

Texas Chiropractic Board Report

A Quarterly Publication of the Texas Board of Chiropractic Examiners



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 in Texas.

Special points of interest:

- TMA Litigation Update
- Proposed Fee Increases
- Enforcement Actions—How Penalties are Decided
- Probation of Licenses for CE Non-compliance
- New Licensee CE Info
- Summary of Board Actions

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TMA Challenges TBCE Definitions of “Musculoskeletal System” and “Subluxation Complex”; Also Challenges DCs’ Use of VON Testing and Diagnosis

On September 13, 2013, TMA filed an Amended Petition in the 353rd District Court to expand its litigation against TBCE regarding whether Vestibular Ocular Nystagmus Testing, authorized by Board Rule 75.17, is within the chiropractic scope of practice. Also at issue was the rule’s authorization of chiropractors to diagnosis by the use of the word “diagnosis” in the rule. This challenge is despite the precedent stating that chiropractors are allowed to diagnose regarding the biomechanical condition of the musculoskeletal system and spine. The Amended Petition challenges other provisions of Board Rule 75.17.

First, the suit now challenges the rule’s definition of “musculoskeletal system.” Specifically, TMA challenges the inclusion of nerves in the definition, which they claim expands the definition beyond the limits of scope of practice authorized by the Chiropractic Act. They also challenge the defining of an anatomical term by a functional context (“that move the body and maintain its form”), which they claim implies that anything that affects movement of the body or maintenance of its form would be included in the musculoskeletal system.

Next, the suit now challenges the rule’s definition of “subluxation complex” as a “neuro-musculoskeletal condition” because they claim this exceeds the lawful scope of practice for chiropractors.

The TBCE is actively working with the Office of the Attorney General to defend these claims. Trial is tentatively scheduled for September 2014.

Previously, the District Court ruled against the TBCE on the issue of whether VON Testing is within scope of practice. On December 19, 2011, Judge Rhonda Hurley granted a motion for summary judgment by TMA, invalidating the portions of Board Rule 75.17 authorizing VON Testing.

The TBCE appealed to the 3rd Court of Appeals, who found on November 11, 2012, that the District Court erred in granting TMA’s motion for summary judgment. The appellate court reversed and remanded the case back to District Court for trial on the merits. The Court held that neither side proved it was entitled to summary judgment.

The case is currently pending in the 353rd District Court (Travis County) pursuant to the appellate court’s remand.

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Chiropractic Examiners***

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Executive Director



A Message from the Executive Director

Thank you all so much for your positive feedback concerning our improved *Texas Chiropractic Board Report!* I was overwhelmed by your appreciative emails and phone calls, and I hope that future issues are as helpful to you as the first. As always, if you have suggestions, please send them my way!

Please note that the January issue of the *Report* may be a little lean, as I will be out on maternity leave from January to March. Regular issues will resume in April. I appreciate your patience in my absence!

In this issue of the *Report*, I am pleased to introduce the new General Counsel of the TBCE—Mr. Bryan Snoddy. Mr. Snoddy comes to us from the Administrative Law Division of the Office of the Attorney General. He has hit the ground running and is moving our legal department forward by leaps and bounds. Mr. Snoddy focuses heavily on efficiency and productivity with emphasis on ensuring the public interest is served. Outstanding enforcement cases are now being set more frequently for contested case hearings at the State Office of Administrative Hearings. Also, as of September 1, 2013, our Enforcement Division is going paperless, thanks to Mr. Snoddy's efforts.

Also please note that during the holiday season, office staffing may be reduced. The office will be closed for Thanksgiving on November 27-29. Additionally, the office will be closed for Christmas on December 24-26, with reduced staffing on December 23 and 27. Finally, the office will be closed for New Years on December 31 and January 1. Please plan your license and facility registration renewals accordingly—don't wait until the last minute during the holiday season!

As always, please let me know if you have any questions or concerns. My door is always open and my e-mail and phone number are always available to licensees.

Yvette Yarbrough—Executive Director

The *Texas Chiropractic Board Report* is the official publication of the Texas Board of Chiropractic Examiners. The *Report* is published four times a year: January, April, July, and October. Subscription price within the United States is \$8.00 annually. Not available in hardcopy outside the U.S.

Published by: TEXAS BOARD OF CHIROPRACTIC EXAMINERS
Publication Office: 333 Guadalupe, Suite 3-825, Austin, Texas 78701
Phone: 512-305-6700 Fax: 512-305-6705
Publication Date: October 2013

Are Licensing Fees Being Increased?

