

Texas Chiropractic Board Report

Established 1949

August 2008

Issue #1

Texas Board of Chiropractic Examiners

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Licensure & Education
Committee Chair
El Paso

Dr. Cynthia Tays, D.C.
Austin

Ms. Kenya Woodruff, J.D.
Public Member



Glenn Parker
Executive Director

Governor Perry Appoints Three New Board Members

Governor Rick Perry recently announced the appointment of three members to the Texas Board of Chiropractic Examiners for terms to expire on February 1, 2013. The Board licenses chiropractors and registers chiropractic facilities and radiological technicians. The Board is composed of nine members, all appointed by the Governor. Six members are doctors of chiropractic and three are public members.

Mr. Armando Elizarde, Jr. is president of Elizarde Homes Inc., and Ace Valley Developments, L.L.C. He is president of the Harlingen Area Builders Association and a member of the Planning and Zoning Commission and the Economic Development Board for the City of Harlingen. He is also a board member of the Lone Star National Bank and Valley Baptist Health Systems. Additionally, Elizarde is an advisory board member for the Texas State Technical College Building Construction Program. He attended the University of Texas Pan American, formerly Pan American University. Mr. Elizarde is a member of the Board's Rules Committee. He replaces Mr. Narciso Escareno of Brownsville as a public member of the Board.

Dr. Janette A. Kurban of Pantego is owner and president of Kurban Chiropractic Healthcare Clinic in Arlington. She is a member of the American Chiropractic Association, Texas Chiropractic Association, and Parker College of Chiropractic Alumni Association. A fifth generation Texan with roots tracing back to the Alamo, Dr. Kurban received a bachelor's degree with honors from Texas Christian University and a doctorate degree from Parker College of Chiropractic. Dr. Kurban is the Chair of the Board's Rules Committee. She replaces Dr. Sandra Jensen of Coppell.

Dr. Cynthia Tays is president and owner of Austin Chiropractic Associates P.A. She is a member of the American Chiropractic Association (ACA), ACA Sports Council and ACA Physical Therapy Council. She is also a member of the Texas Chiropractic Association and the American College of Chiropractic Orthopedists. Dr. Tays is the chiropractic consultant for Ballet Austin and Tapestry Dance Company, and a Sunday school and music ministry volunteer for Westlake Hills Presbyterian Church. She received a bachelor's degree from St. Cloud State University in Minnesota and a doctorate from Texas Chiropractic College. Dr. Tays serves as a member of the Board's Enforcement Committee. She replaces Dr. Steve Minors of Austin.

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A message from the Executive Director...



It is with great pleasure that we launch this initial issue of the *Texas Chiropractic Board Report* newsletter. It is our intention to publish it on a quarterly basis, with a distribution to all licensed doctors of chiropractic in Texas as well as to those chiropractic clinic owners who are not DCs. The primary purpose of the newsletter is to serve as a means of communication between the Board and you – our licensees. It is my belief that many, if not a majority, of the most common violations of the Chiropractic

Act or Board Rules could be avoided simply by ensuring that all of our licensees are fully aware of their responsibilities under the law. This newsletter will assist doctors of chiropractic and clinic owners by contributing to a better understanding of the statutes and rules under which our licensees practice. Please read each issue carefully and tell us what subjects you would like to know more about. ~~~

Glenn Darker – Executive Director

Board Seeks Volunteers for Executive Peer Review Committee

The Board of Chiropractic Examiners is seeking volunteers to serve on its Executive Peer Review Committee, which will be formed in the next three-to-six months. The purpose of the Committee is to assist the Board in planning for and establishing Local Peer Review Committees throughout the state and assisting in coordinating the efforts of those local committees. The Executive Peer Review Committee will consist of six volunteer members who will serve staggered terms of three years each. Committee members must have a current doctor of chiropractic license in Texas, have a clean disciplinary record, have an acceptable record regarding utilization review performed in accordance with Article 21.58A of the insurance code (if applicable), and must not be a consultant to or an employee of any company or carrier of health insurance. The Board seeks to name members to the Executive Peer Review Committee at its regularly scheduled board meetings on November 6, 2008 and/or February 25, 2009.

Interested parties can download an application form and instructions from the TBCE website at: www.tbce.state.tx.us. Click on the “Peer Review Committees” link. Or, please contact the agency staff and request that an Executive Peer Review Committee application form be mailed or faxed to you.

Texas Chiropractic Board

Mission & Role

The Texas Board of Chiropractic Examiners (TBCE) will soon celebrate its 60th anniversary, having been created by the Texas Legislature in 1949. It is appropriate that we, at this time, should review the mission of the Board and to re-examine its role in Texas state government. The fundamental responsibility of the Board can be simply stated, and is found in the Board's Mission Statement, which reads as follows:

Mission Statement

The mission of the Texas Board of Chiropractic Examiners is to promote, preserve and protect the health, safety and economic welfare of the people of Texas through the regulation of the practice of chiropractic.

Please note that the Board's mission is foremost directed to all of the people of Texas and is derived from the Texas Chiropractic Act as passed and amended by the Texas Legislature and approved by the Governor.

Its mission supersedes the interest of any individual, the chiropractic profession, or any special interest group.

To fulfill that mission, the Board examines and licenses qualified doctors of chiropractic, registers chiropractic facilities and chiropractic radiologic technologists, and enforces the laws that governs the practice of chiropractic in Texas. The Board operates under the authority of the Texas Chiropractic Act, which is currently found in the Texas Occupations Code, Title 3, Subtitle C, Chapter 201. It adopts rules as necessary under the authority of and consistent with the Chiropractic Act to further its responsibility to regulate the practice of chiropractic in this state.

