

Summary of Minutes from February 22, 2007 Board Meeting

The Texas Board of Chiropractic Examiners (the Board) met in a regularly scheduled board meeting on February 22, 2007. 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 12:41 PM and called the roll of board members. Members present were:

- Dr. Sandra Jensen (President)
- Dr. Steve Minors (Secretary)
- Ms. Marcia Daughtrey
- Mr. Narciso Escareno
- Dr. Kenneth Perkins
- Dr. David Sime
- Dr. Kathleen Summers
- Ms. Kenya Woodruff

Board members not present were:

- Dr. Scott Isdale, Vice President (excused)

Also present were:

- Joe Thrash, Assistant Attorney General & Board Counsel
- Glenn Parker, Executive Director
- 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 on November 16, 2006.

Action Taken: Tabled. Minutes were not available for review and will be considered at the May 2007 board meeting.

EXECUTIVE COMMITTEE (Dr. Sandra Jensen)

Agenda Item #3.1: President's Report

Dr. Sandra Jensen presented Agenda Items 3.1.1-3.1.5 to the Board as summarized below.

Agenda Item 3.1.1: FCLB Annual Conference in St. Louis May 2-6, 2007

Action taken: The Board approved a motion to designate Dr. Kenneth Perkins as the voting delegate to the FCLB and Dr. Scott Isdale as the alternate voting delegate. Dr. Perkins and Executive Director Glenn Parker will attend the conference on behalf of the Board.

Agenda Item 3.1.2: NBCE Annual Business Meeting in St. Louis, May 4, 2007

Action Taken: The Board approved a motion to designate Dr. Kenneth Perkins as the Board's official voting delegate to the NBCE and Dr. Kathleen Summers as the alternate voting delegate. Dr. Perkins will attend the May 4 meeting in St. Louis as he will already be in St. Louis to attend the FCLB conference.

Agenda Item 3.1.3: NBCE Part IV Exams and Exam Test Committee

Action Taken: Dr. Jensen designated herself to participate as examiners in the administration of the Part IV NBCE examinations in Portland, Oregon in May, 2007. A second Board participant has not yet been decided. The Board also approved a motion to designate Dr. Kenneth Perkins as the Board's representative to participate in the June 15-16 Test Committee meetings in Greeley, Colorado.

Agenda Item 3.1.4: FCLB Newsletter of January 30, 2007

Action taken: None. This item was for informational purposes only.

Agenda Item 3.1.5: Other items of interest to the Board

Action taken: None. No items were discussed under this agenda item.

Agenda Item 3.2: Executive Director's Report

Executive Director Glenn Parker presented oral and written materials for Agenda Items 3.2.1 – 3.2.11. Action taken: None. All of the items were for informational purposes only. Items discussed by Mr. Parker included the following:

Agenda Item 3.2.1: Agency Financial Status

Agenda Item 3.2.2: Agency Investigator Position

Agenda Item 3.2.3: Agency Audit by State Auditor's Office

Agenda Item 3.2.4: Agency review by State Office of Risk Management (SORM)

Agenda Item 3.2.5: Agency review by Texas Workforce Commission, Civil Rights Division

Agenda Item 3.2.6: Development of agency database

Agenda Item 3.2.7: Licensing department update

- Agenda Item 3.2.8: Enforcement department update
- Agenda Item 3.2.9: Peer Review Committee update (deferred until May)
- Agenda Item 3.2.10: Possibility of issuing quarterly agency newsletter
- Agenda Item 3.2.11: Other items of interest to the Board. Mr. Parker presented (1) information from the Oregon board concerning their investigations into advertising claims for spinal decompression machines; and (2) media information concerning evidence-based health care.