The 83rd Legislature raised appropriations for the TBCE to hire three additional staff members (two field investigators and one administrative assistant), but mandated that the agency raise fees to generate increased revenue.

At a special Board meeting on October 8th, the Board voted to propose the following fee increases:

- \$10 increase for initial DC applications
- \$10 increase for initial DC license (prorated)
- \$30 increase for inactive license processing
- \$5 increase for new facility applications
- \$35 increase for CE applications

These proposed increases were published for comment in the *Texas Register* on October 18, 2013. Comments are due in writing (via mail, email, or fax) to the Board by November 18, 2013.

The Board will vote on these proposed increases at its November 21st meeting. Any increase, if adopted, will be effective mid-December. Notices will be sent to those affected by the increases.

Please note that the field investigator positions are NOT peace officer positions. The TBCE did not request peace officer or armed status for investigators.

Comments on proposed fee increases are due in writing (via mail, email, or fax) to the Board by November 18, 2013.

Keeping Up With the Rules

Did you know that you can keep up with rules that the 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 on our homepage under the "Statutes and Rules" link.

All proposed and adopted rules are published in the Texas Register. Current and past issues of the Texas Register are available at www.sos.state.tx.us/texreg.

If you'd like to be notified by email whenever the TBCE proposes, 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 must be sent to the Executive Director via mail or email within the specified time period.

Have You Moved??

Board Rule 73.1 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 74.5 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 be you!

Changes of address can be sent to the Board via mail, fax, or email to sarah@tbce.state.tx.us. A change of address form is available on our homepage at www.tbce.state.tx.us under the "Forms and Downloads" link.

TBCE's New General Counsel: Introducing Bryan Snoddy



We welcome Bryan Snoddy as the General Counsel of the TBCE as of August 2013.

Before coming to the TBCE, Bryan was formerly an Assistant Attorney General for the State of Texas with a substantial volume of litigation in the Administrative Law Division. He represented the Texas Department of Insurance, Division of Workers' Compensation, Texas Ethics Commission, Texas Racing Commission, and the University Interscholastic League, among several other agencies. He is an experienced litigator and appellate advocate having

practiced before the Fifth Circuit Court of Appeals, each federal district court in Texas, half a dozen Texas appellate courts, and the Texas Supreme Court on numerous occasions.

Bryan also has experience in cases involving corporate disputes, securities issues, tax issues, bankruptcy issues, insurance and indemnification, intellectual property and admiralty. He earned his law degree from Thurgood Marshall School of Law at Texas Southern University, where he was a Dean's List Scholar and graduated *cum laude*. Additionally, he was a law clerk to the Honorable Kenneth M. Hoyt of the U.S. District Court for the Southern District of Texas. After serving a term as a law clerk, Bryan began practice in the intellectual property section of Baker Botts, LLP and was actively involved in patent drafting and litigation and intellectual property evaluation and counseling for Fortune 50 companies.

Bryan hails from the thriving metropolis of Longview, Texas. He grew up and attended school in the small community of White Oak and graduated from a class size of 59 students. Bryan earned his Bachelor of Arts degree in Chemistry from the University of Texas at Austin. While working on his degree, he won the Hoechst Celanese Award for Outstanding Undergraduate Phytochemistry Research and received the President's Achievement Award for academic achievement.

Prior to attending law school, Bryan served with distinction in the United States Air Force as a logistics and transportation officer rising to the rank of Captain. He has received numerous honors, including Company Grade Officer of the Quarter (twice) and Company Grade Officer of the Year for his command. He has held a top secret security clearance and negotiated U.S. military interests in concert with the Dept. of State and the DoD in various foreign theaters.

TBCE Meeting Schedule

2013-14

Board Meeting Dates

November 21, 2013

February 20, 2014

AGENCY LICENSING & REGISTRATION INFORMATION

Number of DCs

Active License	5,124
Expired License	289
Probated-CE License	140
Inactive License	681
Probated License	19
Suspended License	7
Non-Renewable License	2,078

Number of Facilities

Active Registration	4,004
Expired Registration	217

Number of Radiologic Technologists

Active Registration	135
Expired Registration	28

Information current as of Oct 31, 2013

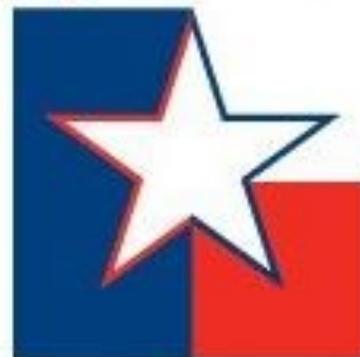
If you'd like to submit a question to be answered in our newsletter, please email it to tbce@tbce.state.tx.us!