The Board itself is made up of nine (9) individuals, each appointed by the Governor and approved by the Senate. Six of the board members by law must be licensed doctors of chiropractic and the three remaining members must be from the general public. Board members serve staggered terms of six years each so that the terms of three members expire on February 1 of each odd-numbered year. The Governor appoints the Board President. It is the responsibility of the Board to fairly and effectively administer the Chiropractic Act. Board members serve without pay and some even decline to accept reimbursements for expenses they incur in serving on the Board and its committees.

The Board as a group and board members individually

are proud to be a part of the chiropractic profession in Texas and strongly support the rights of doctors of chiropractic as established through the Chiropractic Act. However, while the Board has a responsibility to

provide accurate information concerning chiropractic to the state's lawmakers, it is beyond the proper role of the Board – and it is illegal for the Board – to lobby the Legislature or the Governor in regards to any proposed legislation, including legislation that might expand or restrict the practice of chiropractic in Texas.

At the same time, members of the Legislature and the Governor's Office expect the Board and its staff to keep them informed on important issues affecting the regulation of the chiropractic profession and to provide advice as necessary. To that end, the Board seeks to receive information and advice from all individuals and entities who are stakeholders in the practice of chiropractic in Texas, including doctors, patients, chiropractic colleges, clinic owners, insurance companies and other health care professionals. It is only by evaluating input from all appropriate sources that the Board will be able to fulfill its mission of protecting the people of this state by fairly and effectively regulating the practice of chiropractic for all concerned stakeholders, including doctors and patients.

You, our licensees, are some of our most important and valued stakeholders and we welcome your comments and input at any time. A portion of every board meeting is set aside to receive public comments from anyone who wishes to address the Board. In addition, comments may be mailed, faxed or e-mailed to the Board at any time.

Doctor – Patient Relationships & Sexual Misconduct

One of the quickest ways a chiropractor can get in trouble, not only with the Board, but with local law enforcement, relates to his or her behavior toward a patient. A chiropractor may, intentionally or unintentionally, commit an act that the patient, the Board or law enforcement officials may consider as sexual misconduct.

The TBCE takes complaints regarding alleged sexual misconduct very seriously. A doctor found to have engaged in sexual misconduct faces disciplinary action up to revocation of his or her chiropractic license.

Texas law enforcement also takes allegations of sexual misconduct very seriously. A police investigation may result in a doctor's arrest, indictment by a Grand Jury and trial. Depending on the degree of offense, a conviction could land a chiropractor in the Texas Department of Criminal Justice (prison) for a term up to life imprisonment. The Texas Administrative Code, Title 22, Part 3, Chapter 75, Rule §75.3 (c) states the Board shall revoke a license following the licensee's imprisonment for a felony conviction.

The Texas Administrative Code, Title 22, Part 3, Chapter 75, Rule §75.1, Grossly Unprofessional Conduct, prohibits "engaging in sexual misconduct with a patient within the chiropractor/patient relationship." Sexual misconduct is defined as:

1. Sexual impropriety, which may include:
 - (A) any behavior, gestures, or expressions which may reasonably be interpreted as in (sic) inappropriately seductive or sexually demeaning;
 - (B) inappropriate sexual comments about and to a patient or former patient including sexual comments about an individual's body;
 - (C) requesting unnecessary details of sexual history or sexual likes and dislikes;
 - (D) making a request to date;
 - (E) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee;
 - (F) kissing or fondling of a sexual nature; or
 - (G) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature.
2. Sexual intimacy which may include engaging in any

conduct that is sexual or may be reasonably interpreted as sexual, such as:

- (A) sexual intercourse;
- (B) genital contact;
- (C) oral to genital contact;
- (D) genital to anal contact;
- (E) oral to anal contact;
- (F) oral to oral contact;
- (G) touching breasts or genitals;
- (H) encouraging another to masturbate in the presence of the licensee;
- (I) masturbation by the licensee when another is present; or
- (J) any bodily exposure of normally covered body parts.

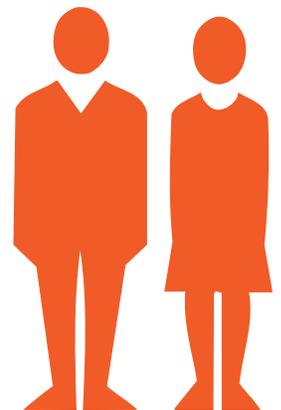
It is a defense to a disciplinary action under subsection (a) (3) of this section if the patient was no longer emotionally dependent on the licensee when the sexual impropriety or intimacy began, AND the licensee terminated his or her professional relationship with the person more than six months before the date the sexual impropriety or intimacy occurred.

It is NOT a defense under subsection (a)(3) of this section if the sexual impropriety or intimacy with the patient occurred:

- (1) with the consent of the patient;
- (2) outside professional treatment sessions; or
- (3) off the premises regularly used by the licensee for the professional treatment of patients.

In fairly simple terms, a doctor cannot have a personal/dating relationship with a patient while the doctor/patient relationship exists, even if the patient consents. The doctor/patient relationship must be terminated at least 6 months before a personal/dating relationship can even begin.

Doctors of chiropractic must be mindful of not only their actions when dealing with a



Release of Records Required by Law



One of the most frequent complaints received at the TBCE is about doctors or clinics failing to furnish records. Associated with this are complaints about the doctor or the clinic charging too much for the records or demanding a Letter of Protection or that the patient's balance be paid before the records are released.

The Texas Administrative Code, Title 22, Part 3, Chapter 80, Rule §80.3 addresses the request for information and records from licensees. It reads in part, "Upon request, a licensee shall furnish copies of chiropractic records or a summary or narrative of the records pursuant to a written consent for the release of the information or records." This section defines chiropractic records as "any records pertaining to the history, diagnosis, treatment or prognosis of the patient including records of other health care practitioners contained in the records of the licensee to whom a request for release of records has been made."

This section defines a reasonable time to furnish the records. "A copy of chiropractic records or a summary or narrative of the records requested under subsection (a) of this section shall be furnished by the licensee within a reasonable time, not to exceed 15 business days from the date of the request."

