



Texas Chiropractic Board Report

The mission of the Texas Board of Chiropractic Examiners is to execute the statutory authority of the Texas Chiropractic Act and to promote, preserve, and protect the health, safety, and welfare of the people of Texas by licensing skilled professionals and enforcing standards of practice.

April 2015
Volume II, Issue 4

Special Interest Articles:

- Medicare Basics
- CE 101
- Inactive License Updates
- Legislative Session: Bills to Watch
- Solicitation and Texas Law

In this Issue

Medicare Basics	C
ED Message	2
Criminal Convictions	3
Continuing Ed 101	4
Inactive License Update	5
CE for New Licensees	8
Solicitation	9
Have You Moved?	9
Bills to Watch	10
Board Mtg Schedule	10
Bills to Watch	10
Summary of Actions	12
Disciplinary Actions	14
New Licensees	15
Recognition	17
Board Contact Info	18



Medicare & Chiropractic – Back to the Basics

-by Yvette Yarbrough, Executive Director



All chiropractors should have completed eight hours of continuing education in Medicare coding and documentation by now, but many of you still have questions.

This article cannot even begin to scratch the surface of all of the nuances of Medicare practice, so if you have questions, RUN – don't walk – to an attorney who specializes in chiropractic law or a subject matter expert in Medicare coding and documentation. However, a large number of questions we receive deals with a doctor's status with Medicare and how Medicare patients can be seen, so we'll try to provide some clarity in that area here.

Participation

The first thing that needs to be understood is what your relationship to Medicare is. Chiropractors are included within the definition of "physician" under the Medicare statute (Section 1861(s) of the Social Security Act), but chiropractors are differentiated in that you cannot "opt out" of Medicare. You can, however, choose whether to be participating or non-participating. All patients must be informed as to the doctor's status as participating or non-participating.

Participating and non-participating refers to the acceptance of Medicare fee schedules and the assignment of reimbursement of Medicare claims. Under an assignment agreement, the beneficiary transfers to the doctor the beneficiary's right to Medicare benefits for the services rendered, and the doctor accepts the Medicare-approved charge for the services rendered. Thus, participating doctors agree to Medicare's fee-schedule amount as payment-in-full for a given service and they further agree to

(con't on page 6)



**Texas Board of
Chiropractic
Examiners**

BOARD MEMBERS

Dr. Cynthia Tays, DC
Board President
Executive Committee
Chairperson
Austin

Ms. Kenya Woodruff, JD
Board Vice-President
Licensure & Education
Committee Chairperson
Dallas

Dr. Karen Campion, DC
Board Secretary-Treasurer
Enforcement Committee
Chairperson
Bryan

Dr. Larry Montgomery, DC
Rules Committee
Chairperson
Belton

Dr. John Riggs III, DC
Midland

Dr Amy Vavra, DC
Mansfield

Ms. Anne Boatright
Smithville

Mr. John Steinberg
Marion

Yvette Yarbrough, JD
Executive Director

A Message from the Executive Director



Happy Spring!

Hard to believe it is almost Summer and that the bluebonnets have already bloomed. This means the legislative session is in full swing, with about a month left in regular session. It also means that in a few short months, the Sunset Commission staff will begin visiting the Board office, preparing for our Sunset Review. We are busy making sure we put our best foot forward in the meantime.

This issue of the *Board Report* contains some information that I hope proves useful for our licensees. I recently taught the Board-required continuing education hours and received some great Medicare questions, prompting me to write our cover article on Medicare basics. Many, MANY thanks to Kathy Jones with NACA Texas for her input and guidance in getting this crucial information right.

We also have received many questions on advertising, solicitation, and social media platforms like Groupon, so our learned General Counsel has written some guidance for you on this topic. Additionally, our Director of Licensure has answered some questions on changes in licensure rules regarding inactive status and CE. Hopefully these articles will help answer some of the prevalent questions regarding these issues.

The July issue of the *Report* will contain responses to our recent Customer Service Survey sent out via email. Please submit your inputs for our review. If you have not received the survey, we may not have your correct email address on file. Please contact us to update your information.

As always, please let us know if you have any input or questions about the *Board Report*. We look forward to your feedback.

Yvette Yarbrough – Executive Director

The *Texas Chiropractic Board Report* is the official publication of the Texas Board of Chiropractic Examiners. The *Report* is published four times a year: January, April, July, and October. Subscription price within the United States is \$8.00 annually and is included in the cost of license renewal. The publication is not available in hardcopy outside the United States.

Published by: **TEXAS BOARD OF CHIROPRACTIC EXAMINERS**
Publication Office: 333 Guadalupe St, Suite 3-825, Austin, Texas 78701
Phone: 512-305-6700
Fax: 512-305-6705
Publication Date: April 2015

Duty to Report Criminal Convictions

-by Scott Parker, Director of Enforcement



Although it is not common, chiropractors and facility owners, like many other people in the State of Texas, may run afoul of the law and get arrested. The statutes and rules that govern the practice of chiropractic do not require that a chiropractor or facility owner report the arrest; however, any conviction must be disclosed in writing to the TBCE.

Law enforcement agencies and county, state, or federal prosecutors occasionally contact the TBCE regarding an arrest or conviction involving a chiropractor or facility owner. Sadly, at times, this is the first the TBCE has heard about it. The same holds true when we receive newspaper articles or other media coverage involving the arrest or conviction of a chiropractor or facility owner.

Board Rule 78.3 states an applicant for a license or registration from the Board, including an owner with a 10% or more interest in a chiropractic facility, shall disclose in writing to the Board any conviction or deferred adjudication against him or her at the time of application. Rule 78.3 also states a current licensee or registrant including an owner with a 10% or

more interest in a chiropractic facility, shall disclose in writing to the Board any conviction or deferred adjudication against him or her at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier.