TBCE Staff Participates in 2013 State Employee Charitable Campaign

For the second year in a row, TBCE staff members are participating in the SECC campaign—the only statutorily authorized workplace charitable-giving campaign for State of Texas employees. Thus far during this year's SECC campaign, 64% of staff contributed a total of \$1,373.84. This is a slight increase over last year, when 64% of staff contributed a total of \$1,346 to charities.

As part of the SECC campaign, employees voluntarily make donations to statewide and local charities of their choosing. Eligible charities are vetted by the SECC to ensure they are health and human service non-profit organizations that provide local services. Participating local charities are those such as the Capitol Area Food Bank, United Way for Greater Austin, Boy Scouts of America (Capitol Area Council), SafePlace, Big Brothers Big Sisters of Central Texas, The Blood Center of Central Texas, and many more.

Together We Care



secctexas.org

In Board Rule 75.11, the Board established a maximum sanctions table—otherwise known as a penalty matrix...

How are Enforcement Penalties Decided?

Have you ever wondered how the Enforcement Committee comes up with penalties in enforcement cases? In Board Rule 75.11, the Board established a maximum sanctions table—otherwise known as a penalty matrix—to establish standard practices in enforcement.

The penalty matrix is divided into five categories, with violations grouped by severity. Maximum penalties range from a \$1000 fine and/or revocation for Category I offenses to a \$250 fine for Category V offenses. Also taken into consideration is whether the Respondent has

previous violations for the same offense. If so, the maximum penalty may be higher.

By law, each day a violation continues or occurs is a separate violation for the purposes of imposing a penalty. This means that if a licensee practices with an expired license for thirty days, the maximum penalty that can be imposed is a \$30,000 fine (\$1000 per day) and/or revocation. The Enforcement Committee does not routinely use this per-day formula for crafting penalties, but has the option to do so at its discretion.

MAXIMUM SANCTIONS TABLE

Category I— 1st offense: \$1000*; 2nd offense: \$1000*; 3rd offense: \$1000* *and/or revocation

- Practicing without a chiropractic license
- Practicing with an expired license
- Practicing while on inactive status
- Practicing in non-compliance with CE requirements
- Improper control of patient care and treatment
- Grossly unprofessional conduct
- Lack of diligence/gross inefficient practice
- Practicing outside the scope of practice of chiropractic
- Performing radiologic procedures without valid registration or without DSHS approval
- Performing radiologic procedures without supervision or cineradiography or other restricted procedures
- Permitting a non-registered or non-DSHS approved person to perform radiologic procedures
- Permitting a CRT to perform procedures without supervision
- Delegating to a non-licensee authority to perform adjustments or manipulations
- Failure to supervise a student
- Delegating authority to a licensee whose license has been suspended or revoked
- Failure to comply with the Chiropractic Act, other law, or a board order or rule
- Failure to comply with down-time restrictions
- Medicaid fraud
- Solicitation
- Default on student loan
- Failure to comply with requirements/restrictions on prepaid treatment plans
- Failure to respond to board inquiries
- Failure to report criminal conviction
- Other statutory violations



I Got a Notice of Complaint in the Mail... Now What?

It's the letter no doctor wants to get—you check your mail and see a certified letter from the Board. What do you do?

The first thing you should absolutely do is *read the letter!* This sounds obvious, but you'd be surprised at how many doctors do not actually read correspondence from the Board! The letter contains valuable information, such as what the complaint alleges you did and how to respond.

The next thing you should do is respond to the Board in writing within fifteen (15) days. In your response, you should clearly and concisely explain your side of the issue. Remember, failure to respond is grounds for disciplinary action!! Include as much detail and as much information as you believe necessary. (Feel free to send supporting documents as well!) This is your opportunity to have your side of the story heard by the Board's Enforcement Committee.

Finally, you should be patient. It sometimes takes a while for the agency staff to investigate cases before presenting them to the Enforcement Committee.

Once a recommendation has been made by the Enforcement Committee, you will receive a letter from the Board. Remember to read the letter thoroughly and if discipline has been recommended, follow the instructions in the letter.