"If a licensee denies the request under subsection (a) of this section for a copy of chiropractic records

or a summary or narrative of the records, either in whole or in part, the licensee shall furnish the patient a written statement, signed and dated, stating the reason for denial. Chiropractic records requested pursuant to subsection (a) of this section may not be withheld based on a past due account for care or treatment previously rendered to the patient." Since a Letter of Protection deals with a past due account, records cannot be withheld based on a refusal to furnish an LOP.

This rule allows for a licensee to charge a reasonable fee for furnishing the records and says a licensee may require payment in advance except from another licensee or health care provider if the records requested are for purposes of emergency or acute medical care. The rule also defines that a reasonable charge for a paper copy "shall be a charge not to 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; 50¢ per page for page 61-400; and 25¢ per page for pages over 400. For films or other static diagnostic imaging a reasonable fee 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.

Complying with the records release laws is a necessary part of practicing as a chiropractor and will reduce the chances of having a patient (or the patient's attorney) file a complaint with the Board.

Doctor-Patient Relationships cont'd

patient but they must also be mindful of their words and gestures. If the patient is offended by your words or actions and interprets them to be sexually offensive they may file a complaint with the TBCE.

Some of the listed offenses defined in sexual misconduct/sexual intimacy are also violations of the Texas Penal Code, specifically Sexual Assault (PC §22.011) and Aggravated Sexual Assault (PC §22.021). There are provisions within the Texas Penal Code that address Sexual Assault committed by a "Health care services provider" - which includes chiropractors. Sexual Assault is a second degree felony punishable by imprisonment for a term of not more than 20

years or less than 2 years and a fine not to exceed \$10,000. Aggravated Sexual Assault is a first degree felony punishable by imprisonment for a term for life or for any term of not more than 99 years or less than 5 years and a fine not to exceed \$10,000.

Doctors, not only can your words and actions place your occupation in jeopardy, your actions can place your very freedom in jeopardy. Unfortunately there are chiropractors currently serving prison sentences, so not only is it a possibility, it has happened. Be careful what you say and what you do in the presence of your patients. A good policy is to always have another staff member present when treating a patient.



Rules for Telephone Solicitation

Solicitation of chiropractic patients through misleading or unscrupulous means is an area of concern to the Board and to most of our licensees. While it is legal in Texas for doctors of chiropractic or their agents to contact accident victims or other potential patients, it is important that DCs and all who solicit patients for them adhere to the Board's rules concerning solicitation and publicity. Rule §77.2, as amended with an effective date of October 3, 2007, requires all DCs, chiropractic clinics, and their agents to adhere to certain record keeping requirements and to refrain from making misleading or deceptive statements.

Note that the rule (below) requires, among other things, that copies of telephone scripts and logs of all persons called must be kept for a minimum of two (2) years, that anyone who solicits a patient must identify himself and the doctor on whose behalf he is calling, and that callers may not mislead a potential patient to believe that he is being contacted on behalf of an insurance company or make other misleading statements. The Board will be diligent in enforcing these solicitation and publicity requirements. Rule §77.2 now reads as follows:

Rule §77.2 – Publicity

- (a) *A registered facility or licensee shall not, on behalf of himself, his partner, associate, or any other licensee or facility affiliated with him, use or participate in the use of any form of public communication which contains a false, fraudulent, misleading, deceptive, or unfair statement of claim, or which has the tendency or capacity to mislead or deceive the general public.*
- (b) *In any form of public communication, a licensee or registered facility shall not describe services that are inconsistent with the practice of chiropractic as described under §75.17 of this title, relating to scope of practice.*
- (c) *A licensee or registered facility engaging in, or authorizing another to engage in telemarketing of prospective patients shall not misrepresent to the person called any association with an insurance company or another doctor of chiropractic or another chiropractic group or facility.*
 - (1) *A licensee, registered facility, or their agent, engaging in telemarketing shall not promise successful chiropractic treatment of injuries or make any other communication which would be prohibited under subsection (a) of this section.*
 - (2) *A licensee, registered facility, or their agent, engaging in telemarketing is required, at the start of each call, to inform the person called who they are (caller's name) and who they represent (clinic/doctor).*
- (3) *A licensee or registered facility engaging in telemarketing, either directly or through an agent, shall keep a copy of each script used for calling and a log of all calls made that shall include the date, telephone number, and the name of each person called. Such scripts and logs shall be maintained for a minimum of two years.*
- (d) *Licensees or registered facilities that intend to include a testimonial as part of any form of public communication shall maintain a signed statement from that person or group to support any statements that may be used in any public communication for a minimum of two years from publication of the testimonial.*
- (e) *Licensees or registered facilities shall clearly differentiate a chiropractic office, clinic, or facility from another business or enterprise in any form of public communication.*
- (f) *Licensees shall identify themselves as either "doctor of chiropractic," "DC," or "chiropractor" in all forms of public communication. If each licensee that practices in a registered facility has identified themselves as required above, then the facility name need not include "chiropractic" or similar language.*

CONTINUING EDUCATION

Rules & Changes

The Texas Board of Chiropractic Examiners, at its regularly scheduled meeting on February 28, 2008, adopted changes to Rule §73.3 concerning continuing education (CE) requirements for doctors of chiropractic. The newly revised rule, while not increasing the total number of continuing education hours that each doctor must acquire each year, does require each doctor to take at least four (4) hours annually of approved CE classes in certain designated subject areas. The subject areas required are ethics, risk management, and record keeping, documentation and coding – all as they relate to the practice of chiropractic. The new continuing education requirements become effective for all DC license renewals that occur on or after July 1, 2009.