The applicant for a license or registration or current licensee or facility owner shall provide certified copies of the indictment or information and the judgment of the court with this notification.

NOTE: When completing a renewal online via *Texas Online* it does not meet the mandatory reporting requirement to check "yes" to the question asking if you were convicted of - or received deferred adjudication for - a criminal offense, excluding a traffic violation, but including any drug or alcohol related offense since your last renewal. **You must report this information in writing to the TBCE separate from your online renewal.**

The Board hopes that all chiropractors and facility owners hold themselves to a high standard and strive to obey all state and federal laws. However, if you do get arrested and ultimately convicted, you must report the conviction to the TBCE in writing and provide court documents.

The statutes and rules that govern the practice are available on the agency website www.tbce.state.tx.us 24 hours a day, 7 days a week. The Board urges all chiropractors and facility owners to review and become familiar with them. The statutes regarding criminal convictions are Texas Occupations Code §53.021 and the Texas Occupations Code / Chiropractic Act §201.502 and §201.5065.

If you have any questions regarding this duty to report, you can contact Scott Parker, Director of Enforcement, at (512) 305-6708 scott@tbce.state.tx.us. ♦

Continuing Education 101

-by Jennifer Hertsenberg, Director of Licensure

A licensee is required to attend continuing education courses as a condition of renewal of an active license unless the licensee has a qualifying exemption such as:

- (1) A licensee who holds an inactive license
- (2) A licensee who served in the regular armed forces of the United States during part of the twelve (12) months immediately preceding the annual license renewal date;
- (3) A licensee who submits proof satisfactory to the board that the licensee suffered a mental or physical illness or disability which prevented the licensee from complying with CE requirements during the twelve (12) months immediately preceding the annual license renewal date; or
- (4) A licensee who is in their first renewal period.

A licensee must complete sixteen (16) hours of approved continuing education each renewal cycle, four (4) of which are in Board-required topics and a one-time eight (8) hour requirement for Medicare. The Board-required topics include a minimum of three (3) hours specifically related to the Board's rules including the Board's code of ethics, recordkeeping, documentation and coding and a minimum of one (1) hour of risk management relating to the practice of chiropractic in Texas. These required hours cannot be taken online, unless the course is offered directly from the TBCE.

No more than six (6) hours may be obtained through online courses. A webinar and/or teleseminar is considered a LIVE course as it is real time and interactive.

Licensees initially licensed **before** September 1, 2012 were required to complete the one-time eight (8) hour Medicare requirement in calendar year 2011 or 2012. Licensees initially licensed on or **after** September 1, 2012 must complete at least eight (8) hours of continuing education in coding and documentation for Medicare claims **no later than their second renewal period.**

The sixteen (16) hours may be completed at any course or seminar chosen by the licensee, as long as the course or seminar has been approved by the Board.

All approved courses can be found on our website at www.tbce.state.tx.us, under the link, "Continuing Education." If the course contains the four (4) Board-required hours and/or the Medicare hours, it will state so in bold, red letters under the course name.

If your hours cannot be verified at the time of renewal, your license will be renewed, but it will be placed in a "CE Conditional" status for up to twelve (12) months. At the conclusion of the twelve (12) months, if you still have not remedied the delinquent CE Hours, your license will be considered expired, backdated to the beginning date of the probationary year and closed for non-renewal. This means that if your license was closed for non-renewal and you wanted it back, you would have to reapply

(con't on page 8)

Inactive License Updates

-by Jennifer Hertsenberg, Director of Licensure

DID YOU KNOW...

- A licensee can renew as inactive for **up to twenty (20) years**.
- A licensee may return to active status after having been on an inactive status for **five (5) years or LESS** by taking and submitting proof of sixteen (16) approved hours of continuing education, including all required hours (TBCE and/or Medicare), with an active renewal form and a cashier's check or money order for the renewal fee. The licensee can then **return to inactive** at the next renewal.
- If a licensee has been inactive for **more than five (5) years**, the licensee can return to active status only upon successfully passing Part IV of the NBCE and the Board's Texas Jurisprudence Examination.

TAC Rule §75.4 states:

(d) To reactivate a license which has been on inactive status for five years or less, a licensee shall, prior to beginning practice in this state:

(1) apply for active status on a form prescribed by the board;

(2) submit written verification of attendance at and completion of continuing education courses as required by §75.5 of this title for the number of hours that would otherwise have been required for renewal of a license. Approved continuing education earned within the calendar year prior to the licensee applying for reactivation may be applied toward the continuing education

(3) pay the Active License Renewal Fee.

(e) A license which has been on inactive status for a period of more than five years may be reactivated only upon successfully passing Part IV of the National Board of Examination and the board's Jurisprudence Examination prior to reactivation. A licensee who has maintained an inactive status with the Board for a period greater than five (5) years may be exempt from compliance with the requirement of this subsection to retake Part IV of the National Board of Examination if they have held an active, unrestricted license in another state or foreign jurisdiction that is held in good standing. In no event shall an inactive status be maintained before this Board in excess of twenty (20) years.

DID YOU KNOW...

- The inactive processing fee for an annual inactive license is \$80.00 as of January 1, 2014. This fee can be paid by cashier's check, money order, or personal/company check.
- An inactive license cannot be processed online.
- The inactive form no longer requires a notarization. However, you are required to state your full name, address, date of birth and attest by signature and date that the information you provide the Board is true and correct.

