

**TEXAS BOARD OF CHIROPRACTIC EXAMINERS
William P. Hobby Building
333 Guadalupe, Suite 3-825
Austin, Texas 78701**

MINUTES FOR THE AUGUST 14, 2008 BOARD MEETING

The Texas Board of Chiropractic Examiners (the Board) met in a regularly scheduled board meeting on August 14, 2008. The meeting was held in the William P. Hobby Building, Tower 2, Room 225 located at 333 Guadalupe Street, Austin, Texas 78701. A recording of the meeting was made and is on file at the Board offices. This is a summary of the minutes of that meeting.

1. CALL TO ORDER, INTRODUCTION OF NEW MEMBERS AND ROLL CALL

Dr. Kenneth Perkins, D.C., President (or Presiding Officer)

1.1 Call to order

Action Taken: Dr. Kenneth Perkins called the meeting to order at 1:08 PM.

1.2 Roll call and establishment of quorum

Action Taken: Dr. Perkins called the roll and determined that a quorum was present. Board members present were:

Dr. Kenneth Perkins, President
Dr. Scott Isdale, Vice President
Dr. Kathleen Summers, Secretary-Treasurer
Ms. Marcia Daughtrey, Public Member
Mr. Armando Elizarde, Jr.
Dr. Janette Kurban
Dr. David Sime
Dr. Cynthia Tays

Board members not present, but excused, were:

Ms. Kenya Woodruff, Public Member

Staff members and others present were:

Mr. Jeb Boyt, General Counsel & Assistant Attorney General
Mr. Joe Thrash, General Counsel & Assistant Attorney General
Mr. Glenn Parker, Executive Director
Ms. Jennifer Hertsenberg, Director of Licensing
Mr. Scott Parker, Director of Enforcement
Ms. Mary Feys, Administrative Assistant for Enforcement
Mr. Bill Zilar, Investigator
Ms. Anita Wilkerson, Administrative Assistant

2. APPROVAL OF MINUTES

Dr. Kenneth Perkins, D.C.

Action Taken: The Board reviewed and approved without changes the minutes from the May 14, 2008 Board Meeting.

3. PUBLIC COMMENTS

Dr. Kenneth Perkins, D.C.

Action Taken: Dr. Perkins opened the floor for comments from licensees, the general public or other interested stakeholders. Officers of the Texas Chiropractic Association expressed support for the Board.

4. EXECUTIVE COMMITTEE BUSINESS

Dr. Kenneth Perkins, D.C.

4.1 President's Report (*Dr. Perkins*)

Action Taken: None.

4.2 Doctors of Chiropractic as Emergency Responders - Update (*Dr. Summers*)

Action Taken: None. Dr. Summers stated that the individual with whom she had been working on this project is no longer on the project

4.3 Executive Director's Report on agency activities, including but not limited to recent agency activities, statistical reports, audits, and upcoming events (*Glenn Parker*)

Action Taken: None. Mr. Parker gave the Board written and oral reports on agency activities. No new or unusual problems were noted and the agency is expected to end the fiscal year within its appropriations for expenditures.

4.4 Staff Recommendation for Establishment of Peer Review Committees

Action Taken: The Board directed staff to begin gathering nominations for members for the Executive Peer Review Committee and to defer action on establishing local peer review committees until after the Executive Peer Review Committee has been established.

4.5 Review of Strategic Plan for 2009 – 2013

Action Taken: The Board accepted the submitted version of the Strategic Plan. Executive Director Parker reviewed with the Board the final version of the Strategic Plan for 2009 – 2013. Ms. Daughtrey asked the staff to inform the chiropractic schools that the Board is conducting criminal background checks on all applicants.

4.6 Review of Legislative Appropriations Request for 2010 - 2011

Action Taken: The Board accepted the submitted version of the Legislative Appropriations Request. Executive Director Parker reviewed with the Board the final version of the Legislative Appropriations Request for 2010-2011.

5. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE BUSINESS

Dr. David Sime, D.C.

Action Taken: None. The L & E Committee had nothing to report as it had no business to consider.

6. RULES COMMITTEE BUSINESS

Janette Kurban, D.C.

6.1 Consideration of Proposed New Rules or Rules Amendments Eligible for Adoption

Proposed New Rule 75.19 (Cease and Desist Orders) concerning delegation to the Enforcement Committee of authority to issue Cease & Desist orders on behalf of the Board has been published in the Texas Register and is eligible for adoption. As of August 5, 2008 no comments have been received on the proposed new rule.

Action Taken: The Board voted without opposition to adopt proposed Rule 75.19 as published in the Texas Register without changes.

6.2 Consideration of Proposals for New Rules or Amendments to Existing Rules

6.2.1 Proposed New Rule §80.11 concerning the adoption of a Code of Ethics

New Rule §80.11 would address a gap in the Board's rules by codifying a standard of ethics and professional responsibility. The Rule is modeled on the Code of Ethics of the American Chiropractic Association.

Action Taken: The Board voted without opposition to propose a new Rule 80.11 concerning the adoption of a code of ethics and to publish the proposed rule in the *Texas Register* for comment.

6.3 Scope of Practice Questions and Issues

There are no scope-of-practice questions for this meeting.

Action Taken: In response to a question, Dr. Kurban and Mr. Boyt did clarify that "hot" lasers are not within scope or practice for chiropractors in Texas.

