

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

BOARD MEETING: 1:00 p.m. – Adjournment
Committee Meetings: 9:00 a.m. – Noon
Hobby Building, Tower 2, Room 225

Thursday, November 17, 2016

BOARD MEETING MINUTES

The Texas Board of Chiropractic Examiners met on November 17, 2016 to consider and act, as necessary, on matters within the jurisdiction of the Board, which are listed on the agenda established for this meeting.

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

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

Action Taken: Board President Mark Bronson, DC called the meeting to order at 1:00 pm and called the roll. A quorum was announced. The absent board members were deemed excused.

Others present were:

Kenya Woodruff, Vice-President
Dr. Karen Campion, Member
Gus Ramirez, Public Member
Dr. Riggs, Member
Dr. Amy Gonzalez, Member
John Steinberg, Public Member
Dr. Tays, Member
Dr. Baucum, Member
Patricia Gilbert, Executive Director
Harold Lillar, Assistant Attorney General
Courtney Ebeier, General Counsel
Scott Stalnaker, Legal Assistant
Lisa Agarwal, Executive Assistant
Scott Parker, Director of Compliance & Investigations
Mary Feys, Compliance Specialist
Jennifer Hertsenberg, Operations Manager
Sarah Matthews, License & Permit Specialist
Norma Rodriguez, Investigator
Bob Lawson, Investigator
Michael Campos, Investigator

2. APPROVAL OF MINUTES

Approval of minutes from the August 18, 2016 Board Meeting.

Action Taken: John Steinberg **MOVED** and Gus Ramirez **SECONDED** approval of the minutes from the August 18, 2016, 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. AGENCY & BOARD UPDATES.

4.1 President's Report.

Dr. Mark Bronson made a brief oral report to the Board on matters of current interest including high standards for the profession, professional courtesy, fingerprint requirements for chiropractors, the use of peer review by the Enforcement Committee, Committee assignments, the possible use of continuing education from other medical providers to promote the profession and better patient care. He also mentioned a Stakeholder meeting scheduled for December 7, 2016.

Action Taken: No action taken.

4.2 Executive Director's Report.

The executive and staff directors presented written and oral reports to the Board concerning matters relevant to each department. The Executive Director discussed the Sunset process as it applies to the Board, proposed and other Rules changes and the need to require all chiropractors that have not done so to provide finger prints to the Board.

The Director answered questions from the Board members concerning: agency operations, legislative issues, financial considerations, case closure rates, the 2017 Budget, funds collected; any loss of fees paid to the Board if facilities will no longer be registered; retaining the current structure of the Enforcement Committee, pursuant to the chiropractic statute, but conducting the Licensing Committee and Rules Committee meetings as committees of the whole Board; and other matters of concern to the Board.

Action Taken: Welcomed Arlethia Middleton back.

4.3 Board Member & Committee Assignments.

The Board discussed appointments of future Board members and new committee chairs and rotation.

Action Taken: Dr. Bronson assigned Mr. Gus Ramirez to the Rules Committee. Dr. Baucum was assigned to the Licensure and Education Committee. Dr. Bronson assigned himself to the Enforcement Committee.

5. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE BUSINESS

5.1 Request to Sit for the Texas Jurisprudence Examination

5.1.1 Carroll Green, New Applicant

Action Taken: Kenya Woodruff **MOVED** to approve applicant to sit for the Jurisprudence Exam, but require her to be supervised for two years by a Board approved chiropractor who will provide quarterly reports to the Board, and John Riggs, DC **SECONDED** approval of Carroll Green sitting for the Jurisprudence Exam. After consideration, the Board **APPROVED** the motion.

5.1.2 Brian Gore, New Applicant

Action Taken: Kenya Woodruff **MOVED** and Nick Baucum, DC **SECONDED** approval of Brian Gore sitting for the Jurisprudence Exam. After consideration, the Board **APPROVED** the motion.

5.1.3 Casey Sanders, New Applicant

Action Taken: Kenya Woodruff **MOVED** and John Steinberg **SECONDED** approval of Casey Sanders sitting for the Jurisprudence Exam. After consideration, the Board **APPROVED** the motion.