MAXIMUM SANCTIONS TABLE *cont'd...*

Category II— 1st offense: \$500*; 2nd offense: \$750*; 3rd offense: \$1000* *and/or suspension

- Submitting an untrue CE certification
- Operating a facility without a certificate of registration or with an expired registration
- Practicing in a facility without a certificate of registration or with an expired registration
- Unauthorized disclosure of patient records
- Overtreating/overcharging a patient
- Deceptive advertising and other prohibited advertising

Category III— 1st offense: \$250*; 2nd offense: \$500*; 3rd offense: \$1000* *and/or suspension

- Failure to furnish patient records
- Overcharging for copies of patient records
- Failure to disclose charges to patient
- Failure to submit to medical examination
- Failure to maintain patient records

Category IV— 1st offense: \$250; 2nd offense: \$500; 3rd offense: \$1000

- Failure to display public interest information
- Displaying an invalid license or renewal card
- Failure to complete CRT continuing education

Category V— 1st offense: \$250; 2nd offense: \$400; 3rd offense: \$500

- Failure to report change of address
- Failure to report change of facility address/ownership
- Failure to report *locum tenens* information
- Use of the term “physician,” “chiropractic physician”
- Failure to use “chiropractor,” “D.C.” in advertising

Why Did I Get a Notice in the Mail That My License Is Probated ?

If you've recently renewed your license, you may have received a letter in the mail informing you that your license was renewed but in a probated status. Before you panic, read on...

All active licensees are required to complete sixteen (16) hours of CE per year, including the four (4) required hours in Ethics, Coding/Documentation, and Risk Management. Additionally, all licensees were required to complete eight (8) hours of CE in Medicare coding/documentation during either calendar year 2011 or 2012. (New licensees are required to complete the Medicare hours within the first year of licensure.)

If you did not have sixteen (16) hours (including all required hours) of CE on file with the Board prior to your renewal, your license was renewed in a

probated status. Additionally, if you have not completed your Medicare hours as required, your license was renewed in a probated status.

Board Rule 73.5 states that a licensee who fails to meet the minimum CE requirements shall have his/her license placed in a probated status for a period of twelve (12) months when renewed. During this probation, the licensee must complete the deficient hours. (Note that this is in addition to your regular CE requirements! Hours made up from past years cannot count toward a current year!)

If you fail to complete the deficient hours during the year of probation, then at your next renewal, your license will be considered expired backdated to the beginning date of the probation period. This will

render your license non-renewable!!

Note: some licensees renew their license "early" – i.e. before the expiration date. If you do this, but you have not completed all CE or we don't have proof of completion on file, your license will still be renewed as probated, *even though you think you have another few weeks to complete your CE.* A license goes into effect the day it is renewed, not the day the previous license period expires. When you renew, you are attesting that you have completed all CE requirements!

If you have questions, please contact Jennifer Hertsenberg at jennifer@tbce.state.tx.us or Sarah Matthews at sarah@tbce.state.tx.us.



Where Can I Find Approved CE Courses?

It is no secret that there are hundreds of continuing education courses being marketed towards Doctors of Chiropractic each month. Some of these courses contain great material, but if you take these courses, will it count towards your CE requirements?

The answer is yes, but ONLY if the Board has approved the course. You can find a list of approved CE courses on the [TBCE website](#) under the "Continuing Education" link. Courses are listed by year and month.

Note that a course must be approved to include required hours. It will be listed with a bolded, red statement noting approval for required hours.

TBCE Welcomes New DC Licensees

The Texas Board of Chiropractic Examiners issued 49 new licenses between July 1, 2013 and September 30, 2013.

Congratulations to the following doctors!

Reid Amedee , D.C.	Nicolas Kellerman , D.C.
Bryan Asby , D.C.	Yasaman Khan-Shaghaghi , D.C.
Brittney Asby , D.C.	Steven Levingston , D.C.
Lindsay Browning , D.C.	Ashleigh Lippe , D.C.
Marissa Bunker , D.C.	Russell Lytton , D.C.
Steven Carrell, Jr. , D.C.	Jeff Macy , D.C.
Garrett Chretien , D.C.	Nicholas Markel , D.C.
Ryan Corley , D.C.	Babatunde Olatunji , D.C.
Daniel Davila , D.C.	Josh Paek , D.C.
Jeremy de los Santos , D.C.	Justin Paeltz , D.C.
Lindsey Doppler , D.C.	Roderick Peddy , D.C.
Steven Dotson , D.C.	Martin Powers , D.C.
Emily Doubt , D.C.	Jenna Schulz , D.C.
Paola Duran-Negron , D.C.	Christina Seibert , D.C.
Laura Ferrao , D.C.	Jacob Shores , D.C.
Fredrick Foster , D.C.	Jason Sigler , D.C.
Genaro Garza, III , D.C.	Christopher Smoley , D.C.
John Glade , D.C.	Lisa Trujillo , D.C.
Gregory Goode , D.C.	Irina Turko , D.C.
Yael Gurwitz-Elkin , D.C.	Shashi Upadhyaya , D.C.
Nicholas Hamilton , D.C.	Nicholas Weikum , D.C.
David Hardin , D.C.	Sandra Wentzel , D.C.
Tricia Harlan , D.C.	John Word , D.C.
Baylie Hurt , D.C.	Ryan Woytek , D.C.
Linda Huynh , D.C.	