- 6.4 Update on other issues under consideration by the Committee (Issues may include qualifications for performing acupuncture, MUA, ethics, record keeping, patient abandonment and others.)
- 6.4.1 Dr. Kurban will update the Board on the Committee's discussion of a possible new Rule §75.18 related to minimal qualifications and procedures for the practice of acupuncture by licensed doctors of chiropractic that is under consideration by the Committee.
- Action Taken:** None. The purpose of this item was to inform the Board of topics under consideration by the Rules Committee.
- 6.4.2 Dr. Kurban will update the Board on the Committee's discussion of possible amendments to existing Rule §80.5 concerning maintenance of chiropractic records and patient abandonment.
- Action Taken:** None. The purpose of this item was to inform the Board of topics under consideration by the Rules Committee. Dr. Kurban clarified that the Rules Committee is looking only at retention of chiropractic records and is not looking into the patient abandonment rules.
- 6.4.3 Dr. Kurban will update the Board on the Committee's discussion of possibly proposing a new Rule concerning Manipulation Under Anesthesia (MUA).
- Action Taken:** None. The purpose of this item was to inform the Board of topics under consideration by the Rules Committee.
- 6.4.4 Dr. Kurban will update the Board on the Committee's discussion of other issues of interest.
- Action Taken:** None. No other issues were discussed.

7. ENFORCEMENT COMMITTEE BUSINESS

Dr. Scott Isdale, D.C.

- 7.1 Consideration of SOAH Proposals for Decisions
- There are no SOAH Proposals for Decisions at this meeting.
- Action Taken:** None
- 7.3 Consideration of Accepted Agreed Orders: The Board will consider approval of the following Agreed Orders that have been accepted by the Respondents:
- 7.3.1 Case # 101-686
- 7.3.2 Case # 104-042

- 7.3.3 Case # 105-087
- 7.3.4 Case # 106-086
- 7.3.5 Case # 107-029
- 7.3.6 Case # 108-008
- 7.3.7 Case # 108-015
- 7.3.8 Case # 108-029
- 7.3.9 Case # 108-055
- 7.3.10 Case # 108-085
- 7.3.11 Case # 108-088
- 7.3.12 Case # 108-097
- 7.3.13 Case # 108-143
- 7.3.14 Case # 108-151
- 7.3.15 Case # 108-124
- 7.3.16 Case # 108-125
- 7.3.17 Case # 108-126
- 7.3.18 Case # 108-127
- 7.3.19 Case # 108-128
- 7.3.20 Case # 108-129
- 7.3.21 Case # 108-130
- 7.3.22 Case # 108-157

Action Taken: The Board approved all Proposed Agreed Orders as presented. Agenda Item 7.3.1 Case #101-686 was approved by a vote of 6-2, with board members Daughtrey and Elizarde voting "No." All other items were approved by a vote of 8-0.

7.4 Recommendations to Approve or Deny Requests to Expunge Records

- 7.4.1 Case # 101-105
- 7.4.2 Case # 101-107
- 7.4.3 Case # 101-140
- 7.4.4 Case # 101-152
- 7.4.5 Case # 102-194
- 7.4.6 Case # 104-219
- 7.4.7 Case # 104-300

Action Taken: All Requests to Expunge Records were approved by a vote of 8-0.

7.5 Statutory Revocations for Felony Convictions and Imprisonment

There are no statutory revocations to consider at this meeting.

Action Taken: None

8. EXECUTIVE SESSION

Dr. Kenneth Perkins, D.C.

The Board may meet in Executive Session for:

Consultation with counsel pursuant to Section 551.071, Government Code wherein the Board and essential staff will receive a briefing from assigned Assistant Attorney General concerning pending or contemplated litigation and settlement offers including but not limited to:

8.1 Texas Medical Association lawsuit against the Board

Board will reconvene in open sessions after Executive Session to vote on items considered in Executive Session as necessary.

Action Taken: None. The Board entered into Executive Session at 2:18 PM and received an update from its attorneys concerning the TMA lawsuit. It re-convened in Open Session at 2:30 PM. The Board took no action on this agenda item.

9. CALL FOR FUTURE ITEMS for discussion and/or consideration by the Board
Dr. Kenneth Perkins, D.C.

Action Taken: Dr. Perkins invited board members and interested parties to submit potential agenda items to himself or to Executive Director Glenn Parker. Dr. Perkins asked that the Rules Committee consider creating a rule to cover preceptorships and postceptorships for chiropractic students enrolled in accredited chiropractic colleges.

10. MEETING REMINDERS & ADJOURNMENT

Dr. Kenneth Perkins, D.C.

10.1 The remaining Board meeting dates for Calendar Year 2008 and for Calendar Year 2009 are:

- (1) November 6, 2008
- (2) February 25, 2009
- (3) May 14, 2009
- (4) August 13, 2009
- (5) November 12, 2009

10.2 The next Enforcement Committee dates are scheduled for:

- (1) September 16, 2008
- (2) October 14, 2008
- (3) November 6, 2008 (Full Board Meeting)
- (4) December – No Enforcement Committee meeting
- (5) January 20, 2009

10.3 Adjournment at: _____ PM.

Action Taken: Dr. Perkins reminded the board members, staff and attorneys of the dates for future meetings and adjourned the board meeting at 2:40 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 from the board meeting held on August 14, 2008 were approved by the Texas Board of Chiropractic Examiners at its regularly scheduled meeting held November 6, 2008.

Glenn Parker
Executive Director
Texas Board of Chiropractic Examiners

November 6, 2008
Date