The Board continues to require that all doctors of chiropractic obtain at least sixteen (16) hours of approved continuing education courses each 12 months as a requirement for renewing their licenses each year. Each licensee's CE reporting year begins on the first day of the month in which his or her birthday occurs. The CEs must be from courses specifically approved by the Board. (See the TBCE website at www.tbce.state.tx.us for a list of approved CE classes). Rule §73.3, as amended, now reads in part:

(2) (A) (b) (2)

(A) A licensee must attend any course designated as a "TBCE Required Course," and the course may be counted as part of the 16 hour requirement. Effective with all doctor of chiropractic licenses renewed on or after July 1, 2009, a minimum of four of the 16 required hours of continuing education shall include topics designated by the board.

- (i) A minimum of two hours of the total required continuing education shall consist of an ethics course specifically related to the practice of chiropractic. In addition to the requirements in §73.7, an instructor for this continuing education must have a doctorate degree and must either have an active license to practice chiropractic or law or be part of the full-time faculty of a chiropractic

college accredited by the Council of Chiropractic Education. This continuing education may not be taken online except as provided under paragraph (4) of this subsection.

- (ii) A minimum of one hour of the total required continuing education shall relate to risk management relating to the Chiropractic Act, the board's rules, and other laws relevant to the practice of chiropractic in Texas. For the purpose of this rule, risk management refers to the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating, identifiable risks. In addition to the requirements in §73.7 of this title, a risk management instructor shall have a doctorate degree and must either have an active license to practice chiropractic or law or be part of the full-time faculty of a chiropractic college accredited by the Council of Chiropractic Education. This continuing education may be taken online through a course offered by the board.
- (iii) A minimum of one hour of the total required continuing education shall consist of recordkeeping, documentation, and coding relevant to the practice of chiropractic in Texas. In addition to the requirements in §73.7 of this title, a risk management instructor shall have a doctorate degree and must either have an active license to practice chiropractic or law or be part of the full-time faculty of a chiropractic college accredited by the Council of Chiropractic Education. This continuing education may not be taken online except as provided under paragraph (4) of this subsection.
- (iv) In addition, from time to time, the board may issue public memoranda regarding urgent or significant public health issues that licensees need to be aware of. The board will publish such memoranda on the board's web site and distribute the memoranda to the major continuing education providers.

TBCE Board Disciplinary Actions Taken

Fiscal Year 2007

Name	Lic #	Discipline	Date of Action	City
Bergeson, Keith LeGrande	DC 5413	Fine	8/16/2007	Friendswood
Blum, James R.	DC 9098	Suspend/Probate w/Stips	8/16/2007	Harland
Boecking, Neil O.	DC 9693	Ltr of Reprimand	8/16/2007	Austin
Brown, Darla Jean	DC 5616	Fine	11/16/2006	La Porte
Bunting, Gregory W.	DC 6527	Suspend/Probate	9/14/2006	Dallas
Chames, Thomas Milton	DC 2337	Suspend/Probate w/Stips	8/16/2007	Pilot Point
Chapman, Steven Timothy	DC 4946	Suspension	5/25/2007	Angleton
Creed, Christopher Drew	DC 5071	Fine	1/25/2007	Carrallton
DaSilva, Robert	DC 7121	Suspend/Probate w/Stips	9/14/2006	Corinth
Davis, Rita Shawn	DC 7123	Suspend/Probate	9/14/2006	Tomball
Dudycha, David William	DC 3025	Reprimand with Stipulations	9/14/2006	College Station
Durrett, Sherry L.B.	DC 4079	Fine	9/14/2006	The Woodlands
Edwards, Joan C.	DC 4434	Fine	9/14/2006	Houston
Glenn, III, John Bryant	DC 2804	Suspend/Probate w/Stips	9/14/2006	Amarillo
Greene, Winston Walton	DC 2981	Fine	11/16/2006	Houston
Griffiths, Dennis J.	DC 7140	Reprimand with Fine	11/16/2006	Nederland
Guerra, Hector	F 6139	Fine	8/16/2007	Weslaco
Gutierrez, Arnaldo Daniel	DC 5555	Fine	8/16/2007	San Antonio
Hudson, Shawna Neelley	DC 7149	Reprimand with Fine	9/14/2006	Houston
Johns, Randall Baugh	DC 9359	Fine	9/14/2006	Texarkana
Kirkpatrick, James Douglas	DC 5859	Fine	11/16/2006	Dallas
Kirkpatrick, James Douglas	DC 5859	Fine	11/16/2006	Dallas
Kontaratos, James Nicholas	DC 5097	Reprimand with Fine	3/12/2007	Dallas
Kukucska Le, Laura A.	DC 9520	Fine	8/16/2007	Flower Mound
LaForest, Travis J.	DC 8963	Suspend/Probate with fine	11/16/2006	Houston
Marioni, Luis R.	DC 7918	Ltr of Reprimand	9/14/2006	El Paso
Marmorstein, Stuart C.	DC 9685	Suspend/Probate w/Stips	8/16/2007	San Leon
McIlroy, Larry Dan	DC 5763	Fine	8/16/2007	Levelland
McNabb, Kevin Louis	DC 6460	Suspend/Probate	11/16/2006	Hallsville
Moreno, Manuel	F 3084	Fine	11/16/2006	El Paso
Nannis, Ray Laurin	DC 6733	Fine	9/14/2006	Richardson
Nguyen, Quoc Thai Pham	DC 8166	Suspend/Probate w/Stips	9/14/2006	Houston
Nguyen,Thuy Pete	DC 8468	Suspend/Probate w/Stips	8/23/2007	Lakeway
Nia, Ramin	DC 9183	Fine	5/25/2007	Dallas
Olivares, Adrian	DC 8066	Suspend/Probate w/Stips	11/16/2006	McKinney
Parnassus, Zachary Zathros	DC 4040	Revocation	9/14/2006	Boerne
Pedersen, Jerry Lee	DC 2643	Suspension	8/16/2007	Paris
Pedersen, Jerry Lee	DC 2643	Suspension	8/16/2007	Paris
Reilly, Joseph Jr.	F 2657	Fine	11/16/2006	Houston
Riley, Alexander Kurt	DC 6754	Ltr of Reprimand	9/14/2006	Cypress
Rodriguez, Jeff Javier	DC 5590	Revocation with Fine	11/16/2006	Dallas
Sanchez, Jorge Renen	F 6482	Fine	9/14/2006	Grand Prairie
Smedstad, Terry Allan	DC 2751	Fine	9/14/2006	Houston
Stansbury, Timothy Bryan	DC 5484	Fine	11/16/2006	Richardson
Steinbrenner, Christine L.	DC 7927	Ltr of Reprimand	11/16/2006	Glenn Heights
Tutt, Steven James	DC 4710	Fine with CE hours	9/14/2006	Dallas
Twiford, Christopher F.	DC 7928	Ltr of Reprimand	9/14/2006	Bethel
Twiford, Christopher F.	DC 7928	Ltr of Reprimand	9/14/2006	Bethel
White, Kevin R.	DC 7895	Ltr of Reprimand	9/14/2006	Combine
Williams, Martin John	DC 4140	Fine	11/16/2006	Arlington
Woddruff, Sharon	F 5737	Voluntary Surrender	3/12/2007	Plano

