

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

**MINUTES FROM THE AUGUST 13, 2009 BOARD MEETING**

The Texas Board of Chiropractic Examiners (the Board) met in a regularly scheduled board meeting on August 13, 2009. The meeting was held in the William P. Hobby Building, Tower 2, Room 225, located at 333 Guadalupe Street, Austin, Texas 78701. The following are the minutes from that meeting.

**1. CALL TO ORDER, ROLL CALL & ESTABLISHMENT OF A QUORUM**

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

Call to Order, Roll Call and Establishment of a Quorum

**Action Taken:** Dr. Kenneth Perkins called the meeting to order at 1:15 p.m. and called the roll and determined that a quorum was present. All Board members were present.

Legal counsel and staff members present were:

Jeb Boyt, J.D., General Counsel, Assistant Attorney General  
Joe Thrash, J.D. General Counsel, Assistant Attorney General  
Glenn Parker, Executive Director  
Jennifer Hertsenberg, Director of Licensing

**2. APPROVAL OF MINUTES**

*Dr. Kenneth Perkins, D.C.*

Approval of Minutes from May 14, 2009 Board Meeting

**Action Taken:** The minutes from the May 14, 2009 board meeting were approved.

**3. PUBLIC COMMENTS**

*Dr. Kenneth Perkins, D.C.*

Forum for licensees, the general public or other interested stakeholders to address the Board

**Action Taken:** None. There were no public comments to the Board other than from former licensees Mark Darner and Richard Guidry, who expressed an interest in possibly asking the board to reinstate their DCs licenses at some future point. No action was taken by the Board.

**4. EXECUTIVE COMMITTEE BUSINESS**

*Dr. Kenneth Perkins, D.C.*

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

Dr. Kenneth Perkins may make a brief oral report to the Board on matters of current interest.

**Action Taken:** None

4.2 Executive Director's Report (*Glenn Parker*)

Executive Director Glenn Parker will present written and oral reports to the Board concerning recent agency activities, statistical reports, audit outcomes, revenues and expenditures, licensing information, and enforcement information.

**Action Taken:** None. Mr. Parker presented reports on current agency operations.

4.3 Consideration of adoption of proposed amendments to Rule 75.7 Fees and fees graphic to increase fees for approval of continuing education courses and to adopt new fees for the initial issuance of a temporary faculty license for qualified faculty members at a chiropractic college in Texas and for the renewal of a temporary faculty license

(Fee changes have traditionally been part of the agenda under the Executive Committee for this agency instead of the Rules Committee.)

**Action Taken:** The Board voted to adopt the proposed amendments to Rule 75.7 Fees to increase the CE approval fee and to adopt new fees for issuing and renewing a temporary faculty license.

4.4 Consideration of Increase in Salary for Executive Director

This item may be considered in Executive Session if the Board so chooses. The legislature authorized the pay for the Executive Director to be increased from \$61,600 to \$70,000 annually, effective September 1, 2009. The Board must approve the salary increase before the Comptroller's Office will allow it to become effective.

**Action Taken:** The Board voted to increase the pay for Executive Director Glenn Parker to \$70,000 annually, effective September 1, 2009.

4.5 FCLB District IV Meeting In October, 2009

District IV of the Federation of Chiropractic Licensing Boards (FCLB) will meet October 1 – 4, 2009 in Keystone, South Dakota in conjunction with FCLB District I for the annual regional meeting. The Board President and the Executive Director usually attend these meetings on behalf of the Board. Other board members may attend at their own expense. The Board will have the opportunity to review the tentative agenda for the meeting and may direct staff as appropriate.

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

## 5. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE BUSINESS

*Dr. Kathleen Summers, D.C.*

- 5.1 The L& E Committee will make its recommendations to the Board concerning the following requests by applicants for approval to sit for the Jurisprudence Examination:

There are no applicants at this meeting for approval to sit for the Jurisprudence Examination.

**Action Taken:** None. There were no applicants.

- 5.2 Request for Board Recognition of Chiropractic Specialty Group

5.2.1 International Academy of Chiropractic Acupuncture, Inc.

**Action Taken:** None. This item was discussed but was deferred until additional information from other acupuncture groups is received.

