

Texas Board of Chiropractic Examiners

Thursday, February 20, 2020

BOARD MEETING: 9:00 A.M. – Final Adjournment at 2:10 P.M.

William P. Hobby Building
333 Guadalupe St., Tower 2, Room 225
Austin, Texas 78701

BOARD MEETING MINUTES

The Texas Board of Chiropractic Examiners (Board) met on February 20, 2020, 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, & Vote On Absences:

Action Taken: Board President Mark Bronson, D.C., called the meeting to order at **9:00 A.M.** Board Secretary Scott Wofford, D.C., called the roll. Six Board Members were present.

Present Members:

Mark Bronson, D.C.
Michael Henry, D.C.
Scott Wofford, D.C.
Nicholas Baucum, D.C.
Mindy Neal, D.C.
Debra White, D.C.

Ebony Todd, J.D., Public Member

(Ms. Todd was not present during the roll call or approval of the minutes from the previous meeting. She arrived during Agenda Item 62. See below on page 2.)

Absent Members:

John Steinberg, Public Member
Gus Ramirez, Public Member

Board Staff Present:

Patrick Fortner, Executive Director
Christopher Burnett, General Counsel
Jennifer Hertsberg, Director of Operations
Sarah Matthews, Director of Licensing
Norma Rodriguez, Director of Enforcement
James Elliott, Field Investigator, Dallas
Joseph McLaughlin, Staff Attorney
Andres Orantes, Compliance Assistant/Investigator

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A quorum was announced by Dr. Bronson with 6 members of the 9 person Board present.

2. Discussion and Approval of the Minutes for the Board Meeting Held on September 12, 2019:

Action Taken: WOFFORD MOVED and NEAL SECONDED to approve the minutes from the September 12, 2019, Board Meeting. The Board **APPROVED** the motion unanimously.

62. Closed Session:

Action Taken: The Board entered a closed session pursuant to Texas Government Code §551.071 to receive updates from legal counsel concerning litigation from **9:03 A.M.** until **9:42 A.M.** All others present left the meeting room.

NOTE: At 9:39 A.M., Ms. Todd entered the meeting and 7 Board Members were now present.

Action Taken: Dr. Bronson reconvened the open meeting at **9:43 A.M.**

63. Discussion on Any Matters Discussed in Closed Session Under Agenda Item 62:

Nothing from the Closed Session was discussed.

3. President's Report:

Dr. Bronson discussed the Board's imperative to address changes in the chiropractic profession. These include the potential for the use of telehealth and the increase in interest in the use of stem cell therapy as it relates to the chiropractic scope of practice. Dr. Bronson noted that a stakeholder meeting was planned for April 1, 2020, on stem cell therapy.

He also reviewed some of the activities since the last Board meeting. These included the Federation of Chiropractic Licensing Boards (F.C.L.B.) Districts 1 and 4 meetings on October 3-6, 2019, and the November 15-17, 2019, proctoring of the Fall National Board of Chiropractic Examiners (N.B.C.E.) Part 4 Exam. He noted that on December 16, 2019, he was appointed to the F.C.L.B.'s Finance and Audit Committee.

Dr. Bronson noted Ms. Todd's presence at this time.

Dr. Bronson then previewed future activities. He noted that on April 22-25, F.C.L.B. would have its annual educational conference and described many of the presentations that would be made. He noted that the proctoring of the Spring N.B.C.E. Part 4 Exam would be on May 15-17, 2020. Finally, he noted that the Board Member's personal financial disclosures were due to the Texas Ethics Commission in April.

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4. Staff Reports:

a. Executive Director: Mr. Fortner spoke on the following topics-

- Mr. Fortner discussed the Staff's work on the next Strategic Plan. Budget structure changes are due to the Legislative Budget Board (L.B.B.) on March 20, 2020. He did not anticipate many changes being necessary. An initial draft of the overall plan will be submitted to the Board in March, with a final draft being considered at the May 2020 Board Meeting for final approval and submission to the L.B.B.
- Mr. Fortner discussed the State Auditor's Office (S.A.O.) Operations Audit. The S.A.O.'s report is due at some point in June.
- Database Update: Staff has now submitted multiple statements of work to the Department of Information Resources (D.I.R.). A meeting with D.I.R. is scheduled for the week of February 24.
- The Texas Facilities Commission (T.F.C.) has provided the Board with an update on the new George H.W. Bush Building. T.F.C. estimates that the Board will be allocated roughly 2,500 square feet of office space.
- The May meeting will be held on May 21, 2020.

