

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

BOARD MEETING: 1:00 p.m. – Adjournment
Hobby Building, Tower 3, Room 102

**MINUTES FROM THE
October 14, 2015
BOARD MEETING**

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

Call to Order, Roll Call and Establishment of a Quorum. Vote as necessary on excusing any absent board members.

Action Taken: Board President Cynthia Tays, DC called the meeting to order at 1:06 pm and called the roll. All board members were present with the exception of Anne Boatright, Dr. Riggs, and Dr. Thomas and a quorum was announced. The absent board members were deemed excused.

Others present were:

Joe Thrash, Assistant Attorney General
Bryan Snoddy, Interim Executive Director
Jo Manning, Executive Assistant
Scott Parker, Director of Compliance and Investigations
Mary Feys, Compliance and Investigation Administrative Assistant
Jennifer Hertsenberg, Director of Licensure
Sarah Matthews, Licensure Assistant
Larry Montgomery, Member
Kenya Woodruff, Vice-President
James Cogburn, CFO

2. APPROVAL OF MINUTES

Approval of Minutes from the August 20, 2015 Board Meeting

Action Taken: Mr. Steinberg **MOVED** and Dr. Montgomery **SECONDED** approval of the minutes from the August 20, 2015 Board Meeting. After consideration, the Board **APPROVED** the motion.

3. PUBLIC COMMENTS

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

Action Taken: No action taken.

4. EXECUTIVE COMMITTEE BUSINESS

Cynthia Tays, D.C.

4.1 President's Report

Dr. Cynthia Tays may make a brief oral report to the Board on matters of current interest, including committee assignments.

Action Taken: Dr. Tays discussed the FCLB District Meeting that was held in early October and Dr. Campion shared from her experience. The 2016 meeting may be held in Austin.

4.2 Executive Director's Report

Interim Executive Director Bryan Snoddy shared recent agency activities which included the newly launched TBCE website which was built by Nikell Williams, our Programmer Analyst. He announced the title change for the Enforcement Division is now the "Compliance and Investigations Division". The "Enforcement Committee" name will remain the same. Bryan also recognized the new Executive Director, Patricia Gilbert, who will officially assume her role on November 2.

Bryan and the Directors answered questions from the Board members concerning agency operations, legislative issues and other matters of concern to the Board.

4.2.1 Chief Financial Officer's Report

Chief Financial Officer, James Cogburn, presented written and oral reports to the Board concerning the final quarter of 2015, annual financial reports and other matters of financial importance to the Board which included collections, revenues, deposits and fund balance.

4.2.2 Director of Licensure and Education's Report

Director of Licensure and Education, Jennifer Hertsberg, presented written and oral reports to the Board concerning licensure and education metrics for the final quarter of 2015 and an overview of the annual metrics in comparison to the previous year.

4.2.4 Director of Compliance and Investigations Report

Director of Compliance and Investigations, Scott Parker, presented written and oral reports to the Board concerning metrics on the compliance actions taken during the final quarter of 2015 and an overview of the annual metrics in comparison to the previous year.

Action Taken: No action taken.

4.3 Discussion of Sunset Self-Evaluation Report

The Board discussed the agency's Sunset Self-Evaluation Report and Mr. Snoddy reported that the Sunset process will begin in April, with the review process in May and conclude in October of 2016.

Action Taken: No action taken.

4.4 Approval of Contracts

There were no contracts to review or approve.

Action Taken: No action taken.

4.5 Outstanding Board Member Discussion

Dr. Tays has been in contact with the Governor's office (appointment office) concerning new Board member appointments and learned that they don't have anyone to fill the vacancies right now. Outgoing Board members Dr. Larry Montgomery, Dr. Patrick Thomas, and Ms. Anne Boatright terms all expired in February. Dr. Montgomery was in attendance today.

Action Taken: No action taken.

5. EXECUTIVE SESSION

5.1 The Board may meet in Executive Session

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 and General Counsel concerning pending or contemplated litigation and settlement offers including but not limited to:

5.1.1 Texas Medical Association lawsuit against the Board, including remand, concerning Diagnosis.

5.1.2 Texas Medical Association lawsuit against the Board regarding Rule 75.17 Scope allowing DCs to perform Vestibular-Ocular-

Nystagmus testing and challenge to diagnosis, as well as TMA challenge to definitions of "musculoskeletal system" and "subluxation complex."

5.1.3 Texas Association of Acupuncture and Oriental Medicine lawsuit against the Board, including appeal, regarding the Board allowing certain chiropractors to perform acupuncture within scope of practice.

5.2 The Board may meet in Executive Session for deliberation on the appointment, employment, evaluation, or duties of the Executive Director, pursuant to Section 551.074, Government Code.

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

Action Taken: None. The Board went into Executive Session at 1:33 PM and reconvened in Open Session at 1:51 PM.

6. CONSIDERATION OF MOTIONS RELATED TO ITEMS DISCUSSED IN EXECUTIVE SESSION

Board members will have the opportunity to offer motions related to any items discussed in Executive Session.

6.1 Consideration of Motions Related to Executive Session

Action Taken: No action taken.

7. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE BUSINESS

7.1 Discussion and comments from Committee Chair concerning Committee business, activities or issues. Additionally, the Committee will discuss the utilization of PACE for approval of proposed continuing education programs.

Action Taken: None.

8. RULES COMMITTEE BUSINESS

8.1 Discussion and Consideration of Rule Amendments and Repeals

8.1.1 Discussion and consideration to adopt amendments to Rule 78.8, 79.2, and 79.10 to permit service by electronic-mail upon agreement by the licensee/facility owner/respondent.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried.

