to spinal screenings.

Rule 81.1 – The purpose of this action is to remove superfluous rules and make the Board's enforcement rules easier to read and navigate.

Rule 81.3 – The existing process for appealing the Board's denial of a license application is being separately proposed in an updated rulemaking action for Rule 72.10 (Appealing a Denied Application). The appeals process is not an enforcement action and therefore properly belongs in the fees, applications, and renewals chapter (Chapter 72).

Rule 81.11 – The requirements and procedures for requesting extensions of time in an administrative hearing are already detailed in the Administrative Procedures Act (Texas Government Code Chapter 2001) and the rules of the State Office of Administrative Hearings (1 Texas Administrative Code Chapter 155), thus making this rule superfluous.

President's Message For the Record



Among the most challenging tasks of our workday as chiropractors is record keeping.

Every service associated with a patient visit, and every communication with or about a patient, generally necessitates a note in the patient's record. Chiropractors create and maintain records for multiple reasons:

- Our need to preserve data which we couldn't otherwise remember,
- Our duty to share meaningful information with other providers on behalf of our patients, and
- Our desire to get paid for our services, and for our own protection.

We must include certain key components in our patient records, store them securely and accessibly, and submit a copy of those records upon proper request by our patients, legal representatives, payors, or the Board.

For these reasons, the Board has revisited administrative rules pertaining to patient records and documentation.

We openly solicited public input and held a Stakeholder Meeting in July to discuss possible rule changes.

We discussed, in particular, the required contents of a patient record, the process for requesting a patient record, the allowable fee structure for providing copies of records, and who is ultimately responsible for storing and maintaining patient records.

The meeting was productive and resulted in a rule draft which will be on the agenda for the February 2020 Board meeting.

Meanwhile, we are always interested in comments and opinions from the profession so don't hesitate to reach out to us with your concerns.

Mark R. Bronson, DC, FACO



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Chiropractic
Examiners**

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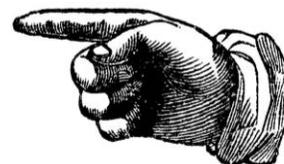
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Marion

Gus Ramirez
Licensure
Tyler

**Attention
New
Licensees**

Your first renewal cycle is pro-rated and generally not a full twelve months, thus 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 thirty-two (32) hours of approved CE, sixteen (16) for each year, including the hours in Board-required topics; TBCE (4) & one time Medicare (8).



Board Disciplinary Actions Taken



Mark Allen Dennis, License No. 11418
Katy

Ordered to take and pass the Jurisprudence Examination for advertising services inconsistent with the practice of chiropractic.

Robert Scott Small, License No. 13440
Humble

Administrative fine of \$500 and two-year suspension fully probated with additional reporting requirements.

Jaime R. Morales, License No. 6462
Edinburg

Administrative fine of \$750 for practicing with an expired license.



Governor Abbott Appoints Dr. Keven Ellis chair of the State Board of Education

By Texas Education Agency
Sep 16, 2019

Austin, Texas -- Gov. Greg Abbott today appointed Lufkin chiropractor Dr. Keven Ellis chair of the State Board of Education (SBOE).

Although the members of the board are elected, the governor appoints the chair from among the 15 board members. The appointment must be confirmed by the Texas Senate.

"It's an honor to be given this position of trust," Ellis said. "The State Board of Education plays a key role in our state's public education system. It sets the curriculum standards, adopts instructional materials, and oversees the country's largest educational endowment, just to name a few of our responsibilities. I pledge to work with all members and lead the board in a bipartisan fashion as has my predecessor Donna Bahorich."

"I'm delighted to hand the gavel over to Dr. Ellis," said Bahorich, who after four years as board chair has served the maximum time available in that leadership role. "I hope Dr. Ellis finds this role as rewarding and meaningful as I have."

"He has already demonstrated tremendous statewide leadership during his tenure as vice chair of the Texas Commission on Public School Finance, which laid the groundwork for our state's new school funding law," she said.



(L-R) Incoming chair Keven Ellis and outgoing chair Donna Bahorich

Ellis was first elected to the SBOE in November 2016, after serving as board president of the Lufkin Independent School District Board of Trustees. As the SBOE District 9 member, Ellis represents about 1.7 million residents in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Delta, Fannin, Franklin, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Panola, Rains, Red River, Rockwall, Rusk, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood counties.

Executive Director's Message



Temperatures may be cooling as the state finally starts settling into Fall, but our attention at the agency has been on a few topics with the potential to get hotter as time progresses. It's prudent to try and nip them in the bud now.

First, as more chiropractors join multi-disciplinary practices with MDs, DOs, nurse practitioners, and other healthcare professionals, it's more important than ever for DCs to stay within the chiropractic scope of practice. At the Texas Board of Chiropractic Examiners, our investigative and enforcement priorities always start with the health and safety of patients, as well as protecting them from fraud and related misconduct. The allowances and prohibitions under the scope of practice in the agency's statute and rules are very straightforward, but in a multi-disciplinary practice, those lines can very easily be crossed (both intentionally and accidentally), so we urge all licensees to be vigilant and mindful of their role within those practices.