b. Director of Licensing: Ms. Matthews spoke on the following topics-

- She compared the first quarters of Fiscal Year 2020 to Fiscal Year 2019 and presented to the Board statistical information regarding license renewals, active, inactive, probated, and suspended licenses, as well as continuing education applications.

c. Director of Operations: Ms. Hertsenberg spoke on the following topics-

- She presented the Board's financial report showing expenditures and revenues for Fiscal Year 2020 through January 28, 2020.

d. Director of Enforcement: Ms. Rodriguez spoke on the following topics-

- The Board has closed 67 cases since September 1, 2019, with an average length of time to close cases at 281 days.

5. Committee Reports:

a. Rules Committee: Dr. Henry spoke on the following topics-

- The Rules Committee is continuing its efforts to clean up the language of the rules and make them more readable. He hopes the process will be completed by May-June of 2020.

b. Licensing Committee: There was no Licensing Committee Report.

c. Education Standards Committee: Dr. White spoke on the following topics-

- She noted that the committee had fully approved 1 Continuing Education (C.E.) classes.

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d. Enforcement Committee: Dr. Baucum spoke on the following topics-

- 37 cases were presented at the Enforcement Committee (E.C.) meeting the day before. Seven of them were closed for insufficient evidence, 1 was closed for lack of evidence, 1 was closed without prejudice to be reopened in the event the respondent reapplied for licensure, and 13 were closed with findings of no violation. Two were forwarded for outside prosecution and 1 was forwarded to the Texas Board of Nursing. In one case, the E.C. instructed staff to issue a Letter of Education and in one case, the E.C. instructed staff to issue a Letter of Warning. In 6 cases, the E.C. instructed staff to issue Cease and Desist letters. The E.C. instructed staff to seek Agreed Orders in 3 cases and to seek revocation of a license in 1 case.
- The E.C. will start conducting teleconferences as needed to help facilitate faster closure of cases.
- The E.C. would like to start using retired law enforcement officers on a contract basis to assist with investigations and with preparing reports. This would help ensure that smaller cases do not fall behind and would free up the Board's full time investigators to focus on the larger and more complex cases. There should be no effect on the Board's budget because some of the money that would be going to a Houston Field Investigator would be used to pay the contract investigators.
- Dr. Baucum noted that the Unprofessional Conduct Rule 79.1 does not address situations where chiropractors behave unprofessionally in non-patient contexts. The E.C. would like the Board to consider potential amendments to that rule to address complaints the Board has received that involve licensee conduct towards staff, other professionals, and insurance companies.
- Dr. Baucum noted that the E.C. and enforcement staff are seeing an increase in cases involving stem cell therapy and an increase in cases alleging unlicensed practice of chiropractic. The Board members discussed the need to petition the Legislature to increase the criminal penalty for unlicensed practice from Class A Misdemeanors to a Felony.

6. Public Comments:

Marli White, D.C. [In her personal capacity]

- Dr. White stated that she had been unaware of the need to obtain an acupuncture permit until being informed by a colleague. She said that she never received any correspondence from the Board informing her of the need to obtain a permit. She requested an extension of the grandfathering period for obtaining an acupuncture permit without being required to pass the N.B.C.E. Acupuncture Exam.
- Dr. Bronson explained that notice of the rule change was made in the Board's newsletters which were emailed to all licensees. All licensees are by rule required to maintain an up-to-date email address with the Board for the purpose of receiving communications from the Board. The Board felt that notice was adequate and that an extension of the grandfathering period would be inappropriate and in any case, was prohibited by the plain language of the rule.

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7. Discussion and Action on Requests to Sit for the Texas Jurisprudence Examination and Appeals of Denials of Acupuncture Permits:

Ms. Matthews presented the following requests to the Board-

a. Mikkel Bahamondes

The staff recommendation was to allow the applicant to take the Texas Jurisprudence Examination and if successfully passed, grant a probationary license for 2 years requiring applicant to submit to random controlled substance screenings at his own expense.

Action Taken: HENRY MOVED and WOFFORD SECONDED to accept the staff recommendation and allow the applicant to take the exam with the noted stipulations. The Board **APPROVED** the motion unanimously.

b. Hai Tien

The staff recommendation was to allow the applicant to take the Texas Jurisprudence Examination with no stipulations.

