



Texas Chiropractic Board Report

March 2016
Issue Two

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Summary of Actions

A regular meeting of the Texas Board of Chiropractic Examiners (TBCE) was held February 18, 2016, in Austin. The following is a summary of Board actions taken during this meeting.

The Board voted to adopt amendments to the following rules - *effective September 1, 2016:*

- **Rule 73.4** - requiring the facility to notify the TBCE by electronic mail of any change in the electronic-mail address within five (5) business days and to include the facility registration number.
- **Rule 75.1** - requiring the licensee to notify the TBCE by electronic mail of any change in the electronic-mail address within five (5) business days and to include the license number.

The Board voted to propose (for comment) the following amendments to the rules:

- **Rule 78.6** - requiring the Board to apply money paid to the Board to renew a license or facility registration, to be first applied to any outstanding unpaid fees and/or assessed costs owed by that person from a final Board order.

Rule Review:

- The Board voted to re-adopt **Chapter 73** as proposed. ♦

You can view current rules from the [Secretary of State website](#) and all proposed and adopted rules are published in the [Texas Register](#).

Current and past issues of the Texas Register are available here: <http://www.sos.state.tx.us/texreg/index.shtml>. If you'd like to be notified by email whenever the TBCE proposes, adopts or withdraws a rule or schedules an open meeting, contact the Texas Register at (512) 463-5561 or register@sos.state.tx.us.

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



Texas Board of Chiropractic Examiners

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Attention New Licensees

Your first renewal cycle is pro-rated and is usually not a full twelve months long, so completion of your Continuing Education (CE) requirements is not required until after your first license renewal.

When you renew your license for the second time, you should have completed sixteen (16) hours of approved CE, including the four (4) hours in Board-required topics and the one-time, eight (8) required hours for Medicare.



Board Disciplinary Actions Taken October-February

REYNALDO AMADOR, D.C., Lic #9591, Progresso. On February 18, 2016, Dr. Amador and the Board entered into an Agreed Final Order requiring Dr. Amador to pay a fine of \$250 for failure to timely notify the Board of a change of address.

COLIN BAILLARGEON, D.C., Lic. #12598, Plano. On February 18, 2016, the Board and Dr. Baillargeon entered into an Agreed Final Order. Dr. Baillargeon will receive a letter of reprimand for failure to timely notify the Board of a change of address.

SEAN BENNINGTON, Carrollton. On February 18, 2016, the Board and Mr. Bennington entered into a Cease and Desist order for engaging in the practice of chiropractic without first obtaining or maintaining a license in the state of Texas.

LESLIE WAYNE BENSON, M.D., MD Lic. No. H2243, Temple. On February 18, 2016, the Board and Dr. Benson entered into a Cease and Desist order without first obtaining a certificate of facility registration.

KYLER BROWN, D.C., Lic. #11036, Austin. On February 18, 2016, the Board and Dr. Brown entered into an Agreed Final Order. Dr. Brown received a letter of reprimand for failing to timely notify the Board of a change of address.

DANIEL CANTU, D.C., Lic. #6930, Round Rock. On February 18, 2016, the Board and Dr. Cantu entered into an Agreed Final Order. Dr. Cantu will receive a letter of reprimand for defaulting on a student loan.

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The *Texas Chiropractic Board Report* is the official publication of the Texas Board of Chiropractic Examiners. Beginning in 2016, future newsletters will be published after Board meetings which are typically held in February, May, August, and November.

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Solicitation of Patients and Marketing in Texas

-by Michele Quattlebaum, J.D.
Published again by request.

In Texas, it is not only unethical, but it is also illegal for a chiropractor, attorney, physician, surgeon or private investigator to solicit an accident victim for the purpose of rendering chiropractic, medical or legal services before the 31st day after the date on which the accident or disaster occurred.



Some professionals, simply motivated by monetary gain, disobey the rules and violate the law. Often, the solicitation occurs when the attorney or a *runner* associated with the law firm approaches an accident victim and hands out business cards for both the attorney and the doctor, or provides this information by phone to the accident victims. In other situations, the chiropractor directly solicits the accident victim in writing or in person.

Although the laws prohibiting the solicitation have been challenged as unconstitutional, they have ultimately been found to be constitutional and remain in effect.