Agency Licensing & Registration Information through 04/30/15



Number of Chiropractic Doctors	
Active License	5076
CE-Conditional License	366
Expired License	260
Inactive License	607
Non-Renewable License	2384
Probated License	19
Suspended License	3

Number of Chiropractic Facilities	
Active Registration	4218
Expired Registration	166

Number of Radiologic Technologists	
Active Registration	95
Expired Registration	47



Medicare and Chiropractic – Back to the Basics (con't from page 1)

collect the Medicare portion of the payment-in-full directly from Medicare, rather than the patient. (Co-pays and the deductible are still collected from the patient, however.)

Non-participating doctors are those who have not signed a participation agreement with Medicare.

These doctors are enrolled with Medicare but choose to receive payment in a different method and amount than participating doctors.

Non-participating doctors may handle Medicare patients in two ways. First, the non-participating doctor can choose to not accept assignment of benefits and bill the Medicare patient directly for rendered services. In this case, the doctor must still submit a bill to Medicare (CMS 1500) so the patient may be reimbursed for the portion of the charges for which Medicare is responsible. When a non-participating doctor does not accept assignment of benefits, the doctor will be subject to a limiting charge amount for his/her services.

Second, non-participating can sometimes choose on a case-by-case basis to accept assignment of benefits. In this case, the doctor accepts a portion of the Medicare fee schedule amount as payment (currently about 75.5%) and then collects a co-pay from the Medicare patient. The amount paid to the non-participating doctor by the Medicare patient for covered services is reported in Item 29 of the CMS 1500 claim form. The Medicare patient will then be reimbursed (if applicable) prior to Medicare sending payment to the doctor.

A non-participating doctor may not fragment bills by accepting assignment for some services and requesting payment from the Medicare patient for other services performed for that *same patient at the same place on the same occasion*. Whether or not non-participating doctors choose to accept assignment of benefits, the Medicare reimbursement is less than for a participating provider.

Registration with Medicare

It is not advisable (and it may even be illegal) to treat Medicare patients without being first registered with Medicare. This is critical to do as soon as you are licensed. Registration is done via PECOS – the Medicare Provider Enrollment, Chain, and Ownership System – available at <https://pecos.cms.hhs.gov>. Additionally, you must obtain a National Provider Identifier (NPI), which is separate from registering with Medicare, but still required. (You can obtain an NPI number by going to <https://nppes.cms.hhs.gov> or calling 1-800-465-3203 to request an application.)

Which Patients Are Affected?

When a patient walks in your door, the first thing you need to ask is whether they are covered by Part B of Medicare. If they are, you **MUST** follow Medicare billing rules. Again, chiropractors cannot “opt out” of Medicare or choose of their own accord to not file with Medicare for a Medicare patient.

If you are not registered with Medicare, you cannot treat that Medicare patient.

(con't on page 7)



Medicare and Chiropractic – Back to the Basics (con't from page 6)

It is advisable to have some sort of way to identify potential patients and communicate that you do not accept Medicare if you are not registered. Make sure you refer that potential patient to someone who does in fact accept Medicare.

According to Chapter 15 – Covered Medical and Other Health Services, Section 40 (Effect of Beneficiary Agreements Not to Use Medicare Coverage) of the Medicare Benefit Policy Manual, “[t]he **only** situation in which non-opt-out physicians or practitioners...are not required to submit claims to Medicare for covered services is where a beneficiary or the beneficiary’s legal representative refuses, of his/her own free will, to authorize the submission of a bill to Medicare.

However, the limits on what the physician [or] practitioner ...may collect from the beneficiary continue to apply to charges for the covered service, notwithstanding the absence of a claim to Medicare.” If this happens to you, again, RUN – don’t walk – to an attorney who practices chiropractic law or a subject matter expert in Medicare coding and documentation to make sure you handle this situation correctly.

If a patient is Medicare-eligible, but has not signed up with Medicare Part B, then that patient can be treated as a cash patient. However, if that patient has signed up with some kind of Medicare replacement plan with a carrier like Humana, BCBS, or Aetna, then you must follow that carrier’s rules regarding billing. It is wise to call the carrier and verify benefits for that patient, as Medicare replacement plans can be tricky.

What Services Does Medicare Pay For?

All of this talk about mandatory billing of Medicare comes with a catch. Medicare considers only spinal manipulation to be a “covered service,” and taking that one step further, only acute and chronic spinal manipulation that is medically necessary and that increases function and improvement.

In other words, no maintenance care is allowable under Medicare.

Therefore, you must bill Medicare for any covered services rendered to a Medicare patient; this is known as the “Mandatory Claim Submission Rule.”

All other services that you perform on a Medicare patient, except for that covered non-maintenance spinal manipulation, is payable by the patient or their secondary insurance, assuming you have had the patient complete an Advance Beneficiary Notification (ABN). You do not have to bill Medicare for the non-covered service unless the patient requests you to do so.

Bottom Line

It all boils down to two sentences: If you treat Medicare patients, you need to register with Medicare as either participating or non-participating and bill Medicare. If you don’t want to deal with Medicare, then don’t treat Medicare patients. ♦



Many thanks to Kathy Jones, Training Director with the National Academy of Chiropractic Assistants - Texas, for her input into this article!



Continuing Education 101 (con't from page 4)

as a new licensee, meet all current requirements, and sit for the Texas Jurisprudence Examination.

At the conclusion of the twelve (12) months, if you still have not remedied the delinquent CE hours, your license will be considered expired, backdated to the beginning date of the probationary year and closed for non-renewal.

Your Continuing Education course sponsor is responsible for submitting a roster to the Board within thirty (30) days of the course completion date. We use this roster to credit licensee hours. If you have a certificate of completion, we will accept the certificate as documentation until a roster can be received.

The TBCE licensing staff audit licensee CE completion upon RENEWAL and not upon license expiration date.