TBCE Board Disciplinary Actions Taken

Fiscal Year 2008

Name	Lic #	Discipline	Date of Action	City
Bauer, Don	None	Cease & Desist w/Fine	11/2/2007	Plano
Baughner, D. Vincent	DC 7904	Fine	5/20/2008	Denton
Boecking, Neil O.	DC 9693	Fine	8/14/2008	Austin
Bratcher, Luther Burbank	DC 2246	Fine	2/29/2008	Flint
Buckley, Christopher F.X.	DC 8096	Fine	11/2/2007	Grand Prairie
Cameron, Larry G.	DC 9501	Fine	11/2/2007	McKinney
Clark, Kim	F 6078	Fine	8/14/2008	Houston
Clark, Thomas Roy	DC 6532	Revocation	5/20/2008	Amarillo
Dement, Charles Lester	DC 7278	Suspend w/Stipulations	8/14/2008	Jacksonville
Derbonne, John R.	DC 7124	Suspend/Probate w/Fine	11/2/2007	Freeport
Descant, Steven P.	DC 6853	Suspend/Probate w/Fine	2/29/2008	Laredo
Ding, Jay Char-Chee	DC 8802	Fine	2/29/2008	Austin
Dramiga, Charles Ole	DC 5212	Fine	8/14/2008	Dallas
Erb, David Kelly	DC 8442	Fine	2/29/2008	Coppell
Feher, Richard Scott	DC 6153	Fine	11/2/2007	Victoria
Feher, Richard Scott	DC 6153	Fine	2/29/2008	Victoria
Godsey, Stacy Allen	DC 9796	Fine	8/14/2008	Tyler
Gonser-Prado, Genene A.	DC 6945	Fine	2/29/2008	Liberty Hill
Guidry, Jr., Richard Ignatius	DC 8045	Revocation	2/29/2008	Houston
Hardesty, Curis M.	DC 7293	Fine	2/29/2008	The Colony
Keller, Arthur Lowell	DC 5414	Fine	8/14/2008	Houston
Kilchenstein, Kenneth Walter	DC 5217	Fine	2/29/2008	Fort Worth
Knutson, Brandon	DC 8456	Fine	8/14/2008	Addison
Kohlstrand, Jr, Ronald Edward	DC 4253	Suspend/Probate w/Stips	2/29/2008	Carrlton
Maddox, Mike D.	DC 4162	Fine with Retake Test	2/29/2008	Austin
Maddox, Mike D.	DC 4162	Cease & Desist w/Fine	2/29/2008	Austin
Magbag, Jr., Jose S.	DC 8367	Reprimand with Fine	8/14/2008	Houston
Mann, Jeffrey Charles	DC 4599	Revocation	5/20/2008	Dallas
Margolies, Michael Harvey	DC 2665	Fine	2/29/2008	Dallas
Marioni, Luis R.	DC 7918	Reprimand with Fine	11/2/2007	El Paso
Matthews, Mary Beth	DC 5073	Revocation	5/20/2008	Dallas
Mullins, Roy Curtis	DC 5578	Fine	2/29/2008	Austin
Nedry, Barbara K.	DC 6813	Suspend/Probate w/Stips	8/14/2008	Pasadena
Nemanic, Peter Michael	DC 9573	Reprimand with Fine	11/2/2007	Phoenix
Nguyen, Thuy Pete	DC 8468	Suspend/Probate w/Stips	8/14/2008	Austin
Oliver, Emily	DC 5220	Suspend/Probate w/Stips	8/14/2008	San Antonio
Parker, John S.	DC 6739	Fine	5/20/2008	Irving
Pena, Luis E.	DC 4498	Suspend/Probate w/Stips	8/14/2008	McAllen
Richter, Francis Charles	None	Cease & Desist Order	11/2/2007	Weslaco
Shahar, Ranan	None	Cease & Desist Order	9/20/2007	Los Angeles
Silva, James N.M.I.	DC 4760	Fine	5/20/2008	San Antonio
Soltani, Omid	DC 9404	Fine	11/2/2007	Houston
Tipton, Sean	F 7092	Reprimand for 2 Facilities	8/14/2008	Dallas Area
Tipton, Sean	F 8117	Reprimand for 5 Facilities	8/14/2008	Houston Area
Tipton, Sean	F 8114	Reprimand for 1 Facility	8/14/2008	San Antonio
Vaclavik, John Matthew	DC 5608	Suspend/Probate w/Stips	2/29/2008	League City
Waldrop, Stephen Craig	DC 4771	Reprimand with Fine	8/14/2008	Saginaw

Meet The Board



Dr. Kenneth Perkins, President, has been a chiropractor for 30 years and is the owner of Perkins Chiropractic Health Center in Conroe. Governor Perry appointed Dr. Perkins to the Board in 2005 and named him as Board President in May of 2007. Dr. Perkins is a member of the American Chiropractic Association and the Texas Chiropractic Association, where he served as president. Dr. Perkins is active in several community organizations. He attended the University of Houston and received a doctor of chiropractic degree from Texas Chiropractic College. Dr. Perkins also serves on the Board's Rules Committee and chairs the Executive Committee.