Secondly, we have become aware that some licensees may have been approached by individuals formerly licensed in Texas in an attempt to seek employment under the supervision of the doctor and the auspices of their license.

This is strictly prohibited by statute and could put your license in jeopardy, as you may not directly or indirectly employ someone whose license to practice chiropractic has been suspended, canceled, or revoked, or associate in the practice of chiropractic with such a person.

As always, if you have any questions, please reach out. We'll do our best to help you stay within the boundaries of Texas state laws and rules and not get left out in the cold.

Publication Date: November 2019

The **Texas Chiropractic Board Report** is the official publication of the Texas Board of Chiropractic Examiners. Newsletters are published following Board meetings, which are typically held in February, May, August, and November.

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Governor Abbott Proclaims October as Chiropractic Health Month



STATE OF TEXAS OFFICE OF THE GOVERNOR

As far too many Americans and Texans know, chronic pain remains a huge public health problem and one of the most prevalent reasons why people seek medical care. Chronic pain negatively impacts many aspects of a person's life as well as the lives of their families, friends, and caregivers. It is essential that patients understand all treatment options for various types of pain.

Chiropractors are highly skilled professionals who are dedicated to providing safe and effective physician-level health care to patients suffering from back pain. Chiropractic care focuses on disorders of the musculoskeletal system and the nervous system as well as promotes a hands-on, non-drug approach to pain management and healthy lifestyles. Their expertise in the prevention, care, and rehabilitation of back, neck, joint, and head pain is critical for treating patients with various pains and disorders and can save the public from the physical and financial tolls of other treatment options. As a first line of defense against pain, chiropractors' services can help individuals heal naturally without the need for drugs or surgery.

At this time, I encourage all Texans to learn more about the vital role that chiropractors play in the health care field and how chiropractic services can benefit their lives. I commend Texas chiropractors for their commitment and efforts to improve the quality of life for all Texans by promoting effective pain management and healthy lifestyles.

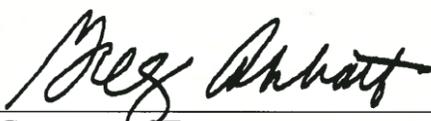
Therefore, I, Greg Abbott, Governor of Texas, do hereby proclaim October 2019, to be

Chiropractic Health Month



in Texas, and urge the appropriate recognition whereof.

In official recognition whereof, I hereby affix my signature this the 18th day of September, 2019.


Governor of Texas

Agency Licensing & Registration Summary through September 30, 2019



Number of Chiropractic Doctors	
Active License	6,182
CE-Conditional License	36
Expired License	66
Inactive License	705
Non-Renewable License*	2,896
Probated License	13
Suspended License	3



**Compliance & Investigations Information
January 1, 2019 – September 16, 2019**

Top Three Complaints Received

- Over-Billing
- Lack of Diligence
- Expired License

Complaints Received YTD	255
Complaints Closed	139
Average days to close cases	52
Cases closed with Agreed Order	3
Administratively Closed	72
Closed with No Violation	41
Closed with No Jurisdiction	9
Closed with referral to TDI	4
Closed with referral to TMB	3
Closed with referral to Law Enforcement	2
Closed per withdraw	2
Closed as duplicate	3



The Board Welcomes New DC Licensees

Issued July 2019, through September 2019.

Erin LaMere, D.C.
Austin Albison, D.C.
Holly Seifert, D.C.
Raven Bradley, D.C.
Timothy Wang, D.C.
Matthew Federowicz, D.C.
Nicole Nguyen, D.C.
Maki Drollinger, D.C.
Colton Bideler, D.C.
Raquel Grogan-Webb, D.C.
Peter Burns, D.C.
Kimberly Jefferson, D.C.
Nicolas Chillemi, D.C.
Garrett Morris, D.C.
Theodore Montgomery, D.C.
Donald Rank, D.C.
Jesus Castillo, D.C.
Joshua Rillo, D.C.
Cristina Magaña, D.C.
Laura Torrez, D.C.
Stephanie Harris, D.C.
Heather Rodriguez, D.C.
Demetris Elia, D.C.
Garth Johnson, D.C.
Gray Humphries, D.C.
Sean Tipton, D.C.
Lindsey Mathews, D.C.
Michele Broadhurst, D.C.
Scott Dahl, D.C.
Carmen Doerr-Nauth, D.C.
Hillary Baker, D.C.
Erin Swanson, D.C.
Steven Poppaw, D.C.
Toufic Saleh, D.C.
Cathleen Cunningham, D.C.
Rogelio Fernandez, D.C.
Michael McIntyre, D.C.
Joseph Ritola, D.C.
David Brown, D.C.
Scott Mitchell, D.C.