- 5.3 Request by Former Licensees to Address the Committee and Board Concerning Possible Re-Licensure (Informal, No Decision Required)

The Texas D.C. licenses for the following two individuals have been revoked by the Board. More than one year has passed since the effective date of the revocations. These individuals have asked for the opportunity to address the Committee and the Board concerning their wishes to be allowed to be re-licensed. Neither has submitted an application for licensure.

5.3.1 Richard Guidry, Licensed Revoked 02/28/2008, Case # 103-004

The L & E Committee will informally hear a request from Richard Guidry as to why he should have his DC license reinstated. Mr. Guidry's license is currently revoked.

**Action Taken:** None.

5.3.2 Mark Darner, Licensed Revoked 07/12/2002, Case # 101-664

The L & E Committee will informally hear a request from Mark Darner as to why he should have his DC license reinstated. Mr. Guidry's license is currently revoked.

**Action Taken:** None.

- 5.4 Consideration of agency's current continuing education requirements, continuing education approval process, strengths and weaknesses, and possible ways to increase the effectiveness of required continuing

education. The L&E Committee may chose to make recommendations to the Rules Committee to consider changes to the Continuing Education rules (Rules §73.3, §73.5 and §73.7).

**Action Taken:** None. The L&E Committee will develop recommendations concerning continuing education for the next board meeting.

- 5.5 Consideration of the Board's current requirement in Rule 73.3 (a) (2) (A) (iii) that D.C. licensees annually complete a Board-approved continuing education course of at least one hour's length in recordkeeping, documentation and coding. The L&E Committee may chose to make recommendations to the Rules Committee to consider changes to the Continuing Education rules (Rules §73.3, §73.5 and §73.7).

**Action Taken: None.** The L&E Committee may develop recommendations for consideration at the next board meeting.

## 6. RULES COMMITTEE BUSINESS

*Janette Kurban, D.C.*

- 6.1 Consideration of Previously Proposed New Rules or Rule Amendments Eligible for Adoption

6.1.1 Consideration to adopt previously proposed new Rule §71.15 Recognized Specialties to list the specialty in chiropractic radiology approved by the Board at its meeting on February 26, 2009, and to set forth the qualifications and continuing education requirements for this specialty.

**Action Taken:** The Board voted to adopt previously proposed new Rule 71.15 Recognized Specialties.

6.1.2 Consideration to adopt previously proposed new Rule §76.21 Extensions of Time to delegate to the Executive Director the authority to enter into agreements to modify time limits as provided under the Administrative Procedures Act.

**Action Taken:** The Board voted to adopt previously proposed new Rule 76.21 Extensions of Time.

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

6.2.1 Consideration to propose amendment to Rule 75.17 Scope of Practice to modify language on the use of lasers in §75.17 (e) (2) (K) to allow properly trained DCs and their employees to use any class of laser up to and including Class IV to treat patients, if appropriate, for conditions within chiropractic scope of practice in Texas

**Action Taken:** The Board voted to publish the proposed amendments to Rule 75.17 Scope of Practice in the Texas Register for public review and comments.

- 6.2.2 Consideration to propose new Rule §75.13 Temporary Faculty License for qualified faculty at Parker College of Chiropractic or Texas Chiropractic College in accordance with TOC 201.308 as amended by HB 3450.

**Action Taken:** The Board voted to publish proposed new Rule 75.13 in the Texas Register for public review and comment.

6.3 Scope of Practice Questions and Issues

- 6.3.1 Question #1 from a D.C re: Vestibular-Occular-Nystagmus Testing:

*“Is Vestibular assessment including videonystagmography (VNG), electronystagmography (ENG) and/or electronic balance screening to evaluate posture/joint positional controls within Scope of Chiropractic in the State of Texas? If not, are the listed diagnostic evaluations within Scope of Board Certified Chiropractic Neurologist(s) and similarly trained Chiropractors in the State of Texas?”*

Explanatory materials were included with the question and copies are in board member notebooks. This question was deferred at the previous board meeting to allow time to request or review additional information.

**Action Taken:** The Board directed counsel and staff to draft a rule change for Rule 75.17 Scope of Practice concerning Vestibular-Ocular-Nystagmus testing for consideration at the next board meeting.