Action Taken: WOFFORD MOVED and BAUCUM SECONDED to accept the staff recommendation and allow the applicant to take the exam with no stipulations. The Board **APPROVED** the motion unanimously.

c. Joe Zellars

The staff recommendation was to allow the applicant to take the Texas Jurisprudence Examination and if successfully passed, grant a probationary license for 2 years requiring applicant to submit to random controlled substance screenings at his own expense.

Action Taken: HENRY MOVED and NEAL SECONDED to allow the applicant to take the exam with no stipulations. The Board **APPROVED** the motion unanimously.

d. Chris Wright

The staff recommendation was to allow the applicant to take the Texas Jurisprudence Examination and if successfully passed, grant a probationary license for 2 years requiring applicant to submit to random controlled substance screenings at his own expense.

Action Taken: HENRY MOVED and WOFFORD SECONDED to accept the staff recommendation and allow the applicant to take the exam with the noted stipulations. The Board **APPROVED** the motion unanimously.

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- e. Aaron Root, D.C.
- f. Heith Root, D.C.
- g. Stephen Clouthier, D.C.

Mr. Burnett explained that these three licensees were appealing the denial of their acupuncture permits on the grounds that they had not taken and passed the N.B.C.E. Acupuncture Exam and the deadline to be grandfathered in and avoid having to do so had already passed. When the current version of the acupuncture rule was adopted on December 5, 2018, licensees were given three options for obtaining an acupuncture permit. The primary option, which is the only currently available option, was to complete 100 hours of acupuncture training and pass the N.B.C.E. exam. There were two other available options that involved less stringent requirements for those licensees that had already been practicing acupuncture, which were only available until September 1, 2019 (the grandfather provisions). After September 1, 2019, passage of the N.B.C.E. exam became the only method to obtain a permit. Because these three licensees had not done so, and their applications were not received before September 1, 2019, the plain language of the acupuncture rule prohibits the Board from issuing them an acupuncture permit until they have completed the exam.

Mr. Burnett explained that the only way for the Board to issue a permit to someone who had not passed the exam would be to amend the language of the rule.

8. Discussion and Action on Proposed Final Decision (P.F.D.) Orders:

There were no P.F.D. orders for this meeting.

9. Discussion and Action on Proposed Cease and Desist Orders:

Mr. McLaughlin presented the following proposed orders to the Board-

- a. Zachary Joseph Violanti, License No. 13325, TBCE Case No. 2018-141

Action Taken: BAUCUM MOVED and HENRY SECONDED to approve the cease and desist order. The Board APPROVED the motion unanimously.

- b. Leslie Dodoo, unlicensed, TBCE Case No. 2019-008

Action Taken: BAUCUM MOVED and HENRY SECONDED to approve the cease and desist order. The Board APPROVED the motion unanimously.

10. Discussion and Action on Proposed Default Orders:

Mr. McLaughlin presented the following proposed order to the Board-

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a. Benjamin Jimmy Leyva, License No. 12746, TBCE Case No. 2020-040

Action Taken: HENRY MOVED and WHITE SECONDED to approve the default order. The Board **APPROVED** the motion unanimously.

11. Discussion and Action on Proposed Agreed Orders:

These items were tabled until the next meeting.

12. Discussion and Action on Required Revocation of License for Conviction of Certain Offenses:

Mr. McLaughlin presented the following proposed order to the Board-

a. Walker Landen Fletcher, License No. 8813, TBCE Case No. 2018-196

Action Taken: HENRY MOVED and TODD SECONDED to approve the revocation of the license. The Board **APPROVED** the motion unanimously.

13. Discussion of Proposed Draft Resolution Relating to the Nervous System in the Practice of Chiropractic to be Presented to the Federation of Chiropractic Licensing Boards:

Dr. Bronson presented a draft of a resolution proposal to the F.C.L.B. that would be presented at the April 2020 Conference. The resolution points out that a certain number of states have statutory inclusion of nerves in chiropractic practice and that virtually every authoritative definition of chiropractic includes references to the nervous system. It also acknowledges that the musculoskeletal system cannot perform properly and be properly evaluated without taking the nervous system into account. The resolution would have the F.C.L.B. affirm that the nervous system must be considered in proper chiropractic treatment and evaluation of the musculoskeletal system.