Dr. Scott Isdale, Vice President has practiced for thirty-three years in Killeen. He is a member of the American and Texas Chiropractic Associations and the Tri-County Chiropractic Society. He is past chairman of the Peer Review Executive Committee for the Chiropractic Board. He also served for eight years on the Board of Trustees for the Killeen Independent School District. Dr. Isdale attended Central Texas College and received his doctor of chiropractic degree from Texas Chiropractic College. Dr. Isdale chairs the Enforcement Committee.



Dr. Kathleen Summers, Secretary/Treasurer, of Andrews is president and co-owner of the Summers Chiropractic Professional Association. She is a member of the Texas Chiropractic Association, the American Back Society and the Association for Catholic Chiropractors. Dr. Summers is a diplomate of the American Academy of Pain Management and a fellow of the International Academy of Medical Acupuncture. She also is past president of the Andrews Lions Club. A graduate of the University of Pittsburgh, she received a doctor of chiropractic degree from Texas Chiropractic College. Dr. Summers serves on the Board's Licensing and Education Committee.



Ms. Marcia Daughtrey, Public Member, of Tyler is the owner of Old Jacksonville Industries. She is a member of the Jacksonville Chamber of Commerce, a former executive board member of the East Texas Boy Scout Council and former board chair for the Smith County Affiliate American Heart Association. Ms. Daughtrey received a bachelor's degree from the University of Texas at Tyler. She serves on the Board's Licensing and Education Committee.

Meet The Board



Dr. David Sime is the owner of Sime Chiropractic Clinic in El Paso and serves as the chair of the Board's Licensing and Education Committee. He is a member of the International and Texas Chiropractic Associations and the El Paso Chamber of Commerce. Dr. Sime received a bachelor's degree and a doctorate of chiropractic from Palmer College in Iowa.



Ms. Kenya Woodruff, J. D., Public Member, is Deputy General Counsel at Dallas County Hospital District d/b/a Parkland Health & Hospital System. She has served both as in-house and outside counsel to assist healthcare clients with ensuring the compliance of their daily activities and with the resolution of controversies in litigation, arbitration, mediation and administrative hearings. She gives counsel on various matters, including those concerning physician recruitment, Stark, anti-kickback statutes, false claims acts, HIPAA, peer review, National Practitioner Databank reporting, the Americans with Disabilities Act and other general commercial issues. Ms. Woodruff earned her J.D. from Duke University School of Law and her B.A. from Emory University. She serves on both the Rules Committee and the Enforcement Committee for the Board.

New Members



**Mr. Armando
Elizarde, Jr.
Public Member**



Dr. Cynthia Tays



Dr. Janette Kurban

See related story on Page 1 for biographies of these three board members recently appointed by Governor Perry.

Q *I recently graduated from chiropractic college but have not yet obtained my Texas DC license. Am I correct in assuming that my degree allows me to use the term “Doctor of Chiropractic” or “D.C.” on business cards or at the office where I currently work?*

A No. A common question asked of the TBCE by new graduates of chiropractic colleges is if they may call or refer to themselves as “chiropractor” or “D.C.” before they obtain their license. Some ask if they can have business cards and letterhead stationary printed referring to themselves as “doctor” or “DC” before licensure.

The answers to these questions are found in the Texas Occupations Code, Title C, Chapter 201, Subchapter G, Section 201.301. This rule states, “A person may not practice chiropractic unless the person holds a license issued by the Board (Texas Board of Chiropractic Examiners). In addition, the Texas Occupations Code, Title C, Chapter 201, Subchapter A, Section 201.002 (b) states, “A person practices chiropractic under this chapter if the person: (4) uses the term ‘chiropractor,’ ‘chiropractic,’ ‘doctor of chiropractic,’ ‘D.C.,’ or any derivative of those terms or initials in connection with the person’s name.”

By the definitions stated above, if you are not licensed by the TBCE and present yourself using any of the terms or a derivative of the terms, then you are practicing chiropractic without a license. A person found to be practicing chiropractic without a license is subject to disciplinary action including an administrative penalty (fine) and may have to appear before the Board prior to obtaining a license. While the Board respects the attainment of a Doctor of Chiropractic degree from an accredited chiropractic college, state law does not permit anyone who is not licensed to use the terms chiropractor or D.C. in any way that would tend to lead the public to believe that the individual is a licensed doctor of chiropractic in Texas. Graduates who are not licensed must avoid being referred to as “Doctor” if working as an assistant in a chiropractic clinic. Patients must not

be led to believe that the unlicensed graduate is a licensed doctor of chiropractic.

Q *Is laser hair removal within the scope of practice for a chiropractor?*

A No. Laser hair removal is considered a cosmetic procedure. A cosmetic procedure does not “improve the subluxation complex or the biomechanics of the musculoskeletal system” of the human body. (See the Chiropractic Act, Texas Occupations Code Chapter 201.002 (b)(2).

Q *I recently bought an active chiropractic clinic from its previous owner. Do I need to re-register it with the Board under my name or can I wait until the registration is up for renewal?*

A You should contact the agency licensing staff to register the clinic in your own name. Download a Facility Application form at the TBCE website (www.tbce.state.tx.us) or contact one of our Licensing Department employees. See the agency contact list on page 15.