Reminder: Continuing Education for New Licensees

Your first renewal cycle is pro-rated and is usually not a full twelve months long, so completion of your Continuing Education (CE) requirements is not required until after your first license renewal. When you renew your license for the second time, you should have completed sixteen (16) hours of approved CE, including the four (4) hours in Board-required topics.

You must also complete at least eight (8) hours of CE in Medicare coding/documentation within twelve (12) months of when you received your license. These hours can count towards your regular CE requirement.

Therefore, if you are born in February and licensed on November 1, 2014, you are required to complete eight (8) hours of Medicare coding/documentation CE by November 1, 2015. You would then need to complete another eight (8) hours of CE, including the four (4) Board-required hours by February 1, 2016.

If you have questions regarding these requirements, please read through [Board Rule 75.5](#). You may also contact Jennifer Hertsenberg, Director of Licensure, at jennifer@tbce.state.tx.us or Sarah Matthews, Licensing Assistant, at sarah@tbce.state.tx.us. A list of all approved CE courses can be found on the [TBCE website](#) under the "Continuing Education" link. ♦

Don't risk losing your license by not completing your CE hours!

For more information about Continuing Education, check out our webpage at www.tbce.state.tx.us under the link "Statutes and Rules" by selecting the Texas Administrative Code and Chapter 75, [Rule §75.5](#) and [Rule §75.6](#).

To check on whether your hours are up to date and complete, contact:

- Sarah Matthews, Licensing Assistant (512) 305-6707 or sarah@tbce.state.tx.us
- Jennifer Hertsenberg, Director of Licensure and CE Standards (512) 305-6702 or jennifer@tbce.state.tx.us ♦

Solicitation and Texas Law

- by Bryan Snoddy, General Counsel



Roughly one of every five phone calls and inquiries received by the Board's legal staff is "Can I advertise this way" or "Will I get in trouble if I say this?"

Let's try to address some of those issues by reflecting upon some fairly concrete concepts that are well established in the law and the Board's rules.

The first thing to recall is that the Board is a state agency of limited power. The primary limits on the power of the Board come from law that is enacted by the Legislature. As in the last [Newsletter \(Volume II, Issue 3-January 2015\)](#), the Texas Chiropractic Act provides both the source and the limitations on the Board's authority.

Next, let's examine a few of the important parts of the [Chiropractic Act](#). The initial

reference to advertising under the Act is located at section 201.155. This section provides that the Board may not adopt rules restricting advertising or competitive bidding by a person regulated by the Board except to prohibit false, misleading or deceptive practice by that person.

But it doesn't stop there. The Board is also precluded from restricting the use of any advertising medium, restricting the person's personal appearance or the use of the person's voice, restricting the size or duration of an advertisement or restricting the use of a trade name.

What this means is that **there is a lot of freedom to advertise in any way that a person believes will be most effective**. But this should not be taken as a carte blanche opportunity to advertise without care.

Take a look at [Rule 77.2](#) concerning **PUBLICITY** before calling TBCE

(con't on page 11)

Have You Moved?

"If you fail to notify the Board of a change in your address, you face a disciplinary action and up to a \$250 fine!"

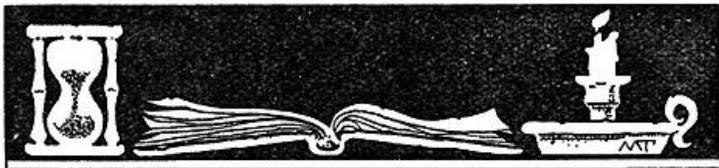


[Board Rule 75.1](#) requires licensees to maintain a current physical home and business address with the Board.

The same rule also requires licensees to notify the Board in writing of any change in address within 30 days of that change. Additionally, [Board Rule 73.4](#) requires a facility to notify the Board in writing of any change in street or mailing address or ownership within 30 days of that change.

Please note that merely submitting a change through Texas Online when completing a license or registration renewal will NOT change your address with the Board. Unfortunately, we do not receive notice of those changes from Texas Online.

If you fail to notify the Board of a change in your address, you face a disciplinary action and **up to a \$250 fine!** Don't let this happen to you! ♦



Keeping Up With the Rules

Did you know that you can keep up with rules that the Texas Board of Chiropractic Examiners (TBCE) has proposed or adopted online?

The TBCE uploads all proposed and adopted rules onto our homepage at www.tbce.state.tx.us under the “[Rules-Recent & Proposed Changes](#)” link.

Additionally, you can view current rules from the Secretary of State website, which is linked to our homepage under the “[Statutes and Rules](#)” link.

All proposed and adopted rules are published in the *Texas Register*. Current and past issues are available at <http://www.sos.state.tx.us/texreg/portal.shtml>

If you'd like to be notified by email whenever the TBCE proposed, adopts or withdraws a rule or schedules an open meeting, you can contact the Texas Register at 512-463-5561 or register@sos.state.tx.us.

We encourage all licensees to monitor proposed rules published in the *Texas Register* and to regularly comment on these proposed rules. Comments must be in writing and sent to the Executive Director via mail or email rules@tbce.state.tx.us within the specified time period. ♦

TBCE Board Meeting Schedule



TBCE Board Meetings

Hobby Building, Tower 2, Room 225

- May 21, 2015 (1:00 pm)
- August 20, 2015 (1:00 pm)
- November 19, 2015 (1:00 pm)
- February 18, 2016 (1:00 pm)
- May 16, 2016 (1:00 pm)
- August 18, 2016 (1:00 pm)
- November 17, 2016 (1:00 pm)

84th Legislature: Bills to Watch

- by Yvette Yarbrough, TBCE Executive Director

In the [last issue of the Board Report](#), we noted a few bills that had been filed that were worthy of monitoring for Doctors of Chiropractic. As the legislative session is now in full swing, some of these bills have moved and should be noted.