If an employee of your clinic participates in this activity, you can also be held responsible for their actions.

Conviction of solicitation and/or barratry of professional employment laws can result in fines, jail time, and even revocation of your license.

Recently, law firms throughout Texas are advertising their ability and willingness to file civil actions against lawyers and doctors for violation of solicitation laws.

These firms have become interested in pursuing barratry cases because the relevant statutes provide restitution to the prospective patient (*barratry victim*) in the form of a \$10,000 penalty per solicitation.

Since 2011, Texas law has allowed victims of barratry to bring suit against the lawyer, case runner and chiropractor involved, for restitution of any monies paid to these offenders in addition to the \$10,000 penalty. Even if the individual bringing suit never received any actual services from the chiropractor he can still collect the \$10,000, as it is considered an automatic penalty for violation of solicitation/barratry laws. In addition to filing civil lawsuits, these law firms (or barratry victims themselves) are filing simultaneous board complaints against the doctors. These lawsuits have predominantly been centered in Dallas, El Paso, Brownsville, McAllen, and Corpus Christi but they are beginning to be filed in other venues across the state.

It doesn't take a calculator or actually much brain power to determine that the profit you could potentially make from the care and treatment of one accident victim is not worth paying that same patient a \$10,000 penalty, in addition to potentially getting fined, jailed or even losing your license.

Do not allow attorneys and the conduct of their representatives to jeopardize your family's livelihood. Do not believe that it is permissible under Texas laws to practice such solicitation. These laws are constitutional and are being enforced.

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Solicitation of Patients and Marketing in Texas (con't from page 3)

Chapter 38 of the Texas Penal Code, Sec 38.12 provides that a person commits the offense of Barratry and Solicitation of Professional Employment if:

- 1) an attorney, chiropractor, physician, surgeon or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state
- 2) with the intent to obtain professional employment for the person or for another, provides or knowingly permits to be provided to an individual who has not sought the person's employment, legal representation, advice, or care a written communication or a solicitation, including a solicitation in person or by telephone.
 - The solicitation must occur before the 31st day after the date on which the accident or disaster occurred.
 - The solicitation has to involve coercion, duress, fraud, overreaching, harassment intimidation, or undue influence.
 - The injured party must also indicate that he did not desire to be contacted.

Convictions under §38.12 can result in a misdemeanor or felony charge, depending on the circumstances, and whether the accused has a prior offense on record. Additional conduct which you must avoid is solicitation of patients in violation of Texas Occupations Code, Title 3, Subtitle a, Chapter 102. Section 102.001 provides that a person commits an offense of soliciting patients if:

*the person knowingly **offers to pay or agrees to accept**, directly or indirectly, overtly or covertly any remuneration in*

cash or in kind to or from another for securing or soliciting a patient or patronage for or from a person license, certified, or registered by a state health care regulatory agency.

A violation of this code, just as the penal code, can result in a misdemeanor or felony conviction, depending on the circumstances and whether the accused has a prior offense on record.

In plain English, you can be guilty of a crime if you provide compensation to an individual for the purpose of securing of patients.

It is not a crime to pay a marketing company or individual a general fee or salary for marketing/advertising to the public. However, if this individual or company's compensation is based *per head* of patients received by the clinic, this could definitely be a potential violation of §102.001. There are different ways that doctors, attorneys or others are disguising the referral of patients, but if you are paying an individual, directly or indirectly, for the referral of patients, per head, you could be in violation of this Code. Violations of §102.001 can result in fines of up to \$10,000 for each day of violation, and each act of violation.

The final amount fined can vary based on the individual involved and the nature of the solicitation action taken by the doctor. With the increasing amount of law suits and Board complaints being filed on the subject of improper and illegal solicitation, all chiropractic licensees need to be acutely aware of the laws concerning these acts, in order to avoid crossing the line and jeopardizing their practice and career. ♦



Effective January 1, 2016, you can now obtain more credit for online courses! Up to, but no more than ten (10) hours may be obtained through online courses. A webinar and/or teleseminar is considered a LIVE course as it is real time and interactive.

Required Continuing Ed Courses

A licensee must complete sixteen (16) hours of approved continuing education (CE) each renewal cycle;, four (4) of which are in Board-required topics and a one-time eight (8) hour requirement for Medicare.