Agenda Item 3.3: Update on Legislative Activities and Bills Filed for 80th Legislature

Executive Director Glenn Parker presented oral and written materials for Agenda Items 3.3.1 – 3.3.8. Action taken: None. All of the items were for informational purposes only. Items discussed by Mr. Parker included the following:

- Agenda Item 3.3.1: Governor’s Budget Proposal for creation of Health Professions Commission
- Agenda Item 3.3.2: LBB Budget Recommendations for FY 2008 -2009 biennium
- Agenda Item 3.3.3: Senate Finance Committee and House Appropriations Committee Budget Hearings
- Agenda Item 3.3.4: Senate Bill 29 by Jane Nelson to create a minimum data set for health care professionals
- Agenda Item 3.3.5: Senate Bill 366 by Jane Nelson to require a criminal history background check to issue an original license or to renew a license
- Agenda Item 3.3.6: House Bill 1028 by Tracy King regarding the regulation of acupuncture
- Agenda Item 3.3.7: Sunset Commission Implementation Report
- Agenda Item 3.3.8: Other bills and/or legislative items of interest to the Board, which included:
 - (1) SB 32 by Jane Nelson which would create a registry of health care professionals; and
 - (2) SB 776 by Mike Jackson which would clarify language in the Chiropractic Act concerning accredited undergraduate programs operating in schools that offer doctor of chiropractic degrees.

Agenda Item 3.4: Consideration of Policy to Reflect AG’s Opinion #GA-0487 regarding the Board’s ability to accept hours earned in an accredited undergraduate program operated by a school that offers a doctor of chiropractic degree.

Action taken: The Board adopted the following policy statement:

It is the policy of the Texas Board of Chiropractic Examiners that college credit hours earned in a fully accredited undergraduate program at an institution of higher education that also offers a doctor of chiropractic degree shall be accepted as applicable to the undergraduate hours required in TOC 201.302. Such hours must be acceptable to the University of Texas at Austin for a Bachelor of Arts degree or a Bachelor of Science degree, per TOC 201.303(a).

Agenda Item 3.5: Update on request for Attorney General’s Opinion (Request #RQ-0546-GA) on the definition of the term “surgical procedure” (Tex. Occ. Code §201.002 (a) (4)).

Board Attorney Mr. Joe Thrash reported that there were no new developments on this issue.

Action taken: None.

Agenda Item 3.6: Update on lawsuit by Texas Medical Association

This item was discussed in Executive Session.

Agenda Item 3.7: Update on lawsuit – Texas Mutual Ins. Co. v. Michael M. Stelzer and Texas Workers Compensation Commission

This item was discussed in Executive Session.

Agenda Item 3.8: Update on communications and issues with the American Chiropractic Network (ACN) and United Healthcare

Action taken: None. Board attorney Mr. Joe Thrash advised the Board that a meeting scheduled with ACN in January had been cancelled due to an ice storm in Austin. The issues will continue to be developed. A meeting with the Texas Department of Insurance will be requested once specific questions and issues are ready for discussion.

Agenda Item 3.9: Proposed new fee for sale of printed and bound copies of Chiropractic Act and Board Rules.

Action Taken: The Board approved a motion to propose a new fee of \$10 for the sale of a booklet containing current Board statutes and rules, or \$5 for a booklet containing only the statutes or only the rules. The new proposed fees will be considered for adoption at the May 24, 2007 board meeting.

Agenda Item 3.10: Proposed new fee for Board-sponsored online continuing education jurisprudence course

Action taken: The Board approved a motion to propose a new fee of \$55 for an online jurisprudence course to be developed and sponsored by the Board.

Agenda Item 3.11: Discussion of agency intent to cease offering a twice-a-year Jurisprudence Examination in Austin (exam is offered daily throughout the year and throughout the state by the agency’s contracted vendor)

Action taken: Board approved motion to discontinue offering the paper and pencil Jurisprudence Examination as administered by agency staff, effective with completion of the examination to be conducted on March 1, 2007.

Agenda Item 3.12: Proposed Board policy on formal training of new board members

Action taken: The Board adopted the following policy:

It is the policy of the Texas Board of Chiropractic Examiners that the Executive Director shall establish a program of training for all newly appointed board members that will satisfy the requirements of Texas Occupation Code Chapter 201.061 Training. The program shall include, but is not limited to, the following items:

- 1. TOC Chapter 201 and other applicable statutes*
- 2. the Board's programs, functions, rules, and budget*
- 3. the results of the most recent formal audit of the board*
- 4. the requirements of laws related to open meeting , public information, administrative procedures, and conflicts of interest*
- 5. any applicable ethics policies adopted by the board or the Texas Ethics Commission*
- 6. state and agency travel requirements, rules, and procedures*
- 7. a calendar showing dates and locations of planned board and committee meetings*

The Executive Director may request assistance from the board's general counsel and staff in preparing and/or presenting any portion of the training program. In addition, the Board President may instruct other board members or board committees to provide additional orientation for new members.