One of the most highly watched bills by Texas DCs has been SB 213. This bill deals with the functions and duties of the University Interscholastic League (UIL) – better known as the UIL Sunset Bill. The original filed version of the bill defined who could conduct UIL pre-participation physicals and effectively eliminated the ability of DCs to conduct these physicals. An amended version of the bill (known as a “committee substitute”) was presented by the bill author (Senator Birdwell) at the Senate

(con't on page 13)



Solicitation and Texas Law (con't from page 9)

This is probably a good time to have a short discussion about the various social media platforms used for advertising. In short, whether you choose *Living Social*, *Groupon*, *Yelp*, *Google* or a whole host of others, there is nothing illegal per se about using these platforms.

Please be aware that Texas has an [anti-solicitation law](#) and the Board has [rules concerning advertising](#). As long as there is compliance with those laws and the Board's rules, the use of these sites or any other advertising mechanism may be appropriate. The difficulty has arisen when some contractual agreements involved fee-splitting which runs afoul of the law.

Because each contractual arrangement for various advertising mechanisms are not the same, it is not possible to declare that they are all in compliance with existing law. Some may be and others may not. **In general, in any situation with critical variables, we encourage you to obtain legal counsel to ensure compliance with the law.**

It is also important to exercise caution in the tone and manner in which you advertise. We know that everyone believes that they provide great chiropractic service to their patients, but how you say that can create difficulties that you would probably like to avoid.

Under section 201.502((a)(11) of the [Chiropractic Act](#), advertising professional superiority, or advertising the performance of professional services in a superior manner, if that advertising is not readily subject to verification, can lead to an enforcement violation. The simple question to ask is **"Can I objectively prove this statement?"** If not, it is probably best to state it as an opinion or not to make the statement at all.

This doesn't mean that you lose the ability to be creative but there are limits. In general, the law distinguishes puffery from false advertisements.

Puffery is the legal concept of a statement that is so unbelievable that no reasonable person would believe it to be true.

The best example I can find was articulated in the fight with Pizza Hut over the "Better Pizza, Better Ingredients" slogan used by Papa John's. The Court concluded that a slogan, standing alone, is not an objectifiable statement of fact upon which that it would not rise to the level of an offense of the Lanham Act – the federal law which controls trademark usage and prohibits false advertisements.

The guidance to take from this is that we should draw a distinction of statements concerning that which can be verified as objective fact from that which cannot be verified as objective facts or is an individual's opinion.

The reason this division is necessary is because the First Amendment guarantees the right of a person to give their opinion.

But on the other side of the coin, the Chiropractic Act is in place to promote the welfare and safety of the citizens of the State of Texas. ♦

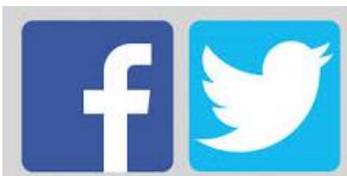
The Board performs the task of protecting the people by advancing rules to prevent fraud, ensure appropriate disclosure of information and provide a basic framework that makes a level playing field for all practitioners and facility owners.



Summary of Actions

A regular meeting of the TBCE was held February 19, 2015, in Austin. The following is a summary of Board actions taken during this meeting.

- The Board selected FCLB and NBCE delegates and alternate delegates.
- The Board selected members to serve as Part IV examiners and to serve on the NBCE Part IV Test Committee.
- The Board voted to allow one (1) licensee to renew late with good cause after considering the individual's circumstances.
- The Board voted to approve one (1) application for facility ownership after considering the individual's circumstances. The registration will be issued with probation to run concurrent with the facility owner's licensure probation.
- The Board voted to deny one (1) licensure reinstatement from a non-renewable licensee after considering the individual's circumstances.
- The Board voted to allow one (1) licensure reinstatement from a revoked licensee after considering the individual's circumstances. The applicant must successfully complete the EBAS examination before sitting for the jurisprudence examination.
- The Board voted to approve a Rule Review Plan.
- The Board voted to propose amendments to Rule 78.17 (Spinal Screenings), Rule 75.6 (Failure to Meet Continuing Education Requirements), Rule 77.5 (Delegation of Authority), Rule 77.9 (Out-of-Facility Practice), Rule 75.5 (Continuing Education), and Rule 78.6 (Required Fees and Charges).
- Twenty (20) Agreed Orders imposing disciplinary action, fifteen (15) Cease and Desist Orders, six (6) Board Orders, and one (1) Revocation Order were approved by the Board. The Board also approved one (1) request for expungement of disciplinary action and denied one (1) request for expungement of disciplinary action.



84th Legislature Bills to Watch (con't from page 10)

Education Committee hearing on April 21st. The committee substitute deleted the controversial definition of who could conduct the UIL pre-participation physicals, leaving that definition in UIL rules (which currently allow DCs to conduct the physicals). Effectively, the committee substitute maintains the status quo on who can conduct the physicals. The substitute does require whoever conducts the physical to refer a student to their treating physician if the student identifies on the medical history form any cardiac or neurologic issues. The hearing can be viewed [online](#) with the UIL bill laid out around the 37:00 mark, with the committee substitute laid out around the 39:00 mark. On April 23rd, the committee substitute of SB 213 was voted favorably from the Senate Education Committee. As of this date, it has not been set for a date on the full Senate floor.

Four bills were filed dealing with cardiac assessments of participants of UIL-sponsored extracurricular activities (HB 677, HB 767, HB 779, and SB 602). HB 767 has shown movement and was voted out of the House on April 14th. The Senate referred it to the Committee on Senate Education on April 23rd. No hearing has been set as of the date of publication of this Board Report. While these bills do not explicitly deal with chiropractic, we have been monitoring the bills to see if any amendments have an impact on the ability of DCs to perform UIL pre-participation physicals.