Required Medicare Courses

Licensees initially licensed **before** September 1, 2012 were required to complete the one-time eight (8) hour Medicare requirement in calendar year 2011 or 2012. Licensees licensed on or **after** September 1, 2012 must complete at least eight (8) hours of continuing education in coding and documentation for Medicare claims **no later than their second renewal period.**

The Board-required topics include a minimum of three (3) hours specifically related to the Board’s rules including the Board’s code of ethics, recordkeeping, documentation and coding and a minimum of one (1) hour of risk management that relates to the practice of chiropractic in Texas.

These required hours **cannot be taken online**, unless the course is offered directly from the TBCE. ♦

Where Can I Find TBCE Approved Continuing Education Courses?

The sixteen (16) hours of approved continuing education may be completed at any course or seminar chosen by the licensee, as long as the course or seminar has been approved by the Texas Board of Chiropractic Examiners.

All approved courses can be found on our website at <http://www.tbce.state.tx.us> at the link, [Approved Continuing Education](#). If the course contains the four (4) Board-required hours and/or the Medicare hours, it will state so in **bold, red letters** under the course name. ♦

Agency Licensing & Registration Information through February 2016



Number of Chiropractic Doctors	
Active License	5160
CE-Conditional License	386
Expired License	211
Inactive License	616
Non-Renewable License*	2539
Probated License	18
Suspended License	5

Number of Chiropractic Facilities	
Active Registration	4243
Expired Registration	212
* Includes license expiration after one year, closure at DC’s request or closure for non-compliance with CE.	
Number of Radiologic Technologists	
Active Registration	59
Expired Registration	47

TBCE Welcomes New DC Licensees

Issued January through February 2016

Ashraf Aljundi, D.C.	Paul Liechty, D.C. (1/25/16)
Joshua Baek, D.C.	Erik Malone, D.C.
Daniel Baek, D.C.	Carmen Martinez Castro, D.C.
Justin Barnwell, D.C.	John Mason, D.C.
Meghan Blankenship, D.C.	Amanda Massey, D.C.
Michael Bodziony, D.C.	Brooke Maurer, D.C.
Jacqueline Botts, D.C.	Derek Nelson, D.C.
Tyler Bowman, D.C.	David Nelson, D.C.
Kesia Broome, D.C.	Khanh Nguyen, D.C.
Michael Bryant, D.C.	Eric Olson, D.C.
John Buoniconti, D.C.	Ashley Ottmer, D.C.
Susann Clothier, D.C.	Judith Pallares, D.C.
Stephan Conley, D.C.	Tom Pham, D.C. (1/25/16)
Lauren Crane, D.C.	Chandler Pruitt, D.C.
Dwane Davis, D.C.	Timothy Rabb, D.C.
Ryan DeSantis, D.C.	Joel Ramos Ortiz
Sarah Duke, D.C.	Danika Rasmussen, D.C.
Grace Edgar, D.C.	Christopher Roundy, D.C.
Elisabeth Garlington, D.C.	Ashley Salazar, D.C.
Rush Geter, D.C.	Krista Sanders, D.C.
Paul Goehry, D.C.	Heather Thompson, D.C.
Julie Gonzalez, D.C.	Lauren Tollefson, D.C.
Lucinda Govea, D.C.	Juliette Tran, D.C.
Kaitlin Gummelt, D.C.	Laura Verga, D.C.
Jamal Heath, D.C.	Tu Nhu Vien, D.C.
Jacqueline Hernandez, D.C.	Edward Virgil, D.C.
Elise Hernandez, D.C.	Tranishia Westerfield, D.C.
Can Ho, D.C. (2/10/16)	Paige Whitfield, D.C.
Wayne Hogenson, D.C.	Hannah Winn, D.C.
Whitley Jagnanan, D.C.	Ashley Winslow, D.C.
Samuel Jameson, III, D.C.	Daniel Woodward, D.C.
Alison Jones, D.C.	Douglas Wright, D.C.
David Jones, D.C.	Marilyn Yates, D.C.
Michael Kowalski, D.C.	Meghan York, D.C.
Thomas Kramer, D.C.	Blake Young, D.C.
Mark Kreamer, D.C.	Amanda Zimmermann, D.C.
Nicholas Kregel, D.C.	