14. Discussion of Recent Changes In the Law Relating to Telehealth and the Use of Telehealth in Chiropractic:

Mr. Burnett explained that Chapter 111 had recently been added to the Texas Occupations Code. He noted that Chapter 111 regulates telemedicine and telehealth, but that it does not specify many requirements for practitioners. The law mandates licensees using telehealth do two things: licensees must get informed consent from patients before providing telehealth services, and they must provide the same standard of care as with in-person visits.

Mr. Burnett felt that the Board did not need to engage in any rulemaking on the subject. The Board members agreed that it would be difficult to pursue complaints against out of state licensees filed by Texas consumers and that the best thing to do would be to forward that complaint to the state in which the chiropractor was licensed.

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15. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §71.1:

Mr. Burnett explained that Agenda Items 15 and 16 are intended to delete the definitions in §71.1 and replace them with the substantive provisions in §71.2, thereby removing §71.2 from the Texas Administrative Code.

Action Taken: WOFFORD MOVED and WHITE SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §71.1 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

16. Discussion and Action on Adopting the Proposed Repeal of 22 Texas Administrative Code §71.2:

Action Taken: HENRY MOVED and WOFFORD SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §71.2 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

17. Discussion and Action on Adopting the Proposed Repeal of 22 Texas Administrative Code §72.1:

Mr. Burnett explained that this rule will eventually be replaced with the fee schedule rule.

Action Taken: HENRY MOVED and BAUCUM SECONDED to adopt the repeal of 22 Texas Administrative Code §72.1 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

18. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §72.10:

Mr. Burnett explained that this action would replace the rule regarding Jurisprudence Exam disqualification with a new rule on appealing the denial of a license. No public comments were received on this proposed rule change. Mr. Burnett noted that some non-substantive changes to the proposed language were needed to include acupuncture permits.

Action Taken: BAUCUM MOVED and HENRY SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §72.10 as published in the Texas Register with Mr. Burnett's proposed changes. The Board **APPROVED** the motion unanimously.

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19. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §72.12:

Mr. Burnett explained that this action was a simple rewrite of the criminal history evaluation rule.

Action Taken: WHITE **MOVED** and NEAL **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §72.12 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

20. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §75.1:

Mr. Burnett explained that this action was a simple rewrite of the code of ethics rule and that no public comments were received on the proposal.

Action Taken: BAUCUM **MOVED** and WOFFORD **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §75.1 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

21. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §75.3:

Mr. Burnett explained that this action was a simple rewrite of the fraud prevention rule and that no public comments were received on the proposal.

Action Taken: HENRY **MOVED** and WOFFORD **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §75.3 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

22. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §77.1:

Mr. Burnett explained that this action would remove the superfluous definitions in the advertising rules chapter and would move the substantive provisions of §77.2 into §77.1. The telemarketing provisions of §77.2 would be left in §77.2 and it would be renamed into a standalone rule in Agenda Item 23. Dr. Henry, Ms. Todd, and Ms. Rodriguez discussed some potential non-substantive changes that included removing the proposed subsection (b) and clarification in the proposed subsection (e).

Action Taken: HENRY **MOVED** and TODD **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §77.1 as published in the Texas Register with Dr. Henry's non-substantive changes. The Board **APPROVED** the motion unanimously.

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23. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §77.2:

Mr. Burnett explained that no public comments were received on the proposed changes to this rule.

Action Taken: HENRY MOVED and BAUCUM SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §77.2 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

24. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §77.3:

Mr. Burnett explained that one comment was received providing suggested language which Mr. Burnett felt more clearly explained the rule's requirements without actually making any substantive changes. He suggested that the Board Members vote to adopt the rule with the proposed changes.

Action Taken: HENRY MOVED and NEAL SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §77.3 as published in the Texas Register with the public comment's proposed changes. The Board **APPROVED** the motion unanimously.

25. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §78.2:

Mr. Burnett explained that this action was a simple rewrite of the prohibitions on the scope of practice rule and that no public comments were received on the proposal.

Action Taken: WOFFORD MOVED and BAUCUM SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §78.2 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

26. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §78.3:

Mr. Burnett explained that the purpose of this action and Agenda Item 27 was to split the delegation of authority rule into 2 separate sections. Section 78.3 would cover general delegations to chiropractic assistants and §78.4 would cover delegations to students and recent graduates of chiropractic colleges.