Bills have also been filed to add DCs to school district and open-enrollment charter school concussion oversight teams. HB 1231 (Senate companion SB 1672) was heard by the House Public Education Committee on April 28th. At this time, the bill is pending in that committee.

The House Public Health Committee recently considered HB 1174 (relating to the ability of DCs to conduct school bus driver physicals) on April 28th. At this time, the bill is pending in that committee. The House Transportation Committee considered on March 10th the ability of DCs to issue handicap placards (HB 126). At this time, the bill is pending in that committee.

The House Transportation Committee considered

on March 10th the ability of DCs to issue handicap placards (HB 126). At this time, the bill is pending in that committee.

The \$200 occupational tax that is collected from each DC upon application and yearly thereafter upon renewal may be going away. HB 2089 was approved by the House on April 22nd. On April 28th, the Senate referred the bill to the Senate Finance Committee. (The Senate Finance Committee considered HB 2089's companion bill SB 765 in early March.) If HB 2089 becomes law, it will go into effect September 1st, meaning after that date, your renewal fees will be \$200 less.

Also dealing with fees, military members, veterans and military spouses may get some relief with application and examination fees under SB 807 (House companion HB 2012). The Senate passed this bill on April 14th, and it was received in the House on April 15th. It has not yet been referred to a House committee.

A few other bills have an impact on chiropractic, and have been referred to committees with no hearing scheduled as of this date. These bills include HB 761 (relating to nondiscriminatory payments of managed care plan network practitioners), HB 762 (relating to chiropractic medical assistance reimbursements), HB 1864 (relating to business formation and professional associations), HB 3925 (relating to the expansion of scope of practice for chiropractors), and HB 3926/SB 1544 (relating to diagnosis by chiropractors).

A bill can be tracked through the legislative process by using the website Texas Legislature Online (<http://www.capitol.state.tx.us/Home.aspx>). This website has features where one can find all filed bills in the House and Senate (<http://www.capitol.state.tx.us/Reports/General.aspx>), one can create a Bill List to easily see a list of selected bills and their progress (<http://www.capitol.state.tx.us/MnuMyTLO.aspx>), and one can monitor Committee actions in both the House and Senate (<http://www.capitol.state.tx.us/MnuCommittees.aspx>).

The 84th Legislative Session convened on January 13th. The last day to file bills was March 13th, and the session ends on June 1st. ♦

Board Disciplinary Actions Taken January through March 2015

To view the actual Board Orders, visit: <https://www.tbce.state.tx.us/verify.html>

UDUNNA AZODEH, D.C., Fac. #F004465, Houston
On February 19, 2015, the Board and Dr. Azodeh entered into an Agreed Order requiring Dr. Azodeh to pay an administrative penalty of \$250. The Board found Dr. Azodeh employed or associated with a person practicing chiropractic without a license.

NEDA BAHADORI, D.C., Lic. #8940, Frisco
On February 19, 2015, the Board and Dr. Bahadori entered into an Agreed Order requiring Dr. Bahadori to pay an administrative penalty of \$250. The Board found Dr. Bahadori (part owner of Texas Workers Rehab facility in Fort Worth) had a person employed to practice chiropractic without a license in Texas.

MICHAEL CHAPLIN, D.C., Lic. #07935, Marathon, FL—On February 19, 2015, the Board and Dr. Chaplin entered into an Agreed Order requiring Dr. Chaplin to pay an administrative penalty of \$250 and receive a Letter of Reprimand. The Board found Dr. Chaplin did not timely inform the Board of his change of address and did not timely respond to a Board inquiry.

ABEL CORTEZ II, D.C., Lic. #10811, Spring
On February 19, 2015, the Board issued a Final Order requiring Dr. Cortez, II to pay an administrative penalty of \$2500. The Board found Dr. Cortez II operated a facility in Katy, Texas with an expired certificate of registration, practiced chiropractic with an expired license during several time periods, and failed to respond to Board inquiries.

GHAFFARI KAMYAR, D.C., Lic. # 08689, Frisco
On February 19, 2015, the Board and Dr. Ghaffari entered into an Agreed Order requiring Dr. Ghaffari to pay an administrative penalty of \$1000. The Board found Dr. Ghaffari (part owner of Texas Workers Rehab facility in Fort Worth) employed an unlicensed person to practice chiropractic.

THAO HUYNH, D.C., Lic. # 08450, Houston
On February 19, 2015, the Board and Dr. Huynh entered into an Agreed Order requiring Dr. Huynk to pay an administrative penalty of \$250. The Board found Dr. Huynh failed to release patient records in a reasonable time.

MICHAEL JOHNSEY, D.C., Lic. #12804, Katy
On February 19, 2015, the Board and Dr. Johnsey entered into an Agreed Order requiring Dr. Johnsey to submit quarterly monitoring reports to the Board and be granted a license that is suspended until March 11, 2016, but probated in full.

MARTIN KOCH, D.C., Lic. #10821, Dallas
On February 19, 2015, the Board and Dr. Koch entered into an Agreed Order requiring Dr. Koch to pay an administrative penalty of \$4000, have his license suspended (probated in full) for one year, take the EBAS Ethics and Boundaries examination, and cease and desist hiring unlicensed person(s). The Board found Dr. Koch billed for services not rendered.

YOUNG LE, D.C., Lic. #10731, McKinney
On February 19, 2015, the Board and Dr. Le entered into an Agreed Order requiring Dr. Le to pay an administrative penalty of \$500. The Board found Dr. Le operated a facility without a certificate of registration.

LAURA LE, D.C., Lic. #08151, Houston
On February 19, 2015, the Board and Dr. Le entered into an Agreed Order requiring Dr. Le to pay an administrative penalty of \$250. The Board found Dr. Le failed to release patient records in a reasonable time.