Reminder: CE for New Licensees

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

You must also complete at least eight (8) 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, 2013, you are required to complete eight (8) hours of Medicare coding/documentation CE by November 1, 2014. You would then need to complete another eight (8) hours of CE, including the four (4) Board-required hours by February 1, 2015.

If you have questions regarding these requirements, please read through Board Rule 73.3. You may also contact Jennifer Hertsenberg, 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.



TBCE Board Disciplinary Actions Taken July to September 2013

To view the actual Board Order, visit:

http://www.tbce.state.tx.us/verify_menu.html

JARROD BAGLEY, D.C., Lic. No. 10179, Briarcliff

On August 15, 2013, the Board and Jarrod Bagley, D.C., entered into an Agreed Order requiring Dr. Bagley to pay a fine of \$1,500. The Board found Dr. Bagley operated a facility with an expired registration and practiced chiropractic with an expired license.

MALCOM BAILEY, JR, D.C., Lic. No. 2965, Houston

On August 15, 2013, the Board and Malcolm Bailey, Jr., D.C., entered into an Agreed Order requiring Dr. Bailey to pay a fine of \$1,000 and successfully complete the NBCE Ethics & Boundaries Examination within six (6) months. The Board found Dr. Bailey engaged in grossly unprofessional conduct.

DARLENE BURBRIDGE, Facility No. F003343, Houston

On August 15, 2013, the Board and Darlene Burbridge entered into an Agreed Order requiring Ms. Burbridge to pay a fine of \$2,000. The Board found Ms. Burbridge operated a facility with an expired registration for approximately three (3) years and failed to respond to a Board inquiry.

NICHOLAS CIANELLI, D.C., Lic. No. 6647, Mansfield

On August 15, 2013, the Board and Nicholas Cianelli, D.C., entered into an Agreed Order requiring Dr. Cianelli to have his license suspended for five (5) years with the final four (4) years probated, as well as pay a fine of \$3,000. The Board found Dr. Cianelli operated a facility with an expired registration for approximately two (2) years, falsified patient records, and pled guilty to Insurance Fraud (>\$1,500).

JOSEPH COLOPY, D.C., Lic. No. 11676, Arlington

On August 15, 2013, the Board and Joseph Colopy, D.C., entered into an Agreed Order requiring Dr. Colopy to pay a fine of \$250. The Board found Dr. Colopy failed to timely notify the Board of a change in address.

DANIEL COVARRUBIAS, Facility No. F009196, Grand Prairie

On August 15, 2013, the Board and Daniel Covarrubias entered into an Agreed Order requiring Mr. Covarrubias to cease and desist from practicing chiropractic and to pay a fine of \$1,000. The Board found Mr. Covarrubias practiced chiropractic without a license by referring to himself as "Dr. Covarrubias" and representing himself to be a chiropractor on his clinic's website.

CHRISTOPHER COX, D.C., Lic. No. 10467, Dallas

On August 15, 2013, the Board and Christopher Cox, D.C., entered into an Agreed Order requiring Dr. Cox to pay a fine of \$250. The Board found Dr. Cox failed to timely notify the Board of a change in address.

STEVEN ENABNIT, D.C., Lic. No. 5419, Katy

On August 15, 2013, the Board and Steven Enabnit, D.C., entered into an Agreed Order requiring Dr. Enabnit to pay a fine of \$250. The Board found Dr. Enabnit failed to timely notify the Board of a change in address.

LANCE EWING, D.C., Lic. No. 9741, Dallas

On August 15, 2013, the Board and Lance Ewing, D.C., entered into an Agreed Order requiring Dr. Ewing to pay a fine of \$500. The Board found Dr. Ewing operated a facility with an expired registration for over six (6) months.

CANDIDO GARCIA, D.C., Lic. No. 6157, Pearland

On August 15, 2013, the Board and Candido Garcia, D.C., entered into an Agreed Order requiring Dr. Garcia to pay a fine of \$250. The Board found Dr. Garcia failed to timely notify the Board of a change in address.