Action Taken: HENRY MOVED and WHITE SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §78.3 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

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27. Discussion and Action on Adopting Proposed New Board Rule 22 Texas Administrative Code §78.4, Delegation to Chiropractic Students and Recent Graduates:

Action Taken: WOFFORD **MOVED** and NEAL **SECONDED** to adopt the new rule 22 Texas Administrative Code §78.4 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

28. Discussion and Action on Adopting the Proposed Repeal of 22 Texas Administrative Code §78.5:

Mr. Burnett explained that this rule was no longer needed as the subject matter was covered in the new §75.2.

Action Taken: WHITE **MOVED** and HENRY **SECONDED** to adopt the repeal of 22 Texas Administrative Code §78.5 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

29. Discussion and Action on Adopting Proposed New Board Rule 22 Texas Administrative Code §78.10, Questions about Scope of Practice:

Mr. Burnett explained that a public comment was received from the Texas Medical Association stating that such a rule was unnecessary and contained potential ad hoc rulemaking implications. Mr. Burnett agreed and recommended to the Board Members that they table this item and let the rule proposal lapse by operation of law after 6 months.

Action Taken: HENRY **MOVED** and NEAL **SECONDED** to table the rule as recommended. The Board **APPROVED** the motion unanimously.

30. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §79.2:

Mr. Burnett explained that this action was a simple rewrite of the lack of diligence rule and that no public comments were received on the proposal.

Action Taken: BAUCUM **MOVED** and HENRY **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §79.2 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

31. Discussion and Action on Adopting the Proposed Repeal and Replacement of 22 Texas Administrative Code §79.4:

Mr. Burnett explained that this action was a simple rewrite of the impaired licensees and applicants rule and that no public comments were received on the proposal.

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Action Taken: HENRY MOVED and WHITE SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §79.4 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

32. Discussion and Action on Adopting Proposed New Board Rule 22 Texas Administrative Code §80.10, Time Limits for Filing Complaints:

Mr. Burnett explained that the purpose of this action was to create a sort of “statute of limitations” for the time to file a complaint with the Board. No public comments were received on the proposal.

Action Taken: HENRY MOVED and WHITE SECONDED to adopt the new rule 22 Texas Administrative Code §80.10 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

33. Discussion and Action on Adopting the Proposed Repeal of 22 Texas Administrative Code §81.1:

Mr. Burnett explained that the purpose of this action was to delete an unnecessary definitions rule.

Action Taken: HENRY MOVED and NEAL SECONDED to adopt the repeal of 22 Texas Administrative Code §81.1 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

34. Discussion and Action on Adopting the Proposed Repeal of 22 Texas Administrative Code §81.3:

Mr. Burnett explained that this action was to intended to move the language of §81.3 to the licensing chapter 72.

Action Taken: WHITE MOVED and BAUCUM SECONDED to adopt the repeal of 22 Texas Administrative Code §81.3 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

35. Discussion and Action on Adopting the Proposed Repeal of 22 Texas Administrative Code §81.11:

Mr. Burnett explained that this action was to repeal an unnecessary rule that already existed in the Administrative Procedures Act and SOAH rules.

Action Taken: HENRY MOVED and NEAL SECONDED to adopt the repeal of 22 Texas Administrative Code §81.11 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

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Action Taken: Dr. Bronson adjourned the meeting for a lunch break at **12:24 P.M.**

Action Taken: Dr. Bronson reconvened the meeting at **1:04 P.M.**

36. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.2:

Mr. Burnett explained that this action was a simple rewrite of the license application rule.

Action Taken: HENRY MOVED and NEAL SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.2 as discussed. The Board **APPROVED** the motion unanimously.

37. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.3:

Mr. Burnett explained that this action was a simple rewrite of the license qualifications rule.

Action Taken: HENRY MOVED and NEAL SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.3 as discussed. The Board **APPROVED** the motion unanimously.

38. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.5:

Mr. Burnett explained that this action was a simple rewrite of the approved schools and colleges rule.

Action Taken: WOFFORD MOVED and HENRY SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.5 as discussed. The Board **APPROVED** the motion unanimously.

39. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.6:

Mr. Burnett explained that this action was a simple rewrite of the exam requirements rule.

Action Taken: HENRY MOVED and TODD SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.6 as discussed. The Board **APPROVED** the motion unanimously.

