

Summary of Minutes from November 16, 2006 Board Meeting

The Texas Board of Chiropractic Examiners (the Board) met in a regularly scheduled board meeting on November 16, 2006. The meeting was held in the William Hobby Building, Tower 2, Room 225 located at 333 Guadalupe Street, Austin, Texas 78701. A tape recording of the meeting was made and is on file at the Board offices. This is a summary of the minutes of that meeting.

Agenda Item # 1: Call to Order and Roll Call

Dr. Sandra Jensen, Board Chair, called the meeting to order at 12:48 PM and called the roll of board members. Members present were:

- Dr. Sandra Jensen (President)
- Dr. Scott Isdale (Vice President)
- Dr. Steve Minors (Secretary)
- Ms. Marcia Daughtrey
- Dr. Kenneth Perkins
- Dr. David Sime
- Dr. Kathleen Summers
- Ms. Kenya Woodruff

Board members not present were:

- Mr. Narciso Escareno

Also present were:

- Jeb Boyt, Assistant Attorney General & Board Counsel
- Joe Thrash, Assistant Attorney General & Board Counsel
- Glenn Parker, Executive Director
- Frank Rodriguez, Director of Enforcement
- Pam Harris, Director of Licensing
- Mary Feys, Enforcement Assistant
- Anita Wilkerson, Administrative Assistant

Action Taken: Dr. Jensen determined that a quorum was present and moved to Agenda Item #2.1

Agenda Item #2:1: Approval of Minutes for Board Meeting held September 14, 2006.

Action Taken: The Board reviewed and approved the minutes for September 14, 2006.

3. EXECUTIVE COMMITTEE

Sandra Jensen, D.C.

Agenda Item #3.1: President's Report (Dr. Jensen)

Dr. Jensen reported that Dr. Kenneth Perkins and Executive Director Glenn Parker had attended the Federation of Chiropractic Licensing Boards (FCLB) Regional Meeting in Salt Lake City, Utah on October 12-15, 2006. Dr. Perkins reported that the trip was beneficial in establishing and maintaining contacts with the chiropractic licensing boards of other states and in staying current with issues facing the boards nationally. Mr. Parker reported that the meetings were his first opportunity to meet with his counterparts in other states.

Dr. Jensen reported that she and Dr. Kathleen Summers had served as examiners for the recent Part IV Examinations for the National Board of Chiropractic Examiners. Dr. Jensen served at the examination site in Portland, Oregon and Dr. Summers was at the site at Parker College of Chiropractic in Dallas.

Dr. Jensen concluded her report by informing the Board that the 80th Legislative Session would begin on January 9, 2007 and run through May 28, 2007.

Agenda Item #3.2: Executive Director's Report to include update on agency activities (G. Parker)

Executive Director Glenn Parker presented an oral report to the Board concerning agency activities. Mr. Parker reported that the agency currently had approximately \$2,700 remaining in its appropriations for FY 2006 but expected that most of that balance would be spent as final invoices were processed. Mr. Parker also reported that Ms. Mary Ann Garcia was hired in late September as the agency's accountant.

Mr. Parker reported that the agency is currently being audited by the State Auditor's Office as part of a regularly scheduled audit of the agency. The audit should be complete and a report released sometime during the month of January. He also noted that the agency is in the process of revising its Legislative Appropriations Request (LAR) to include a request for additional funds to prepare cases to go to SOAH and other enforcement-related appropriations. Mr. Parker also reported that Mary Catherine Abdulkader is researching the current database in preparing for designing a new database

Agenda Item #3.3: Update on Peer Review Committees (G. Parker)

Executive Director Parker reported that work on the policies, procedures and forms for the establishment of the peer review committees had begun. The committees may be organized along the district lines established by the Texas Chiropractic Association. All interested parties will be asked for input.