JOSEPH LEE, D.C., Lic. #08308, Granbury
On February 19, 2015, the Board and Dr. Lee entered into an Agreed Order requiring Dr. Lee to pay an administrative penalty of \$250. The Board found Dr. Lee failed to timely notify the Board of a change of address.

DAVID LIANG, D.C., Lic. #08713, Mansfield
On February 19, 2015, the Board and Dr. Liang entered into an Agreed Order requiring Dr. Liang to receive a Letter of Reprimand. The Board found Dr. Liang failed to obey a Board Order.

JOHN LOPEZ, D.C., Lic. #08107, Corpus Christi
On February 19, 2015, the Board and Dr. Lopez entered into an Agreed Order requiring Dr. Lopez to pay an administrative penalty of \$500. The Board found Dr. Lopez operated a facility without a certificate of registration.

(con't on page 16)

TBCE Welcomes New DC Licensees Issued January through April 2015

Igor Kochekevich, DC
Alissa Aranda, DC
Alexander Friel, DC
James Hogan, DC
Brent Stromgren, DC
Fiona Bayne, DC
Lauren Collins, DC
Tanae Romportl, DC
Joseph Surace, DC
Ana Perez, DC
Ryan Yates, DC
Cody Simpson, DC
David Taylor, DC
Adam Hawkins, DC
Samuel Callaway, DC
Matthew Brackney, DC
Kristina Stitcher, DC
Assia Mahmood, DC
Gabriel Busquets, DC
Trevor Colm, DC
Robert Loven, DC
Ferenc Kamasz, DC
Taylor Levick, DC
Cameron Craig, DC
Reza Jafari, DC
Charles Laughlin, DC
Beverly Gooden, DC
Zachary Ratcliff, DC
Lucas Marchand, DC
Graham Robson, DC
Samantha March-Howard, DC
Amber DePasquale, DC
Michael Turner, DC
Ryan Woods, DC

Ali Heidari, DC
Shahram Shakeri, DC
Valerie Fletcher, DC
Richard Morales, DC
Lauren Stanley, DC
Megan Cox, DC
Lyndsi Cain, DC
Huy Nguyen, DC
Christopher Canning, DC
Jose Majano Jr., DC
Eunmi Baek, DC
Natalie Pritchard, DC
Andrew Danielson, DC
Marissa Casas, DC
Jonathan Kec, DC
Brian Forrest, DC
Joshua Nannen, DC
Danielle Cockburn, DC
Bryan Story, DC
Robert Zahn, DC
Jason Williams, DC
Matthew Walters, DC
Joshua Gomez, DC
Takehisa Horii, DC
Tiffany Sarmiento, DC
Lauren Alvarado, DC
Erin Cleary, DC
Heather Champagne, DC
Michael Lopez, DC
Kevin Vo, DC
Fatmata Bangura, DC
Amber Fekete, DC
Eric Halsell, DC
Suzanne Bilbrey, DC

Michael Hall, DC
Jamie Russell, DC
Hahja Peterson, DC
Kelsey Rose, DC
Seth Elliot, DC
Patrick McCabe, DC
Joe Fawcett III, DC
Christopher Miller, DC
Kasey Cervantez, DC
Justin Stachowich, DC
Marcia Chafins, DC
Votka Sbong, DC
Ana Velez, DC
Afshin Karimi, DC
Michael Vilello, DC
Lacy Stice, DC
Armando Flores, DC
Thomas Rios, DC
Gregory Carroll, DC
Caitlin Sims, DC
Jebadiah Cormier, DC
Sean Beukelman, DC
Zachary Behnke, DC
Robert Hulbert, DC
Jonathan Tze-Chun To, DC
Chang Hoon Kim, DC
Karim Shoujaa, DC
Lee Dover, DC
Clinton Minter, DC

Reinstatements:
Gary Mertz, DC
William Maples, DC



The offices of the Texas Board of Chiropractic Examiners will be closed on:

- ▶ **Memorial Day**, May 25, 2015
- ▶ **Emancipation Day**, June 19, 2015
(Skeleton Crew Required)
- ▶ **Independence Day**, July 4, 2015

Board Disciplinary Actions Taken (con't from page 14)

MELVA MITCHELL, Revoked Lic. #10802, Ft. Worth—On February 19, 2015, the Board issued a Final Order of Statutory Revocation revoking Ms. Mitchell's chiropractic and facility license. The Board found Ms. Mitchell was convicted of a felony and "False Statements in Relation to Health Care Matters."

TERRY MOORE, D.C., Lic. #04489, Baytown On February 19, 2015, the Board and Dr. Moore entered into an Agreed Order requiring Dr. Moore to pay an administrative penalty of \$2000. The Board found Dr. Moore partially owned and practiced at a facility with an expired certificate of registration and failed to maintain adequate records.

JASON REDLER, D.C., Lic. #10353, Saginaw On February 19, 2015, the Board and Dr. Redler entered into an Agreed Final Order requiring Dr. Redler to pay an administrative penalty of \$1000, have his license suspended (probated in full) for one year, submit to random monthly drug tests, and to successfully complete the EBAS Ethics and Boundaries examination. The Board found Dr. Redler prescribed or caused to be prescribed controlled substance for himself and an employee.

RONALD SAUNDERS, D.C., Lic. #04700, San Antonio—On February 19, 2015, the Board issued a Final Order requiring Dr. Saunders to pay an administrative penalty of \$2000. The Board found Dr. Saunders failed to respond to a request for billing and patient records, failed to timely notify the Board of a change of his address, and operated a facility without a certificate of registration.