- 6.3.2 Question from Board re: Spinal Screening/Scoliosis Screening – Who may perform spinal screening in a chiropractic clinic or any other setting for a licensed DC and under what circumstances? Can this task be delegated to a non-DC?

**Action Taken:** Board directed counsel and staff to draft a proposed rule to govern spinal screening for consideration at the November board meeting.

6.4 Update on other issues under consideration by the Committee

Dr. Kurban will update the Board on other issues before the Rule Committee but the Board will not take any action on those issues.

**Action Taken:** None.

## 7. ENFORCEMENT COMMITTEE BUSINESS

*Dr. Cynthia Tays, D.C.*

### 7.1 Consideration of SOAH Proposals for Decisions

There are no SOAH Proposals for Decisions at this meeting.

**Action Taken:** None

### 7.2 Consideration of Accepted Agreed Orders: The Board will consider approval of the following Agreed Orders that have been recommended by the Enforcement Committee and accepted by the Respondents.

- 7.2.1 Case # 106-193
- 7.2.2 Case # 107-158
- 7.2.3 Case # 107-178
- 7.2.4 Case # 108-133
- 7.2.5 Case # 108-138
- 7.2.6 Case # 109-014
- 7.2.7 Case # 109-027
- 7.2.8 Case # 109-032
- 7.2.9 Case # 109-033
- 7.2.10 Case # 109-037
- 7.2.11 Case # 109-038
- 7.2.12 Case # 109-048
- 7.2.13 Case # 109-055
- 7.2.14 Case # 109-062
- 7.2.15 Case # 109-066
- 7.2.16 Case # 109-095
- 7.2.17 Case # 109-097
- 7.2.18 Case # 109-106
- 7.2.19 Case # 109-119
- 7.2.20 Case # 109-120

**Action Taken:** The Board voted to accept all of the Proposed Agreed Orders for the cases listed above in Items 7.2.1 through 7.2.20.

### 7.3 Recommendations to Approve or Deny Requests to Expunge Records

- 7.3.1 Case # 101-124 Recommendation to approve
- 7.3.2 Case # 103-233 Recommendation to deny
- 7.3.3 Case # 104-050 Recommendation to approve

**Action Taken:** The Board voted to approve the requests to expunge the records for Case #101-124 and 104-050, and to deny the request to expunge the records for Case #103-233, which did not meet the board's qualifications to expunge a record.

### 7.4 Statutory Revocations for Felony Convictions and Imprisonment

- 7.4.1 Case # 109-203 Danny Doyle, D.C., Lic # 02433

**Action Taken:** The Board voted to revoke the license of Danny Doyle, DC license #02433.

## **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
- 8.2 Consideration of Increase in Salary for Executive Director

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

**Action Taken:** None.

## **9. CALL FOR FUTURE ITEMS** for discussion and/or consideration by the Board

*Dr. Kenneth Perkins, D.C.*

**Action Taken:** None.

## **10. MEETING DATES & ADJOURNMENT**

*Dr. Kenneth Perkins, D.C.*

10.1 The remaining Board meeting dates for Calendar Years 2009 and 2010 are:

- (1) November 12, 2009
- (2) February 18, 2010
- (3) May 20, 2010
- (4) August 12, 2010
- (5) November 4, 2010

\*Note: All board meeting dates through 2014 may be found on the agency's website (under "Calendar") at: [www.tbce.state.tx.us](http://www.tbce.state.tx.us). All dates are tentative until posted in the Texas Register.

10.2 The next Enforcement Committee dates are scheduled for:

- (1) August 13, 2009 (with full board meeting)
- (2) September 15, 2009
- (3) October 20, 2009
- (4) November 12, 2009 (with full board meeting)
- (5) November 17, 2009
- (6) December – no meeting scheduled

10.3 Adjournment at: \_\_\_\_\_2:35\_\_\_\_\_ PM.

**Action Taken:** Dr. Perkins reminded the members of the dates of future meetings and adjourned the board meeting at 2:35 p.m.

**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 13, 2009 were approved by the Texas Board of Chiropractic Examiners at its next regularly scheduled board meeting held on November 12, 2009.

\_\_\_\_\_  
Glenn Parker  
Executive Director  
Texas Board of Chiropractic Examiners

\_\_\_\_\_  
November 12, 2009

Date