Agenda Item #3.4: Update on requests for Attorney General's Opinions on (1) the definition of the term "surgical procedure" (Tex. Occ. Code §201.002 (a) (4) and, (2) Rep. Solomons' request for clarification of issues concerning undergraduate hours earned in a school "other than a chiropractic school." (Jeb Boyt)

Mr. Boyt reported that the Board has requested an opinion from the Attorney General for the term "surgical procedure" as it relates to the Chiropractic Act. Briefs are due by December 1, 2006. Mr. Boyt also reported that he expected the AG's office to issue an opinion shortly on the issues raised by Representative Solomons and Senator Jackson regarding accredited undergraduate programs in schools that also offer a doctor of chiropractic degree.

Agenda Item #3.5: Update on lawsuit by the Texas Medical Association (TMA) against Board and any other pending legal actions (may meet in executive session)

This item was considered in Executive Session. No action was taken after resuming in open session.

Agenda Item 3.6: Letter to the American Chiropractic Network (ACN) - (Jeb Boyt)

Dr. Jensen reported that the Board had drafted and sent a letter to the American Chiropractic Network (ACN) concerning ACN's practices in reviewing insurance reimbursement claims and establishing utilization guidelines.

4. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE

David Sime, D.C.

Agenda Item #4.1: New licenses issued since last Board Meeting

Dr. Sime reported that 58 new licenses for the period of August 23, 2006 through October 30, 2006. Of these, 27 licenses were issued to males and 31 licenses were issued to females.

Agenda Item #4.2: Jurisprudence Exam Statistics since the last Board Meeting

Dr. Sime reported that 79 jurisprudence examinations were given during the period of August 23, 2006 through October 30, 2006. Of these, 69 candidates passed and 10 failed, for an overall pass rate of 87.3%. Examination candidates for this period were graduates of ten (10) different chiropractic schools, with Parker College of Chiropractic having 38 examinees and Texas Chiropractic College having 23 examinees.

Agenda Item #4.3: Requests for Reinstatement of License:

4.3.1: Laura Carsner, D.C. – Action taken: The Board approved Dr. Carsner's request to have her Texas D.C. license reinstated with the stipulations that (1) she pass the jurisprudence exam, (2) her license would be suspended and probated for two (2) years, and (3) her license will be revoked if she has any additional convictions during the probation period.

Agenda Item #4.4: Requests for Approval to Sit for Texas Jurisprudence Exam:

4.4.1 – David Hastings, D.C. – Action taken: The Board approved Dr. Hasting's request to sit for the Jurisprudence Examination.

4.4.2 – Marie Ouellette – Action taken: This request was tabled and directed to be placed on the agenda for the February 22, 2007 board meeting.

4.4.3 – Preston Peachee, II, D.C. – Action taken: The Board approved Dr. Preston Peachee to take the Jurisprudence Examination with the following stipulations: assuming that Dr. Peachee passes the Jurisprudence Examination, his license is to be suspended and probated two years.

4.4.4 – Roland Robinson – Action taken: The Board approved Mr. Robinson's request to sit for the Jurisprudence Examination.

Agenda Item #4.5: Requests for Approval of Late Renewal for Good Cause:

4.5.1 – Ronnie Ray Huse, D.C. – Action taken: Mr. Huse did not appear and had requested by phone to have his hearing re-scheduled for the February 22, 2007 meeting.

4.5.2 – Timothy Long, D.C. – Action taken: The Board approved Dr. Long's request to renew late for good cause.

Agenda Item #4.6: Request for Exemption from Continuing Education Requirements

4.6.1 – Max Conley, D.C. - Action taken: Dr. Conley withdrew his request for consideration and may request consideration at the February 22, 2007 board meeting.

5. RULES COMMITTEE

Steve Minors, D.C.

Agenda Item #5.1 - Proposed Rules Eligible for Adoption

5.1.1 - Proposed Rule 80.9 – regarding fraud (Tex. Reg. Sept 22, 2006)

Action taken: The Board voted to adopt proposed Rule 80.9.

Agenda Item #5.2 - Proposal to Amend Rules

Agenda Item 5.2.1 - Proposed Rule 75.2 Regarding Patient Abandonment

Action taken: The Board voted to propose Rule 75.2 regarding patient abandonment.