TBCE Board Meeting Schedule

Hobby Building
Tower 2, Room 225

- TUESDAY
May 17, 2016
(1:00 pm)
- Thursday
August 18, 2016
(1:00 pm)
- Thursday
November 17, 2016
(1:00 pm)

TBCE Holidays

The offices of the Texas Board of Chiropractic Examiners will be closed in observance of



Memorial Day
Monday, May 30, 2016



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Board Disciplinary Actions October 2015 through February 2016



FESTUS CLEMENT, JR, Facility #F005487, Stafford. On February 18, 2016, the Board and Mr. Clement entered into an Agreed Final Order requiring Mr. Clement to pay a fine of \$1000 for having unsanitary conditions in the facility.

BEN CRAWFORD, Facility #F009787, Houston. On February 18, 2016, the Board and Mr. Crawford entered into an Agreed Final Order requiring Mr. Crawford to pay an administrative penalty of \$500 for deceptive advertising that he would have two doctors available for adjustments, but each were not licensed chiropractors in Texas.

LARRY DEES, D.C., Lic. #6852, Victoria. On February 18, 2016, the Board and Dr. Dees entered into a Cease and Desist order for operating a chiropractic facility without a certificate of facility registration.

LAWRENCE DIOH, Facility #F008548, Houston. On February 18, 2016, Mr. Dioh and the Board entered into a Final Order. Mr. Dioh was ordered to pay an administrative fee of \$1000 due to unsanitary conditions at a facility.

MELISSA DUNLAP, D.C., Lic #12019, Dallas. On February 18, 2016, the Board and Dr. Dunlap entered into an Agreed Final Order requiring Dr. Dunlap to pay an administrative penalty of \$250 for failure to timely notify the Board of her change of address.

SUSAN DUVE'-MORALES, D.C., Lic. #6865, S. Padre Island. On February 18, 2016, the Board and Dr. Duve'-Morales entered into a Cease and Desist order for failing to renew her facility registration.

APPOLONARIS DZE, Facility Lic. #F0010724, Houston. On February 18, 2016, the Board and Mr. Dze entered into an Agreed Final Order requiring Mr. Dze to pay a fine of \$2250 for maintaining unsanitary or unsafe equipment, failure to display a DC license.

PAUL HATTON, D.C., Lic. # 10864 & Facility Lic. #F0011633, League City. On February 18, 2016, the Board and Dr. Hatton entered into a Cease and Desist order for failing to maintain a facility registration.

JAMES HUAMAN, Facility #s F008127, F008128, F008129, F008645, Dallas/Garland. On February 18, 2016, the Board and Mr. Huaman issued a Final Order of Statutory Revocation because respondent has been convicted of a felony, the Board is required under §201.5065 to revoke Respondent's license.

ALEXANDER JIMENEZ, D.C., Lic. #5807, El Paso. On February 18, 2016, the Board and Dr. Jimenez entered into an Agreed Final Order requiring Dr. Jimenez to complete a compliance plan for solicitation.

CHRISTOPHER KORDIC, D.C., Lic. #11801, McKinney. On February 18, 2016, the Board and Dr. Kordic entered into an Agreed Final Order requiring Dr. Kordic to pay an administrative fee of \$2500 for overtreating, overcharging and an improper prepayment plan.

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Board Disciplinary Actions Taken October 2015 through February 2016

MARY MAY-SEXTON, D.C., Lic. #10739, Deer Park. On February 18, 2016, the Board and Dr. May-Sexton entered into an Agreed Final Order. Dr. May-Sexton will receive a letter of reprimand for failure to timely notify the Board of a change of address.

EMILY MCKENZIE, D.C., Lic. #6839, Lorena. On February 18, 2016, the Board and Dr. McKenzie entered into an Agreed Final Order. Dr. McKenzie will receive a letter of reprimand for failing to timely notify the Board of her change of address.

ROBERT MORGAN, D.C., Lic. #6237, El Paso. On February 18, 2016, the Board and Dr. Morgan entered into a Cease and Desist Order for not renewing a facility registration on time.

UZUNMA OGBA, Facility #F005643, Houston. On February 18, 2016, the Board and Mr. Ogba entered into an Agreed Final Order requiring him to pay an administrative fee of \$1250 for maintaining unsanitary or unsafe equipment and for failure to properly display the public information placard, facility registration.