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40. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.7:

Dr. Henry proposed taking the information regarding the Jurisprudence Examination in §72.6 and move it into §72.7 for clarification purposes. There was general agreement that they should be combined.

Action Taken: TODD MOVED and HENRY SECONDED to reconsider Agenda Item 39. The Board **APPROVED** the motion unanimously.

39. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.6:

Mr. Burnett then recommended that a motion be made to combine the language of §§72.6 and 72.7 into one rule and publish the combined rule in the Texas Register.

Action Taken: HENRY MOVED and NEAL SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §§72.6 and 72.7 with a combined rule as discussed. The Board **APPROVED** the motion unanimously.

41. Discussion and Action on Proposing the Repeal of 22 Texas Administrative Code §72.9:

Mr. Burnett explained that the purpose of this action was to remove a rule that would be made unnecessary by the changes to §§72.6 and 72.7.

Action Taken: HENRY MOVED and BAUCUM SECONDED to propose the repeal of 22 Texas Administrative Code §72.9 as discussed. The Board **APPROVED** the motion unanimously.

42. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.11:

Mr. Burnett explained that this action was a simple rewrite of the temporary faculty license rule.

Action Taken: TODD MOVED and WHITE SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.11 as discussed. The Board **APPROVED** the motion unanimously.

43. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.15:

Mr. Burnett explained that this action was a simple rewrite of the temporary license rule. Dr. Henry and Dr. Wofford felt that the process this proposal would require was probably too

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arduous for applying for a temporary 30 day license. Dr. Henry proposed some changes to the draft Mr. Burnett presented. There was much discussion of what the purpose of this rule was and how it should try to effectuate that purpose. Mr. Burnett recommended that the Board not take any action on this Agenda Item and perhaps reconsider the subject at the May 2020 Board Meeting. Dr. Henry echoed this recommendation and there was unanimous agreement.

44. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.16:

Mr. Burnett explained that this action was a simple rewrite of the inactive status rule.

Action Taken: HENRY **MOVED** and NEAL **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §72.16 as discussed. The Board **APPROVED** the motion unanimously.

45. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.17:

Mr. Burnett explained that this action was a simple rewrite of the fee exemption for charity care rule and repurposes it to address retired licensees.

Action Taken: HENRY **MOVED** and TODD **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §72.17 as discussed. The Board **APPROVED** the motion unanimously.

46. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.20:

Mr. Burnett explained that this action was a simple rewrite of the out-of-state applicants rule.

Action Taken: HENRY **MOVED** and WHITE **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §72.20 as discussed. There was then much discussion of amending the proposed subsection (b). HENRY then **WITHDREW** the motion after further discussion.

Action Taken: HENRY **MOVED** to propose the repeal and replacement of 22 Texas Administrative Code §72.20 with the discussed changes to the presented subsection (b), then revised his motion to strike (b)(1) and (2). TODD **SECONDED**. The Board **APPROVED** the motion unanimously.

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47. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.21:

Mr. Burnett explained that this action was a simple rewrite of the requirements for military spouses rule.

Action Taken: HENRY MOVED and BAUCUM SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.21 as discussed. The Board **APPROVED** the motion unanimously.

48. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §72.22:

Mr. Burnett explained that this action was a simple rewrite of the requirements for military members and veterans rule.

Action Taken: TODD MOVED and WHITE SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §72.22 as discussed. The Board **APPROVED** the motion unanimously.

49. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §73.1:

NOTE: Dr. Wofford stepped out at 1:47 P.M. There were now 6 Board Members present.

Mr. Burnett explained that this action was an attempt to take the existing continuing education requirements rule and expand it into multiple separate rule that address different types of relevant parties. There was some discussion of how to clarify the language to avoid ambiguities.

Action Taken: HENRY MOVED and NEAL SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §73.1 as discussed. The Board **APPROVED** the motion unanimously.

50. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §73.2:

Mr. Burnett explained that this action was a simple rewrite of the failure to meet continuing education requirements rule.

Action Taken: HENRY MOVED and BAUCUM SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §73.2 as discussed. The Board **APPROVED** the motion unanimously.

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51. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §73.3:

Mr. Burnett explained that this proposal would change this rule to state the requirements for sponsors of continuing education courses.

Action Taken: HENRY MOVED and TODD SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §73.3 as discussed. The Board **APPROVED** the motion unanimously.