Agenda Item #5.3 - Proposed Memorandum of Understanding

Agenda Item 5.3.1 - Proposed Memorandum of Understanding (MOU) with Texas Board of Veterinary Medical Examiners regarding Animal Chiropractic

Action Taken: Board Attorney Jeb Boyt updated the Board on this item. The Board took no action on this agenda item.

Agenda Item #5.4 - Discussion Items

5.4.1 - Possible study to accumulate data to show what doctorate and postgraduate trainings consists of at CEE approved chiropractic colleges – Stakeholder update

Action taken: Board member Kenya Woodruff gave the Board an oral report on this item. The Board took no action on this agenda item.

5.4.2 - This agenda item has been withdrawn.

5.4.3 - Chiropractic specialties recognition

Dr. Steve Minors gave the Board an oral report on this issue. Board Attorney Jeb Boyt agreed to draft a report on this issue. The Board took no action on this agenda item.

Agenda Item #5.5 - Unresolved Questions

5.5.1 - I would like to know if there are any rules/guidelines as far as to what can be advertised in the state of Texas. For example, are we allowed to use testimonials in newspapers, magazines, or other ads? – Fajardo and Smith

Action taken: The Board approved a response as drafted by the Rules Committee to the questions submitted by Dr Fajardo and Dr. Smith and directed them to the appropriate Statute and Rules.

5.5.2 - What is and what is not acceptable, where telemarketers misrepresent themselves to the public and lead them to believe that the telemarketer is calling from an insurance company and directs them to a chiropractic clinic that hired the telemarketer? – Walker and Hall

Action taken: None. This question was not considered by the Board.

5.5.3 - If I am licensed in Chiropractic and certified in Biofeedback, can I do radionics? – Linderman

The Board approved a response drafted by the Rules Committee informing Dr. Linderman that radionics is not within the scope of practice for chiropractors in Texas.

5.5.4 - Can a chiropractic physician, D.C., be board certified in pain management? – Pizzillo

Action taken: The Board approved a response by the Rules Committee informing Dr. Pizzillo that the Board does not certify DCs in any area and that the term “physician” may not be used by a doctor of chiropractic in Texas.

5.5.5 - Does the doctor who renders treatment have to or does not have to sign the SOAP notes? – Davidson

Action taken: The Board approved a response as drafted by the Rules Committee to Mr. (Dr.) Davidson’s question informing him that SOAP notes do not have to be signed but that due diligence requires that the doctor of record be noted.

5.5.6 - Are there any rules which regulate chiropractic office records? – McDaniel

Action taken: The Board approved a response as drafted by the Rules Committee referring Dr. McDaniel to the appropriate section of the Rules concerning the preservation of office records.

5.5.7 - Could you answer a few scope of practice questions concerning hiring personnel? – Steffine

Action taken: The Board approved a response as drafted by the Rules Committee to Dr. Steffine’s questions concerning the hiring of certain personnel.

5.5.8 - Must each separate location of a clinic have a separate facility registration even though all locations are owned by the same entity, operate under the same federal tax number, and share the same bank account and billing system? - Enlow.

Action taken: The Board deferred action on this item at the request of the Executive Director pending a review of all applicable statutes and rules.

5.5.9 - Must a multidisciplinary rehabilitation clinic offering chiropractic care along with medical services and physical therapy always include either “chiropractor”, “Doctor, D.C.”, or “Doctor of Chiropractic, D.C.” when advertising the name of the clinic? – Riggs

Action taken: None. This question was not considered by the Board.

5.5.10 - What is the definition of the word “gift” when being used for referrals? – Smith

Action taken: The Board approved a response drafted by the Rules Committee informing Dr. Smith that the Board has no definition of the word “gifts” when being used for a referral and suggesting that Dr. Smith consult with his attorney concerning other state and federal laws that might apply.