8.1.2 Discussion and consideration to adopt amendment to Rule 78.6(a) (Required Fees and Charges) and associated amendments to Rules 72.2, 73.3, and 74.2.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried.

8.1.3 Discussion and consideration to adopt amended rules pursuant to statutory provisions concerning Licensing of Military Service Member, Military Veterans, and Military Spouses.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried.

8.1.4 Discussion and consideration to propose amendment to Rule 77.10 (Rules to Prevent Fraud).

Action Taken: The Rules Committee **MOVED** to adopt the amendment with changes. Mr. Steinberg **SECONDED**. The motion carried.

8.1.5 Discussion and consideration to adopt amendment to Rule 78.8 (Complaint Procedures) and associated rule 78.16.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried with changes.

8.1.6 Discussion and consideration to adopt amendment to Rule 78.10(b) (Schedule of Sanctions).

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Dr. Campion **SECONDED**. The motion carried.

8.1.7 Discussion and consideration to adopt amendment to Rule 77.7 (Request for Information and Records from Licensees).

Action Taken: The Rules Committee **MOVED** to adopt the amendment with changes. Dr. Campion **SECONDED**. The motion carried.

8.1.8 Discussion and consideration to adopt new rule to Chapter 80, concerning General Regulatory Provisions – Job Notices and Training, as required by House Bill 3337.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried.

8.1.9 Discussion and consideration to adopt amendment to Rule to Chapter 80.5, concerning General Regulatory Provisions – Contract Monitoring, as required by Senate Bill 20.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried.

8.1.10 Discussion and consideration to adopt a new Rule 75.8 to Chapter 75, concerning Licenses and Renewals, as required by Occupations Code 112.051.

Action Taken: The Rules Committee **MOVED** to adopt the amendment. Mr. Steinberg **SECONDED**. The motion carried.

8.1.11 Discussion and consideration to adopt a new rules to Chapter 77, concerning obstruction of Board proceedings.

Action Taken: The Rules Committee **MOVED** to publish the amendment for proposal. Mr. Steinberg **SECONDED**. The motion carried.

8.1.12 Discussion and consideration to propose amendment to Rules 73.4 and 75.1 to require maintenance of an electronic-mail address for official communication purposes.

Action Taken: The Rules Committee **MOVED** to publish the rule amendment. Dr. Campion **SECONDED**. The motion carried.

8.1.13 Discussion and consideration of Rule Review for Chapter 73.

Action Taken: No action taken. The Rules Committee will evaluate in February 2016 after further review.

9. ENFORCEMENT COMMITTEE BUSINESS

9.1 Consideration of Accepted Agreed Orders. The Board will receive a report from the Enforcement Committee concerning Agreed Orders that have been recommended by the Enforcement Committee and

accepted by the Respondents pursuant to the Chiropractic Act §201.554.

- 9.1.1 Case #2014-018
- 9.1.2 Case #2014-126
- 9.1.3 Case #2015-081
- 9.1.4 Case #2015-116
- 9.1.5 Case #2015-155
- 9.1.6 Case #2015-181
- 9.1.7 Case #2015-202
- 9.1.8 Case #2015-205

Action Taken: Dr. Champion **MOVED** and Dr. Montgomery **SECONDED** to approve the Agreed Orders listed in Agenda Items 9.1.1-9.1.8. After consideration, the Board **APPROVED** the motion.

9.2 Consideration of Requests to Expunge Records

- 9.2.1 Case #2013-085
- 9.2.2 Case #2013-102

Action Taken: Dr. Champion **MOVED** and Dr. Montgomery **SECONDED** to deny the expungements based of failure to meet criteria. After consideration, the Board **APPROVED** the motion.

9.3 Consideration of Board Orders

- 9.3.1 Case #2014-256

Action Taken: Dr. Champion **MOVED** and Dr. Montgomery **SECONDED** to approve this Board Order. After consideration, the Board **APPROVED** the motion.

9.4 Consideration of Cease and Desist Orders

- 9.4.1 Case #2014-243
- 9.4.2 Case #2015-248
- 9.4.3 Case #2015-258

Action Taken: Dr. Champion **MOVED** and Ms. Woodruff **SECONDED** to approve the Cease and Desist Orders in Agenda Items 9.4.1-9.4.3. After consideration, the Board **APPROVED** the motion.

9.5 Discussion and comments from Committee Chair concerning Committee business, activities or issues.

10. MISCELLANEOUS

10.1 Call for future items for discussion and/or consideration by the Board

Action Taken: No action.

10.2 Future Meeting Dates

The planned Board meeting dates for Calendar Year 2016 are:

February 18, 2016
May 17, 2016 (TUESDAY)
August 18, 2016
November 17, 2016

**Note: All planned board meeting dates after November 2016 may be found on the agency's website (under "Calendar") at: www.tbce.state.tx.us. All dates are tentative until posted in the Texas Register.*

The next Enforcement Committee date, apart from the Board meetings, are scheduled for:

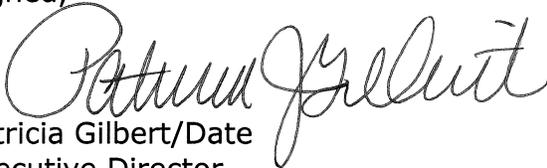
January 12, 2016

Action Taken: The Board changed the November 18, 2015, Enforcement meeting date from November 18, 2015 to January 12, 2016.

10.3 Adjournment at: 2:26 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 October 14, 2015 were approved by the Texas Board of Chiropractic Examiners at its next regularly scheduled board meeting held on February 18, 2016.

Signed,



Patricia Gilbert/Date
Executive Director

Texas Board of Chiropractic Examiners