TOM PHAM, D.C., Previous Lic. #07878, Carrollton. On February 18, 2016, the Board and Tom Pham, an applicant who recently completed probation for charges stemming from fraud conviction, entered into an Agreed Order which provides that licensure be conditioned upon taking and passing the EBAS exam, the Jurisprudence exam and his license probated for two years.

JEANINE RIEMENSCHNEIDER, D.C., Lic. #11051, Facility #F008468, Austin. On February 18, 2016, the Board and Dr. Riemenschneider entered into a Cease and Desist order due to failure to timely submit a renewal application to the Board on or before the statutory annual renewal date.

MARIUS RUJA, D.C., Lic. #7101, No Facility Certificate. El Paso. On February 18, 2016, the Board and Dr. Ruja entered into a Cease and Desist Order for operating a chiropractic facility without registration.

HECTOR SAMANIEGO, JR, M.D., Facility #s F008787, F008788 and F008789. On February 18, 2016, the Board issued a Cease and Desist Order to Dr. Samaniego for failing to submit renewal applications for three facility registrations.

BRADLEY SIKES, D.C., Lic. #6116, Facility Certificate #F0011636, Dripping Springs. On February 18, 2016, the Board and Dr. Sikes issued a Cease and Desist order to Dr. Sikes for operating an unregistered chiropractic facility.

RYAN STAPLES, D.C., Lic. #12316, McKinney. On February 18, 2016, the Board and Dr. Staples entered into an Agreed Final Order. Dr. Staples will receive a letter of reprimand for failure to timely notify the Board of a change of address.

VU (ALEX) TRAN, Houston. On February 18, 2016, the Board and Mr. Tran entered into a Cease and Desist order. Mr. Tran operated a chiropractic facility with an expired registration as well as practiced chiropractic without a license.

OLU VINCENT, Facility #F007687, Houston. On February 18, 2016, the Board and Mr. Vincent entered into an Agreed Final Order requiring Mr. Vincent to pay a fine of \$1500 for failure to display his facility registration in the public/reception area, for unsanitary conditions and for failure to timely notify the Board of a change of address.

JOHN WYATT, D.C., Lic. #8756, Pinehurst. On February 18, 2016, the Board and Dr. Wyatt entered into an Agreed Final Order requiring Dr. Wyatt to pay an administrative fine of \$2000, have his license suspended, take and complete PROBE, take and pass EBAS and comply with all provisions of the Chiropractic Act and Board rules in the future for grossly unprofessional conduct and lack of proper diligence. ♦

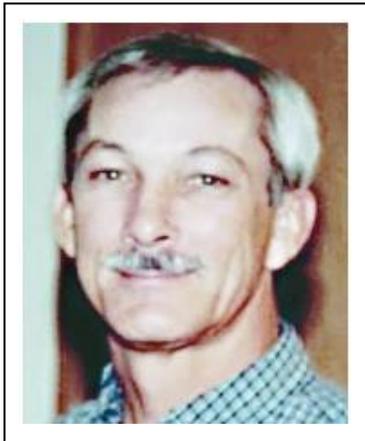
Texas Chiropractic Board Report Memorials

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



Dr. Leroy Elsik, 87, of Seguin, Texas, died on Friday, January 1, 2016. He attended Texas Chiropractic College and practiced chiropractic care for 59 years. He was also known as "Doc" or "Popa" and was a medic in WWII at Tokyo General where he found his passion for the healing arts.



Dr. Bruce Odell Woodall, 65, of San Antonio, Texas died on Wednesday, February 3, 2016. He was born in Kingsville, Texas, served in the army in the medical sciences which led to 26 years of service in chiropractic.

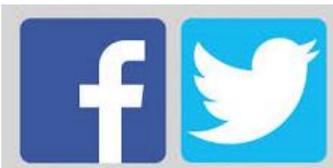
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Office Hours and Location

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

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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, (512) 305-6906 (Voice) or by faxing a request to (512) 305-6705 (FAX).



Texas Board of Chiropractic Examiners Contact Information

LICENSING

Jennifer Hertsenberg, Director of Licensing512-305-6702

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

Sarah Matthews, Licensing Assistant.....512-305-6707

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

Mary Ann Garcia, Administrative Assistant512-305-6703

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