JOHN GLADE, D.C., New Lic. No. 12445, Pharr

On August 15, 2013, the Board and John Glade, DC Applicant, entered into an Agreed Order allowing Mr. Glade to become licensed but requiring him to successfully complete the NBCE Ethics & Boundaries Examination before becoming eligible to take the TBCE Jurisprudence Examination; to submit a letter from a specified counselor attesting to evidence of his fitness to practice chiropractic, before becoming eligible to take the TBCE Jurisprudence Examination; upon licensure, to have his license suspended for two (2) years, probated in its entirety; and to have his license automatically revoked upon receiving a criminal conviction during his period of suspension. The Board found Mr. Glade had multiple arrests and convictions for alcohol-related offenses.

CARLOS GONZALEZ, D.C., Lic. No. 5258, El Paso

On August 15, 2013, the Board and Carlos Gonzalez, D.C., entered into an Agreed Order requiring Dr. Gonzalez to pay a fine of \$500. The Board found Dr. Gonzalez practiced chiropractic in an unregistered facility.

ELIZABETH HACKLEMAN, D.C., Lic. No. 7944, Rockport

On August 15, 2013, the Board and Elizabeth Hackleman, D.C., entered into an Agreed Order requiring Dr. Hackleman to pay a fine of \$250. The Board found Dr. Hackleman failed to timely notify the Board of a change in address.

NICOLE HEWITT, D.C., Lic. No. 9704, Denver

On August 15, 2013, the Board and Nicole Hewitt, D.C., entered into an Agreed Order requiring Dr. Hewitt to pay a fine of \$250. The Board found Dr. Hewitt failed to timely notify the Board of a change in address.

MICHELLE JARVIS, D.C., Lic. No. 9617, Edmond

On August 15, 2013, the Board and Michelle Jarvis, D.C., entered into an Agreed Order requiring Dr. Jarvis to pay a fine of \$250. The Board found Dr. Jarvis failed to timely notify the Board of a change in address.

RANDALL JOHNS, D.C., Lic. No. 9359, Texarkana

On August 15, 2013, the Board and Randall Johns, D.C., entered into an Agreed Order requiring Dr. Johns to pay a fine of \$1,000 and to make restitution to the Complainant in an amount of \$590. The Board found Dr. Johns charged Complainant for services not received.

RONALD KAHN, M.D., Facility No. F10257, Bryan

On August 15, 2013, the Board and Ronald Kahn, M.D., entered into an Agreed Order requiring Dr. Kahn to pay a fine of \$1,500. The Board found Dr. Kahn operated an unregistered facility for approximately three (3) years and six (6) months.

WILLIAM KUYKENDALL, D.C., Lic. No. 10611, Richardson

On August 15, 2013, the Board and William Kuykendall, D.C., entered into an Agreed Order requiring Dr. Kuykendall to pay a fine of \$250. The Board found Dr. Kuykendall failed to timely notify the Board of a change in address.

TBCE Board Disciplinary Actions cont'd...

MICHAEL MAGGIO, D.C., Lic. No. 8060, Austin

On August 15, 2013, the Board and Michael Maggio, D.C., entered into an Agreed Order requiring Dr. Maggio to pay a fine of \$3,000. The Board found Dr. Maggio operated a facility with an expired registration for eight (8) months, practiced chiropractic with an expired license for one (1) year, and failed to respond to a Board inquiry.

MICHAEL MCCLUNG, D.C., Lic. No. 2891, Austin

On August 15, 2013, the Board and Michael McClung, D.C., entered into an Agreed Order giving Dr. McClung a Letter of Reprimand. The Board found Dr. McClung failed to obey a Board order.

PATTI MCCORMICK, Facility No. F10611, Marble Falls

On August 15, 2013, the Board and Patti McCormick entered into an Agreed Order requiring Ms. McCormick to pay a fine of \$500. The Board found Ms. McCormick operated an unregistered facility for approximately ten (10) months.

BRIAN MILLIGAN, D.C., Lic. No. 11517, Arlington

On August 15, 2013, the Board and Brian Milligan, D.C., entered into an Agreed Order requiring Dr. Milligan to pay a fine of \$250. The Board found Dr. Milligan failed to timely notify the Board of a change in address.

RALPH MUILENBURG, D.C., Lic. No. 4491, Houston

On August 15, 2013, the Board and Ralph Muilenburg, D.C., entered into an Agreed Order requiring Dr. Muilenburg to pay a fine of \$250. The Board found Dr. Muilenburg failed to timely notify the Board of a change in address.