Q *I am a DC and own a clinic. How long do I have to retain the treatment records for my patients?*

A Board Rule §80.5 (Maintenance of Chiropractic Records) states the following: “(a) An adequate chiropractic record for each patient shall be maintained for a minimum of six years from the anniversary date of the last treatment. (b) If a patient was younger than 18 years of age when last treated by a licensee, the chiropractic records of the patient shall be maintained until the patient reaches age 21 or for six years from the date of the last treatment, whichever is longer. (c) Chiropractic records that relate to any civil, criminal or administrative proceedings shall not be destroyed until the proceeding has been finally resolved. (d) Chiropractic records shall be maintained for such longer length(s) of time than that imposed by this section when mandated by other federal or state statute or regulation. (e) Each licensee practicing at a facility and each facility is equally responsible for compliance with this section.”

License & Registration Renewals

It is extremely important that all doctors of chiropractic renew their licenses on time each year and that all chiropractic facilities and chiropractic radiologic technologists (rad techs) be currently registered with the Texas Board of Chiropractic Examiners (TBCE). It is illegal to practice chiropractic with an expired license or to practice in a facility that is not registered or for which the registration has expired. Renewal of a DC license or a clinic (facility) registration can be accomplished online and is usually quite easy to do. Renewal notices are sent to all licensees, clinic owners and rad techs 45-60 days in advance of the expiration date.

DCs

DC licenses expire on the first day of the month in which the DC was born. That is, if you were born on December 14, 1975, then your DC license expires as of December 1 each year. Licenses can be renewed online or by mail. More than 80% of the DCs in Texas choose to renew online. Please note that we are in the process of updating the online renewal procedure. If you have trouble renewing online, please follow these simple steps: (1) go to the TBCE website at www.tbce.state.tx.us; (2) click on “Chiropractic Licensing and Renewals”; (3) select the online renewal option; (4) select “continue”; (5) at the login screen you will see 2 boxes; (6) in the first box enter your 4 or 5 digit DC license number; (7) in the second box enter your social security number with no dashes – if your SS # begins with “0” drop the “0” and enter the remaining numbers; (8) check the “I Attest” button WITHOUT updating your Profile (the Profile update is not working properly at this time); (9) continue on to answer the online renewal questions and to pay the renewal fee. Please do not attempt to update your Profile during the renewal process. All changes of address must be submitted in writing to the Board within 30 days of the change.

Clinics Owned by DCs

There are approximately 3,300 chiropractic clinics (facilities) currently registered in Texas. All chiropractic facilities must be registered with the TBCE. A clinic with multiple locations must register each location as a separate facility. The registration is valid for one year (12 months), except for the initial registration. All clinics in which a licensed DC is the sole owner or the primary owner expire on the same date as does that doctor’s individual DC license – that is, on the first day of the month in which the DC was born. Renewals can be completed online (preferred) or by mail. To renew online, follow these steps: (1) go to www.tbce.state.tx.us and click on “Facility Licensing and Renewals”;

(2) select the online renewal option and hit the “Continue” button; (3) at the first box enter your facility license number, beginning with a **capital** – not lower case – “F” followed by 2 zeros and your 4-digit facility number (e.g., F001234); (4) in the second box enter the primary owner’s last name. The first letter of the owner’s last name must be a capital letter and the rest in lower-case letters (e.g., “Smith”); (5) if the last name is hyphenated, e.g. “Smith-Jones”, it must be entered exactly as shown on the facility’s registration certificate, including the hyphen. Proceed with the online renewal questions and payment.

Clinics Owned by Non-DCs

Almost 400 chiropractic facilities in Texas are owned by individuals who are not licensed chiropractors in Texas. All chiropractic facilities must be registered with the TBCE. The process for renewing a clinic registration for a clinic owned by someone who is not a DC is exactly the same as for clinics owned by DCs (see above) except that the Non-DC clinic registrations all expire on September 1 of each year. The TBCE encourages all clinic owners to renew online whenever possible.

RAD Techs

All rad tech renewals must be completed by mail. A renewal form and instructions can be downloaded from the TBCE website. Anyone performing radiologic procedures in a chiropractic facility, other than a licensed DC or other licensed health care professional whose license allows him or her to perform radiologic procedures (such as a registered nurse or a certified medical technologist), must register with the Board and renew that registration annually. All such chiropractic radiologic technologists who are required to register with the Board must first register with the Texas Department of State Health Services (DSHS). Rad tech registrations with the Board expire on January 1 of each year.

FACILITY REGISTRATION

The TBCE routinely receives complaints regarding chiropractic facilities (clinics) conducting business when their certificates of registration have expired or the facility was never registered. The Texas Administrative Code, Title 22, Part 3, Chapter 74, Rule §74.2 (a) states, “A facility shall not provide chiropractic services without first being registered by the Board.” Rule §74.3 (f) states, “A facility shall not provide chiropractic services without a current certificate of registration.” For those who have multiple clinics or clinic locations, each facility (clinic location) must be registered separately.

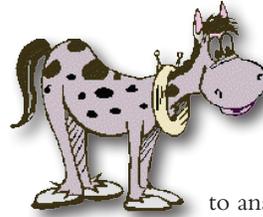
Many times chiropractors and facility owners responding to complaints about the facility registration being expired treat this violation as petty. All chiropractors and facility owners need to be aware of the provision in Rule §75.11 (d) that states, “An administrative penalty shall not exceed \$1,000 per day for each violation. Each day a violation continues or occurs is a separate violation for the purposes of imposing an administrative penalty.” This means if your facility’s registration has been expired for three months (90 days) or you have been operating a facility for the same period of time without a registration, you potentially could be assessed a maximum administrative penalty of \$90,000. There have been cases when a facility registration has been expired for more than a year and the maximum administrative penalty could have been in excess of \$300,000.

Another very important factor that chiropractors and facility owners need to be aware of is that insurance companies may deny paying any insurance claims for services provided during the period of time when the facility was unregistered or the registration was expired. The potential (and often actual) loss of income outweighs the administrative penalty. Be smart and make sure that your chiropractic clinic registration is always renewed before the expiration date. If it is currently expired, go online at the TBCE website and renew your clinic registration today.