Troy Sebo, D.C.
Henry Silvestriz-Lora, D.C.
Adam Henby, D.C.
Garrett Larrington, D.C.
Mike Tarjoman, D.C.
Timothy Matthys, D.C.
Ericka Gonzalez-Mercado, D.C.
James Jacques, D.C.
Lillian Sunderman, D.C.
Arianna Molina-Nava, D.C.
John Ratusny, D.C.
John Wendt, D.C.
Gill Meads, Jr., D.C.
Joshua Snellenberger, D.C.
Andrea Gibson Cross, D.C.
Pratik Soni, D.C.
Elizabeth Alvarado, D.C.
Jaymee Broussard, D.C.
Ashley Landof, D.C.
Shannon Thomas, D.C.
Caitlin Timmons, D.C.
Tracy Kwong, D.C.
Ali Mostafavi, D.C.
Katherine James, D.C.
Charles Cherry, D.C.
Christian Marshall, D.C.
Reed Hartshorn, D.C.
Chris Thomas, D.C.
Jongchan Lim, D.C.
Peyton Vickers, D.C.
Savanna Zinn, D.C.
Kenneth Dávila Emeric, D.C.
Rebecca Rizk, D.C.
Robert Massey, D.C.
Carol Abel, D.C.

Reinstatements:

Shannon McPherson, D.C.
Michele Munoz, D.C.
Chad Glines, D.C.
Tera Rescorla, D.C.



DEA warns of alarming increase of scam calls

By Drug Enforcement Administration
March 13, 2019

WASHINGTON – The Drug Enforcement Administration urges its DEA-registered practitioners and members of the public to be cautious of telephone calls from criminals posing as DEA or other law enforcement personnel threatening arrest and prosecution for supposed violations of federal drug laws or involvement in drug-trafficking activities.

DEA continues to receive reports from practitioners and the general public, alike, indicating that they have received calls threatening legal action if an exorbitant fine is not paid immediately over the phone. The callers typically identify themselves as DEA personnel and instruct their victims to pay the "fine" via wire transfer to avoid arrest, prosecution, and imprisonment.

The reported scam tactics are continually changing, but often share many of the following characteristics:

- Callers use fake names and badge numbers or, alternatively, names of well-known DEA senior officials.
- The tone of calls is urgent and aggressive; callers refuse to speak or leave a message with anyone other than the person for whom they are calling.
- Callers threaten arrest, prosecution, and imprisonment, and in the case of medical practitioners, revocation of their DEA numbers.
- Callers demand thousands of dollars via wire transfer or, in some instances, in the form of untraceable gift cards taken over the phone.
- Callers falsify the number on caller ID to appear as a legitimate DEA phone number.

- Callers will often ask for personal information, such as social security number or date of birth.
- When calling a medical practitioner, callers often reference National Provider Identifier numbers and/or state license numbers. They also might claim that patients are making accusations against the practitioner.

It's important to underscore that DEA personnel will never contact practitioners or members of the public by telephone to demand money or any other form of payment. DEA will not request any personal or sensitive information over the phone. Notification of a legitimate investigation or legal action is made via official letter or in person.

Impersonating a federal agent is a violation of federal law.

Anyone receiving a telephone call from a person purporting to be a DEA special agent or other law enforcement official seeking money should refuse the demand and report the threat using the [online form](#) or by calling 877-792-2873. Reporting scam calls will greatly assist DEA in investigating and stopping this criminal activity. Any urgent concerns or questions, including inquiring about legitimate investigations, should be directed to the local DEA field division.

To report scam activity online, visit the DEA Diversion [on line reporting page](#).

For contact information for DEA field divisions, visit the [domestic division page](#) on DEA.gov.

Texas Chiropractic Board Report Memorials



Dr. Christopher D. Canada, D.C. passed away on August 11, 2019.

Dr. Canada attended Texas Chiropractic College and graduated on April 20, 2011. Dr. Canada was licensed to practice chiropractic in the state of Texas on December 8, 2011.



Dr. Nedward (Tommy) Thomas Davidson, DC, PhD, age 63, of Gatesville, passed away on Friday, October 11, 2019.

Tommy was born on March 21, 1956, in El Paso, Texas, was raised in Gatesville and graduated from Gatesville High School in 1974.

Tommy attended Baylor University where he played football and received both his Bachelors and Masters degrees. Shortly after, Tommy earned his PhD from Texas A&M University followed by his Doctorate of Chiropractic from Los Angeles Chiropractic College.

Dr. Davidson was licensed in Texas on July 1, 1988 and returned to Gatesville to practice chiropractic in both Gatesville and Valley Mills where he served these communities for over thirty years.

Dr. Davidson served as the team chiropractor for Baylor University athletics for the last decade. He was a coach and mentor to many athletes within the community—from the little to the big league.

Memorials are published by the Board 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.