JOSE MUNIZ, D.C., Lic. No. 9422, El Paso

On August 15, 2013, the Board and Jose Muniz, D.C., entered into an Agreed Order requiring Dr. Muniz to pay a fine of \$250. The Board found Dr. Muniz failed to timely notify the Board of a change in address.

MICHAEL NELSON, D.C., Lic. No. 2342, Bridgeport

On August 15, 2013, the Board and Michael Nelson, D.C., entered into an Agreed Order requiring Dr. Nelson to pay a fine of \$500. The Board found Dr. Nelson failed to maintain patient records and failed to furnish Complainant with records upon request.

DANIEL PENNELL, D.C., Lic. No. 11401, Garland

On August 15, 2013, the Board and Daniel Pennell, D.C., entered into an Agreed Order requiring Dr. Pennell to pay a fine of \$250. The Board found Dr. Pennell failed to timely notify the Board of a change in address.

TRACY PHAM, D.C., Lic. No. 8008, Houston

On August 15, 2013, the Board and Tracy Pham, D.C., entered into an Agreed Order requiring Dr. Pham to pay a fine of \$250. The Board found Dr. Pham failed to timely notify the Board of a change in address.

TIMOTHY PITTMAN, D.C., Lic. No. 9576, San Angelo

On August 15, 2013, the Board and Timothy Pittman, D.C., entered into an Agreed Order requiring Dr. Pittman to pay a fine of \$1,250. The Board found Dr. Pittman failed to document Complainant's examination or presenting complaint, thus rendering Dr. Pittman unable to justify his choice of treatment (nineteen adjustments) and subsequent billing.

JASON POMONIS, D.C., Lic. No. 10059, Nederland

On August 15, 2013, the Board and Jason Pomonis, D.C., entered into an Agreed Order requiring Dr. Pomonis to pay a fine of \$250. The Board found Dr. Pomonis failed to timely notify the Board of a change in address.

FLOYD POWELL, D.C., Lic. No. 11743, Katy

On August 15, 2013, the Board and Floyd Powell, D.C., entered into an Agreed Order requiring Dr. Powell to pay a fine of \$250. The Board found Dr. Powell failed to timely notify the Board of a change in address.

KIRT REPP, D.C., Lic. No. 8323, The Woodlands

On August 15, 2013, the Board and Kirt Repp, D.C., entered into an Agreed Order requiring Dr. Repp pay a fine of \$250. The Board found Dr. Repp failed to timely notify the Board of a change in address.

JEFFREY ROSE, Facility No. F10210, Houston

On August 15, 2013, the Board and Jeffrey Rose entered into an Agreed Order requiring Mr. Rose to pay a fine of \$500. The Board found Mr. Rose failed operated an unregistered facility for approximately fifteen (15) months.

MAJID SAMIMI-NARAGHI, D.C., Lic. No. 10331, Austin

On August 15, 2013, the Board and Majid Samimi-Naraghi, D.C., entered into an Agreed Order requiring Dr. Samimi-Naraghi to pay a fine of \$250. The Board found Dr. Samimi-Naraghi failed to timely notify the Board of a change in address..

TONY SMITH, D.C., Lic. No. 6606, Big Lake

On August 15, 2013, the Board and Tony Smith, D.C., entered into an Agreed Order requiring Dr. Smith to pay a fine of \$2,250. The Board found Dr. Smith failed to timely notify the Board of a change in address, practiced chiropractic with an expired license, and failed to respond to a Board inquiry.

STEWART STEPHENSON, D.C., Lic. No. 2258, Bryan

On August 15, 2013, the Board and Stewart Stephenson, D.C., entered into an Agreed Order requiring Dr. Stephenson to pay a fine of \$250. The Board found Dr. Stephenson failed to timely notify the Board of a change in address.

TIMOTHY STIFF, D.C., Lic. No. 9212, Clifton

On August 15, 2013, the Board and Timothy Stiff, D.C., entered into an Agreed Order requiring Dr. Stiff to pay a fine of \$1,250. The Board found Dr. Stiff practiced chiropractic with an expired license and failed to timely notify the Board of a change in address.

ALEXANDER TEMPLE, D.C., Lic. No. 9659, The Colony

On August 15, 2013, the Board and Alexander Temple, D.C., entered into an Agreed Order requiring Dr. Temple to pay a fine of \$250. The Board found Dr. Temple failed to timely notify the Board of a change in address.