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

Action Taken: No action taken.

6. ENFORCEMENT COMMITTEE BUSINESS

6.1 Consideration of Accepted Agreed Orders. The Board received a report from the Enforcement Committee concerning Agreed Orders that had been recommended by the Enforcement Committee and accepted by the Respondents pursuant to the Chiropractic Act §201.554.

6.1.1 Consideration of Agreed Order for Case #2015-157.

6.1.2 Consideration of Agreed Order for Case #2015-183.

6.1.3 Consideration of Agreed Order for Case #2015-274.

6.1.4 Consideration of Agreed Order for Case #2015-287.

6.1.5 Consideration of Agreed Order for Case #2016-137.

6.1.6 Consideration of Agreed Order for Case #2016-151.

6.1.7 Consideration of Agreed Order for Case #2016-190.

6.1.8 Consideration of Agreed Order for Case #2016-194.

6.1.9 Consideration of Agreed Order for Case #2016-197.

6.1.10 Consideration of Agreed Order for Case #2016-228.

6.1.11 Consideration of Agreed Order for Case #2016-236.

6.1.12 Consideration of Agreed Order for Case #2016-254.

6.1.13 Consideration of Agreed Order for Case #2016-298.

Action Taken: Kenya Woodruff **MOVED** and John Steinberg **SECONDED** to approve the Agreed Orders listed in Agenda Items 6.1.1-6.1.13. After consideration, the Board **APPROVED** the motion.

6.2 Consideration of Requests to Expunge Records.

6.2.1 Consideration of Requests to Expunge Record for Case #103-177.

6.2.2 Consideration of Requests to Expunge Record for Case #106-165.

Action Taken: Cynthia Tays, DC **MOVED** and Amy Gonzalez **SECONDED** to approve the Expungements of Agreed Orders listed in Agenda Items 6.1.1-6.1.2. After consideration, the Board **APPROVED** the motion.

6.3 Consideration of Cease and Desist Orders.

6.3.1 Consideration of Cease and Desist Order for Case #2016-235.

6.3.2 Consideration of Cease and Desist Order for Case #2016-251.

6.3.3 Consideration of Cease and Desist Order for Case #2016-265.

6.3.4 Consideration of Cease and Desist Order for Case #2016-270.

Action Taken: Karen Campion, DC **MOVED** and Cynthia Tays, DC **SECONDED** to approve the Cease and Desist Orders listed in Agenda Items 6.3.1-6.3.4. After consideration, the Board **APPROVED** the motion.

6.4 Consideration of Order of Revocation.

6.4.1 Consideration of Order of Revocation for Case #2016-303.

Action Taken: No action taken.

6.5 Consideration of Order of Suspension.

6.5.1 Consideration of Order of Suspension for Case #2016-303.

Action Taken: Karen Campion, DC **MOVED** and Cynthia Tays, DC **SECONDED** to approve the Order of Suspension listed in Agenda Items 6.5.1. After consideration, the Board **APPROVED** the motion.

6.6 Consideration of Final Orders to approve administrative penalties.

6.6.1 Consideration of administrative penalty pursuant to a default order granted by an administrative law judge for Case #2016-109.

Action Taken: Amy Gonzalez, DC **MOVED** and Karen Campion, DC **SECONDED** to approve the Final Order listed in Agenda Items 6.6.1. After consideration, the Board **APPROVED** the motion.

6.7 Consideration of delegation of authority to the Executive Director.

6.7.1 Consideration of modification of delegation of authority from Enforcement Committee to the Executive Director.

Action Taken: No action taken.

6.8 Comments from Enforcement Chair on any Committee business, activities or issues.

7. RULES COMMITTEE BUSINESS

7.1 Discussion and Consideration of Rule Amendments.

7.1.1 Discussion and consideration of proposed Rule Review for Chapter 75 (Licenses and Renewals).

Action Taken: Kenya Woodruff **MOVED** and Gus Ramirez **SECONDED** to approve the Rule Amendment listed in Agenda Items 7.1.1. After consideration, the Board **APPROVED** the motion.