Agenda Item 3.13: Proposed Board policy on use of technology

Action taken: The Board adopted the following policy:

It is the policy of the Texas Board of Chiropractic Examiners that the Executive Director shall utilize current and affordable technology to the extent possible to improve all agency processes and procedures and to provide licensees and the public with the opportunity to use the Internet to interact with the Board and the agency.

Agenda Item 3.14: Proposed Board policies on Negotiated Rule Making and Alternative Dispute Resolution

Action taken: The Board adopted the following policies:

I. Negotiated Rulemaking

- The Board will strive to inform the public of all of its rulemaking activities and invite interested stakeholders to join in the development and promulgation of new rules and rule amendments.*
- The public and interested stakeholders are welcome to provide comments on the Board's rules and rulemakings at any meeting of the Board or its Rules Committee.*
- For major rulemakings and for rules of particular interest to the public or interested stakeholders, the Board will circulate a draft rule for comment prior to publishing the proposed rule in the Texas Register. When appropriate, the Board may also decide to hold a public workshop on the draft rule.*

- *The informal process for negotiated rulemakings described in this policy shall be preferred over the formal negotiated rulemaking process described under Texas Government Code Ch. 2008. The Board may by a majority vote, however, elect to proceed with a formal negotiated rulemaking.*
- *Implementation of this policy shall be coordinated by the Board's attorney or another person designated by the Executive Director.*

II. Alternative Dispute Resolution

- *The Board's policy is to encourage the use of alternative dispute resolution processes whenever possible in order to provide for a quick, cost-effective resolution of complaints in a manner that respects the interests of patients and the public health.*
- *The Board shall encourage the use of informal conferences as described under 22 TAC § 75.9(c).*
- *The Board will look for ways to use the local peer review committees established under 22 TAC §75.15 to facilitate informal resolution of disputes.*
- *Implementation of this policy shall be coordinated by the Board's Director of Enforcement.*

LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE

(David Sime, D.C)

Agenda Item 4.1: New licenses issued since last Board Meeting

L & E Committee chair Dr. David Sime reported that the Board has issued 41 new DC licenses for the period November 17, 2006 through January 31, 2007. Of those, 34 licensees are male and 7 are female. Action Taken: None. This item was for informational purposes only.

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

Dr. Sime reported the Jurisprudence Examinations statistics for the period of November 17, 2006 through January 31, 2007. A total of 50 examinations were administered, with 47 candidates passing and 3 candidates not passing. Of the 50 examinations, 4 were re-taking the examination after a prior failure. The 50 examination candidates included 12 females and 38 males.

Dr. Sime also reported that the 50 examinees came from 10 different schools of chiropractic, including 15 candidates from the Parker College of Chiropractic and 19 candidates from Texas Chiropractic College.

Action Taken: None. This item was for informational purposes only.

Agenda Item 4.3: Discussion to Propose Rule to require any DC who has not actively practice in the State of Texas for at least two consecutive years to take and pass the Jurisprudence Examination.

Action taken: None. This item was tabled and not discussed.

Agenda Item 4.4: Requests for Approval to Sit for Jurisprudence Examination

Agenda Item 4.4.1 – Uzziah Grigsby

Action Taken: Board approved a motion to allow Mr. Grigsby to sit for the Jurisprudence Examination. If he passes the examination he will be granted a license contingent upon Mr. Grigsby signing an Agreed Order probating his license through August, 2008.

Agenda Item 4.4.2 – Scott Stover

Action Taken: The Board approved a motion to allow Mr. Stover to sit for the Jurisprudence Examination.

Agenda Item 4.4.3 – Dien Van Tran

Action taken: The Board approved a motion to allow Mr. Dien Van Tran to sit for the Jurisprudence examination.

Agenda Item 4.5: Request to increase CE hours approved for participating as an examiner for the National Board of Chiropractic Examiners

Action taken: The Board approved a motion to increase from 2 hours to 8 hours the number of continuing education hours that a licensed doctor of chiropractic may earn annually by serving as an examiner for the Part IV national examination.

RULES COMMITTEE (*Steve Minors, D.C. - Chair*)

Agenda Item 5.1: Proposed Rules Eligible for adoption

Action taken: None. There were no proposed rules eligible for adoption at this meeting.