“ANIMAL CHIROPRACTIC”

The Board is aware of some individuals in Texas who seek to practice what they refer to as “Animal Chiropractic” or hold themselves out as “Animal Chiropractors.” Some of these individuals are licensed chiropractors and others are not. The Board understands that some animal owners may wish to have

their treasured pets or other animals treated by a doctor of chiropractic to improve the health and well-being of the animals. However, in Texas, the application of chiropractic techniques or musculoskeletal manipulation to animals is considered the practice of veterinary medicine and falls under the regulation of the Texas Board of Veterinary Medical Examiners. In addition,



the Texas Chiropractic Act (in Chapter 201.002 (b)(1) states, in part: “A person practices chiropractic under this chapter if the person: (1) uses objective or subjective means

to analyze, examine, or evaluate the biomechanical condition of the spine and musculoskeletal system of the human body

(emphasis added).” Therefore, having a Texas DC license does not confer upon a licensee the right to practice on animals, even with the consent of the animal’s owner.



Anyone wishing to apply chiropractic or musculoskeletal manipulation techniques to animals must do so only under the direct or general supervision of a licensed doctor of veterinary medicine who has an established veterinarian/client/patient (animal) relationship. Anyone who seeks additional information concerning the application of chiropractic or other techniques to animals should contact the Texas Board of Veterinary Medical Examiners at (512) 305-7555 or on the web at www.tbvme.state.tx.us. Also note, only currently licensed doctors of chiropractic in Texas may refer to themselves as “chiropractors.” Self-identified “animal chiropractors” who do not hold a current DC license in Texas may not use the term “chiropractor.”

KEEP YOUR ADDRESS CURRENT

Board Rule §73.1 requires all licensees and facility owners regulated by the Board to maintain a current home address and business address with the Board. Address changes must be reported to the Board, in writing, within 30 days of the change. Maintaining a current address with the Board helps ensure that all correspondence sent to licensees by the Board reaches the intended person. If you are a licensed DC and did not receive your own copy of this newsletter, please contact the Board’s staff by e-mail or phone to verify that we have your address correct in our files (see Staff Box on Page 15).



BOARD MEETING INFORMATION & DATES

The Texas Board of Chiropractic Examiners meets (usually) four times each year, but may meet more or less often as circumstances require. Unless otherwise announced, board meetings are held in Room 2-225 of the William P. Hobby Building, which is located at 333 Guadalupe, Austin Texas 78701 (corner of 4th and Guadalupe). Official meeting dates and agendas are published at least seven (7) days in advance by the Secretary of State. (Go to the Secretary of State's website at www.sos.state.tx.us and look for Open Meetings.)

Tentative board meeting dates for the remainder of calendar year 2008 and 2009 are:

- November 6, 2008
- February 25, 2009
- May 14, 2009
- August 13, 2009
- November 12, 2009

ENFORCEMENT COMMITTEE DATES

The Enforcement Committee of the Board meets most months, usually 9-to-10 times each year. The Committee meets with licensees and others who have been charged with violations of the Chiropractic Act and/or Board Rules. Portions of the Enforcement Committee meetings are open to the public but discussion and consideration of specific complaints is closed in accordance with the Chiropractic Act. Enforcement Committee meetings are usually held in the Board's offices located in the William P. Hobby Building, 333 Guadalupe, Suite 3-825, Austin, Texas 78701.

The Enforcement Committee has meetings scheduled for the following dates at this time:

- September 16, 2008
- October 14, 2008
- November 6, 2008 (in conjunction with the full board meeting on that date)
- November 18, 2008
- December, 2008 – No meeting
- January 20, 2009

STAFF CONTACT INFORMATION

Main Office Number 512-305-6700
 Office Fax Number 512-305-6705
 Website www.tbce.state.tx.us

LICENSING

Jennifer Hertsenberg, Director of Licensing.....512-305-6702
 New DC Applications
 DC Renewals & Inactive
 New Clinic Applications
 Clinic Renewals
 Radiological Technologists Apps
 Radiological Techs Renewals

Anita Wilkerson, Administrative Assistant.....512-305-6707
 License Verifications
 Open Records (including disciplinary actions)
 Purchase of Lists

ENFORCEMENT

Scott Parker, Director of Enforcement.....512-305-6708
 Bill Zilar, Investigator512-305-6704
 Mary Feys, Admin Assistant for Enforcement512-305-6901
 Toll-Free Complaint Hot Line
 (to request a complaint form only)800-821-3205

ADMINISTRATION

Mary Ann Garcia, Accountant512-305-6703
 Mary Catherine Abdulkader, Systems Analyst512-305-7874



Purpose of the Board Report

The purpose of the *Texas Chiropractic Board Report* newsletter is to disseminate information concerning the laws and regulations governing the practice of chiropractic in Texas to doctors of chiropractic, chiropractic clinic owners, clinic employees, the public and other interested stakeholders. The newsletter provides information on current issues in chiropractic regulation, rules adopted or under consideration for adoption, information concerning licensure and practice, and disciplinary actions taken by the Board against licensees or others who violate the Texas Chiropractic Act or Board Rules.

The *Texas Chiropractic Board Report* is published quarterly by the Texas Board of Chiropractic Examiners. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting the Board's office at 512-305-6700 (Voice), 512-305-6705 (Fax), by e-mailing us at tbce@tbce.state.tx.us, or by visiting the Board's offices at 333 Guadalupe, Suite 3-825, Austin, Texas 78701.

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The Texas Board of Chiropractic Examiners has its offices in the William P. Hobby Building, which is located at the corner of 4th and Guadalupe in downtown Austin. The physical address (and our mailing address) is: 333 Guadalupe, 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.

The agency's web site is: www.tbce.state.tx.us. Please check the web site on a regular basis for current information.

The Texas Board of Chiropractic Examiners is an equal opportunity/affirmative action employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs or activities.

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