VIET TUAN TRAN, D.C., Lic. No. 8082, Spring

On August 15, 2013, the Board entered a Board Order against Viet Tran, D.C., requiring Dr. Tran to pay a fine of \$2,500. The Board found Dr. Tran practiced chiropractic with an expired license for approximately eleven (11) months, practiced chiropractic in a facility with an expired registration for approximately eleven (11) months, and failed to respond to a Board inquiry.

TBCE Board Disciplinary Actions cont'd...

JASON ULSRUD, D.C., Lic. No. 8872, Rockwall

On August 15, 2013, the Board and Jason Ulsrud, D.C., entered into an Agreed Order issuing Dr. Ulsrud to a Letter of Reprimand. The Board found Dr. Ulsrud failed to obey a Board order.

The Board found Dr. Williams failed to document treatments provided to patients and failed to provide refunds for treatments paid for by patients but not provided.

JOHN WILLIAMS, JR, D.C., Lic. No. 11294, Houston

On August 15, 2013, the Board and John Williams, Jr., D.C., entered into an Agreed Order requiring Dr. Williams to pay a fine of \$500, complete additional continuing education, and engage a professional management consultant to conduct a review of Dr. Williams' office procedures, including insurance and billing procedures.

ELIZABETH ZEPEDA, Facility No. F10267, Plano

On August 15, 2013, the Board and Elizabeth Zepeda entered into an Agreed Order requiring Ms. Zepeda to pay a fine of \$500. The Board found Ms. Zepeda operated an unregistered facility for over three (3) months.

Summary of Actions

A regular meeting of the TBCE was held August 15, 2013, in Austin.

The following is a summary of Board actions taken during this meeting.

- The Board voted Ms. Kenya Woodruff to be Vice-President of the Board and Dr. Karen Campion to be Secretary-Treasurer of the Board.
- The Board denied an applicant the opportunity to take the jurisprudence examination on the basis of a criminal conviction (Tex. Occ. Code § 201.502(a)(5)).
- The Board voted to propose a rule amendment to Rule 75.17(e), regarding Scope of Practice. This proposed amendment was published in the *Texas Register* on September 13, 2013. Comments were accepted through October 14, 2013. The proposed amendment can be viewed here: http://www.tbce.state.tx.us/ProposedRules/FY2013/PAR75-17_8-2013.pdf
- Forty-one (41) Agreed Orders imposing disciplinary action, one (1) Board order imposing disciplinary action in a default action, and one (1) Board order declining to impose disciplinary action were approved by the Board. The Board also approved two (2) requests for expungement of disciplinary action.
- The Board voted to hold a special Board meeting on October 8, 2013 to discuss possible fee increases and any necessary rule changes.



Summary of Actions

A special meeting of the TBCE was held October 8, 2013, in Austin.

The following is a summary of Board actions taken during this meeting.

- The Board voted to propose a rule amendment to Rule 75.7, regarding Required Fees. This proposed amendment was published in the *Texas Register* on October 18, 2013. Comments are being accepted through November 18, 2013. The proposed amendment can be viewed here: <http://www.tbce.state.tx.us/ProposedRules/FY2013/PAR75-7.pdf>
- The Board voted to consider employment of a part-time employee to fill in for the Board's Executive Director during her 12-week maternity leave.

STAFF CONTACT INFORMATION

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 Office Fax Number.....512-305-6705
 Website.....www.tbce.state.tx.us
 Office Hours: 8:00 am until 5:00pm, Monday–Friday, except holidays

LICENSING

Jennifer Hertsberg, *Director of Licensing*512-305-6702

- New DC Applications, DC Renewals & 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*.....512-305-6707

Mary Feys, *Enforcement Assistant*.....512-305-6901

LEGAL

Bryan Snoddy, *General Counsel*.....512-305-6715

Barbara Perez, *Legal Assistant*.....512-305-6706

ADMINISTRATION

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

Arlethia Middleton, *Chief Financial Officer*.....512-305-6709

Nikell Williams, *Programmer Analyst*.....512-305-7874



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Purpose of the Texas Chiropractic Board Report

The purpose of the *Texas Chiropractic Board Report* is to disseminate information concerning the laws and regulations governing the practice of chiropractic in Texas to doctors of chiropractic, chiropractic facility owners, facility 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.

While the TBCE attempts to ensure that all information presented in the newsletter is accurate, the Board cannot guarantee that the contents are accurate or legally correct in all circumstances.

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The agency's website is: www.tbce.state.tx.us. Please check the website regularly for current information.

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