Agenda Item 5.2: Review and discussion of Rule 80.1 – Delegation of Authority

Action taken: None. Rules Committee will continue to review Rule 80.1 and will research delegation rules of other health professionals licensing agencies.

Agenda Item 5.3: Review and discussion of proposed Rule concerning Chiropractic Specialties

Action taken: None. Rules Committee will continue on-going research into this issue.

Agenda Item 5.4: Proposed MOU with Veterinary Board regarding Animal Chiropractic

Action taken: None. Action was deferred while board attorney continues work on this issue.

Agenda Item 5.5: Discussion Items concerning Rules Committee

Action taken: None.

Agenda Item 5.6: Unresolved Questions

Action taken: None.

Agenda Item 5.7: Future Items for Discussion

Action taken: None

ENFORCEMENT COMMITTEE (Scott Isdale, D.C. – Chair)

Agenda Item 6.1: Summary of Current Pending Cases/Complaints

Enforcement Committee Member Marcia Daughtrey reported that, as of January 25, 2007, there were 199 unresolved cases outstanding, plus an estimated 25-40 complaints that had not yet been entered into the database.

Action taken: None - There item was for informational purposes only.

Agenda Item 6.2: Summary of January 25, 2007 Enforcement Committee Hearings

Ms. Daughtrey reported that the Enforcement Committee had met on January 25, 2007 and had considered 19 cases.

Action taken: None. This item was for informational purposes only.

Agenda Item 6.3: Review of statutes and rules concerning conviction and imprisonment

Board Attorney Joe Thrash briefed the Board on Chapter 53 of the Texas Occupations Code and informed the Board that TOC 53.021 (b) states that “A license holder’s license shall be revoked on the license holder’s imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.”

Action taken: None. This item was for informational purposes only.

Agenda Item 6.4: Update on pending SOAH cases.

This item was considered in Executive Session.

Agenda Item 6.5: Consideration of SOAH Proposals for Decisions

Action taken: None. There were no SOAH PFDs to consider for this meeting.

Agenda Item 6.6: Consideration of Accepted Agreed Orders

Action Taken: Upon recommendation of the Enforcement Committee and motion by Ms. Marcia Daughtrey, Member of the Enforcement Committee, the Board considered and approved without changes the following 2 Agreed Orders that had been approved previously by the Enforcement Committee and agreed to by each licensee in question:

- 6.6.a Case #106-208 Lic #5737 (facility) Sharon Woodruff
- 6.6.b Case #107-001 Lic #5097 James Kontaratos, D.C.

Agenda Item 6.7: Recommendations to Approve or Deny Requests to Expunge Records

Action Taken: None. There were no requests for expunction for consideration at this meeting.

Agenda Item #7: PUBLIC COMMENT

Dr. Jensen opened the floor for public comments from anyone in attendance. Dr. Greg Nelson of the Texas Chiropractic Association commended the Board for its hard work and offered the Association's support for the peer review committees. Dr. Nelson also expressed the Association's concerns that Rule 80.1 concerning delegation might be too restrictive and needed to be reviewed. Dr. Nelson also expressed support for HB 1519 that would regulate the solicitation of accident victims to solicit patients.

Action taken: None.

Executive Session:

The Board then went into Executive Session at 1:48 PM to discuss Agenda Items 3.6, 3.7, and 6.4. The Board re-convened in open session at 2:07 PM and took no action on the items considered in Executive Session.

Agenda Item #8: CALL FOR FUTURE ITEMS

Action Taken: Dr. Jensen called for Board members to submit any items for discussion and/or consideration by the Board for future meetings. There were no items submitted at this time. Dr. Jensen requested that all tabled and future items be placed on the agenda for the next board meeting.

Agenda Item #9: MEETING REMINDERS

Action Taken: Dr. Jensen reminded Board and Staff members that the next Enforcement Committee meeting date is Thursday, March 22, 2007 and the next Board meeting date is Thursday, May 24, 2007.

Agenda Item #10: ADJOURNMENT

Action Taken: Dr. Jensen adjourned the meeting at 2:10 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:

May 24, 2007.

Glenn Parker
Executive Director
Texas Board of Chiropractic Examiners

Date