5.5.11 - Does financial information such as EOBs, copies of checks, or insurance verifications need to be preserved according to the same rules as patient histories, DX, and treatment records? (Do the rules of record keeping include financial data?) - Woodward

Agenda Item #5.6 - Future Items for Discussion and Committee Schedule

Action taken: None. For discussion only.

6. ENFORCEMENT COMMITTEE

Scott Isdale, D.C.

Agenda Item #6.1 - Summary of Number of Current Pending Cases/Complaints

Action taken: None – this item was for informational purposed only.

Agenda Item #6.2 - Summary of September 28, 2006 Enforcement Committee Hearings

Action taken: None – this item was for informational purposes only.

Agenda Item #6.3 - Summary of October 26, 2006 Enforcement Committee Hearings

Action taken: None – this item was for informational purposes only.

Agenda Item #6.4 - Update on pending SOAH cases (may meet in executive session)

Action taken: None – this item was for informational purposes only.

Agenda Item #6.5 - Consideration of SOAH Proposals for Decisions

Action taken: None –there were no PFDs to consider for this meeting.

Agenda Item #6.6 - Consideration of Accepted Agreed Orders

6.6.1	Case #104-019	Lic #2896	
6.6.2	Case #104-032	Lic #2900	
6.6.3	Case #104-034	Lic #5859	(same individual as below)
6.6.4	Case #104-035	Lic #5859	(same individual as above)
6.6.5	Case #104-067	Lic #2981	
6.6.6	Case #104-085	Lic #5484	
6.6.7	Case #104-127	Lic #6460	
6.6.8	Case #104-128	Lic #8066	
6.6.9	Case #105-023	Lic #5616	
6.6.10	Case #105-076	Lic #5655	
6.6.11	Case #105-102	Lic #4140	
6.6.12	Case #106-009	Lic #8963	

Action taken: The Board approved the Agreed Orders referenced above without changes.

Agenda Item #6.7 - Recommendations to Approve or Deny Requests to Expunge Records

6.7.1	Case #101-004	Recommendation to	Approve
6.7.2	Case #101-120	Recommendation to	Approve
6.7.3	Case #101-559	Recommendation to	Approve
6.7.4	Case #102-169	Recommendation to	Approve
6.7.5	Case #104-101	Recommendation to	Approve
6.7.6	Case #104-140	Recommendation to	Deny

Action taken: The Board approved expunction requests 6.7.1 through 6.7.5 and denied expunction request #6.7.6.

Agenda Item #6.8 - Enforcement Committee Meeting Schedule

Action taken: Dr. Isdale reminded the Enforcement Committee members that the next meeting of the Enforcement Committee is scheduled for January 25, 2007.

Agenda Item #7 - PUBLIC COMMENT: Forum for licensees, the general public, or other interested stakeholders to address the Board. Sandra Jensen, D.C.

Action taken: None. The Board listened to comments from concerned parties including the Texas Chiropractic Association.

Agenda Item #8 - CALL FOR FUTURE ITEMS for discussion and/or consideration by the Board (Sandra Jensen, D.C.)

Dr. Jensen called for Board members to submit any items for discussion and/or consideration at the next board meeting. Dr. Jensen requested that all tabled and future items be placed on the agenda for the next board meeting.

Agenda Item #9 - MEETING REMINDERS: The next Enforcement Committee meeting date is Thursday, January 25, 2007. The next Board meeting date is Thursday, February 22, 2007. Sandra Jensen, D.C.

Dr. Jensen reminded the board members of the meetings scheduled as referenced above.

Agenda Item #10 - ADJOURNMENT
Sandra Jensen, D.C.

Dr. Jensen adjourned the meeting at 2:49 PM.

Statement:

I affirm that the above is a true and correct rendering of the minutes for the Texas Board of Chiropractic Examiners Board Meeting held on the above referenced date. These minutes were approved by the Texas Board of Chiropractic Examiners at its regularly scheduled meeting held:

February 22, 2007.

Glenn Parker
Executive Director
Texas Board of Chiropractic Examiners

Date