52. Discussion and Action on Proposing a New Board Rule, 22 Texas Administrative Code §73.4, Requirements for Continuing Education Instructors:

Mr. Burnett explained that this proposal would create a new rule to specify requirements for continuing education instructors.

Action Taken: HENRY MOVED and TODD SECONDED to propose the new rule 22 Texas Administrative Code §73.4 as discussed. The Board **APPROVED** the motion unanimously.

53. Discussion and Action on Proposing a New Board Rule, 22 Texas Administrative Code §73.5, Requirements for Claiming Continuing Education as a National Board Examiner:

Mr. Burnett explained that this proposal would create a new rule to specify requirements for how proctors of the N.B.C.E. Part 4 examination could claim continuing education credit.

Action Taken: TODD MOVED and HENRY SECONDED to propose the new rule 22 Texas Administrative Code §73.5 as discussed. The Board **APPROVED** the motion unanimously.

54. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.2:

Mr. Burnett explained that this proposal was a simple rewrite of the complaint procedures rule.

Action Taken: TODD MOVED and BAUCUM SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §81.2 as discussed. The Board **APPROVED** the motion unanimously.

55. Discussion and Action on Proposing the Repeal of 22 Texas Administrative Code §81.4:

Mr. Burnett explained that the language in §81.4 would be moved to §81.2.

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Action Taken: HENRY **MOVED** and NEAL **SECONDED** to propose the repeal of 22 Texas Administrative Code §81.4 as discussed. The Board **APPROVED** the motion unanimously.

56. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.5:

Mr. Burnett explained that this proposal was a simple rewrite of the SOAH appearance rule.

Action Taken: HENRY **MOVED** and BAUCUM **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §81.5 as discussed. The Board **APPROVED** the motion unanimously.

57. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.6:

Mr. Burnett explained that this proposal was a simple rewrite of the SOAH default judgment rule.

Action Taken: HENRY **MOVED** and TODD **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §81.6 as discussed. The Board **APPROVED** the motion unanimously.

58. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.7:

Mr. Burnett explained that this proposal was a simple rewrite of the SOAH deposition witnesses and subpoenas rule.

Action Taken: WHITE **MOVED** and NEAL **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §81.7 as discussed. The Board **APPROVED** the motion unanimously.

59. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.8:

Mr. Burnett explained that this proposal was a simple rewrite of the SOAH hearing exhibits and record rule.

Action Taken: TODD **MOVED** and HENRY **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §81.8 as discussed. The Board **APPROVED** the motion unanimously.

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60. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.9:

Mr. Burnett explained that this proposal was a simple rewrite of the SOAH PFD rule.

Action Taken: HENRY **MOVED** and WHITE **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §81.9 as discussed. The Board **APPROVED** the motion unanimously.

NOTE: Dr. Wofford returned to the room at this time. There were now 7 Board Members present.

61. Discussion and Action on Proposing the Repeal and Replacement of 22 Texas Administrative Code §81.10:

Mr. Burnett explained that this proposal was a simple rewrite of the Final Board Order rule.

Action Taken: BAUCUM **MOVED** and HENRY **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §81.10 as discussed. The Board **APPROVED** the motion unanimously.

64. Discussion and Action on Nominating Delegates to the National Board of Chiropractic Examiners' Annual Business Meeting:

Action Taken: HENRY **MOVED** and NEAL **SECONDED** to approve Dr. Bronson and Dr. Wofford as the Board's delegate to the N.B.C.E annual business meeting and the F.C.L.B. with Dr. Baucum as alternate. The Board **APPROVED** the motion unanimously.

65. Requests from Board Members for Future Agenda Items:

Dr. Henry requested a report on the results of the April 2020 stakeholder meeting regarding the use of stem cell therapy in chiropractic. Dr. Bronson noted that Board members could be present at the stakeholder meeting but there could not be a quorum. The next Board Meeting was scheduled for May 21, 2020.

66. Adjournment:

Action Taken: NEAL **MOVED** and WOFFORD **SECONDED** to adjourn the meeting at **2:10 P.M.** The Board **APPROVED** the motion unanimously.

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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 date. The minutes from the Board Meeting held on September 12, 2019, were **APPROVED** by the Texas Board of Chiropractic Examiners at its regularly scheduled meeting held on February 20, 2020.



5/15/2020

Patrick Fortner
Executive Director
Texas Board of Chiropractic Examiners

Date