7.1.2 Discussion and consideration to propose amendment to Rule 78.1 (Grossly Unprofessional Conduct).

Action Taken: Karen Champion, DC **MOVED** and John Steinberg **SECONDED** to approve the Rule Amendment listed in Agenda Items 7.1.2. After consideration, the Board **APPROVED** the motion.

7.1.3 Discussion and consideration to propose amendment to Rule 78.2 (Proper Diligence and Efficient Practice of Chiropractic).

Action Taken: John Steinberg **MOVED** and John Riggs, DC **SECONDED** to approve the Rule Amendment listed in Agenda Items 7.1.3. After consideration, the Board **APPROVED** the motion.

7.1.4 Discussion and consideration to propose amendment to Rule 78.10 (Schedule of Sanctions).

Action Taken: Kenya Woodruff **MOVED** and John Riggs, DC **SECONDED** to approve the Rule Amendment listed in Agenda Items 7.1.4. After consideration, the Board **APPROVED** the motion.

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

Action Taken: No action taken.

8. EXECUTIVE SESSION

The Board met in Executive Session for consultation with counsel pursuant to Section 551.071, Government Code, wherein the Board and essential staff received a briefing from assigned Assistant Attorney General and General Counsel concerning pending or contemplated litigation and settlement offers including but not limited to:

Texas Medical Association lawsuit against the Board regarding Rule 78.13 Scope of Practice allowing DCs to perform Vestibular-Ocular-Nystagmus

testing; challenge to diagnosis, and to definitions of "musculoskeletal system" and "subluxation complex."

The Board reconvened in open session after Executive Session to vote on items considered in Executive Session as necessary, including deliberation on the evaluation and salary of the Executive Director, pursuant to Section 551.074 Government Code.

Action Taken: No action taken.

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

Board members offered motions related to items discussed in Executive Session.

Consideration of Motions Related to Executive Session.

Action Taken: Karen Campion, DC, **MOVED** and Amy Gonzalez, DC, **SECONDED** to appeal the final decision in *TMA v. TBCE*, D-1-GN-11-000326 as discussed in executive session; After consideration, the Board **APPROVED** the motion.

Action Taken: John Steinberg **MOVED** to increase the Executive Director's salary to a standard consistent with other occupational licensing agencies, **SECONDED** by Amy Gonzalez, DC as discussed in Executive Session. After consideration, the Board **APPROVED** the motion.

10. NOMINATION AND VOTING FOR OFFICERS OF THE BOARD

10.1 Nomination for Vice President.

10.1.1 Vote.

Action Taken: John Steinberg **MOVED** and Gus Ramirez **SECONDED** to have Karen Campion, DC, for Vice President listed in Agenda Items 10.1.1. After consideration, the Board **APPROVED** the motion.

10.2 Nomination for Secretary.

10.2.1 Vote.

Action Taken: **Action Taken:** Karen Campion, DC **MOVED** and Gus Ramirez **SECONDED** Amy Gonzales, DC, for Secretary listed in Agenda Items 10.2.1. After consideration, the Board **APPROVED** the motion.

11. MISCELLANEOUS

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

Future meeting dates.

The planned Board meeting dates for calendar year 2017 are subject to change:

February 16, 2017
May 18, 2017

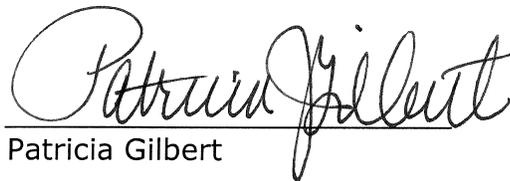
Future Enforcement Committee dates:

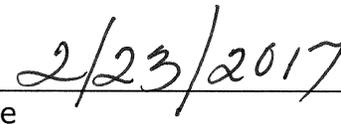
February 15, 2017
May 17, 2017

Note: All future board meeting dates may be found on the agency's website www.tbce.state.tx.us under "About us," "Calendar."
All dates are tentative until posted in the Texas Register.

Adjournment at: 3:38 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. The minutes from the Board Meeting held on November 17, 2016 were approved by the Texas Board of Chiropractic Examiners at its regularly scheduled Board meeting held on February 16, 2017.


Patricia Gilbert


Date

Executive Director
Texas Board of Chiropractic Examiners