RANDALL SCHULZE, D.C., Lic. #04512, San Antonio—On February 19, 2015, the Board and Dr. Schulze entered into an Agreed Final Order requiring Dr. Schulze to pay an administrative penalty of \$1250. The Board found Dr. Schulze failed to disclose charges for services rendered on the day the services were provided and failed to conform to the minimal acceptable standards of practice of chiropractic.

TYLER SLAGOWSKI, D.C., Lic. #11406, Cypress On February 19, 2015, the Board issued a Final Order requiring Dr. Slagowski to pay an administrative penalty of \$250. The Board found Dr. Slagowski failed to timely notify the Board of a change of address.

DANIEL SOTO, D.C., Lic. #09578, Dallas On February 19, 2015, the Board issued a Final Order requiring Dr. Soto to pay an administrative penalty of \$1500. The Board found Dr. Soto practiced with an expired license and operated a facility with an expired registration.

STACEY SPARKS-WIRTANEN, D.C., Lic. #06607, Cypress On February 19, 2015, the Board issued a Final Order requiring Dr. Sparks-Wirtanen to pay an administrative penalty of \$1000. The Board found Dr. Sparks-Wirtanen defaulted on her health education assistance loan and failed to respond to a Board inquiry.

SCOTT STEPHENSON, D.C., Lic. #02865, El Campo—On February 19, 2015, the Board and Dr. Stephenson entered into an Agreed Final Order requiring Dr. Stephenson to pay an administrative penalty of \$1000 and to submit to random urinalysis drug testing. The Board found Dr. Stephenson was convicted of a Class A Misdemeanor of Possession of Marijuana and did not report his conviction to the Board.

MICHAEL THOMPSON, D.C., Lic. #09130, Spring On February 19, 2015, the Board issued a Final Order requiring Dr. Thompson to pay a total administrative penalty of \$250. The Board found Dr. Thompson failed to timely notify the Board of his change of address.

VU TRAN, D.C., Lic. #08270, Houston On February 19, 2015, the Board issued a Final Order requiring Dr. Tran to pay an administrative penalty of \$1250. The Board found Dr. Tran failed to provide medical and billing records within a reasonable time to a patient and failed to respond to a Board inquiry.

JEFFREY ULERY, D.C., Lic. #09429, Austin On February 19, 2015, the Board and Dr. Ulery entered into an Agreed Final Order requiring Dr. Ulery to pay an administrative penalty of \$250. The Board found Dr. Ulery failed to release a patient's billing records upon request.

ZHANG XIAODONG, D.C., Lic. #08488, Richardson—On February 19, 2015, the Board and Dr. Zhang entered into an Agreed Order requiring Dr. Zhang to pay an administrative penalty of \$250. The Board found Dr. Zhang failed to timely notify the Board of his change of address.



Above: Outgoing Board member Anne Boatright, Board President Dr. Cynthia Tays, outgoing Board member Dr. Larry Montgomery and TBCE Executive Director, Yvette Yarbrough.

At its February meeting, the Board recognized outgoing Board Members Dr. Larry Montgomery, Dr. Patrick Thomas (not pictured), and Ms. Anne Boatright for their years of service and contributions to the TBCE and the State of Texas.

Dr. Montgomery, Dr. Thomas, and Ms. Boatright have all served terms that expired in February of this year.

Although their terms have expired, they will remain on the Board until their replacements are appointed by the Governor and confirmed by the Senate.



Information published in the *Texas Chiropractic Board Report* is not copyrighted and may be reproduced. The Board would appreciate credit for the material used and a copy of the reprint. Please direct questions or comments to: Newsletter, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701. Comments may be e-mailed to tbce@tbce.state.tx.us or call (512) 305-6906.

Office Hours and Location

The office of the Texas Board of Chiropractic Examiners is located in the William P. Hobby Building, at the corner of 4th Street and Guadalupe Street in downtown Austin. The mailing address is: 333 Guadalupe St., Suite 3-825, Austin, Texas 78701. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for designated holidays.

The Texas Board of Chiropractic Examiners is an equal opportunity/affirmative action employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

The *Texas Chiropractic Board Report* is published quarterly by the Texas Board of Chiropractic Examiners. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting the Board's office, (512) 305-6906 (Voice) or by faxing a request to (512) 305-6705 (FAX).

Texas Board of Chiropractic Examiners Contact Information

WEBSITE: www.tbce.state.tx.us.com FACEBOOK: <https://www.facebook.com/TxChiroBd>
 PHONE: (512) 305-6707 FAX: (512) 305-6705 E-MAIL: tbce@tbce.state.tx.us TWITTER: <https://twitter.com?TxChiroBd>
 MAILING ADDRESS: 333 Guadalupe Street, Suite 3-825, Austin, TX 78701
 OUR OFFICE HOURS are *:00 a.m. until 5:00 p.m. Monday through Friday, except for holidays.

LICENSING

Jennifer Hertsenberg, Director of Licensing 512-305-6702

- New DC Applications, DC Renewals and Inactive Status
- Facility Registration Applications and Renewals
- Radiologic Technologist Registration Applications and Renewals
- Approval of CE Course Applications

Sarah Matthews, Licensing Assistant 512-305-6707

- License and Continuing Education Verifications
- Changes of Address
- Open Records Requests

Mary Ann Garcia, Administrative Assistant 512-305-6703

- Sales of Demographic Lists

ENFORCEMENT

Scott Parker, Director of Enforcement 512-305-6708

Bob Lawson, Dallas Field Investigator 214-534-1928

Michael Campos, Houston Field Investigator 713-376-2279

LEGAL

Bryan Snoddy, General Counsel 512-305-6715

Scott Stalnaker, Legal Assistant 512-305-6706

ADMINISTRATION

Yvette Yarbrough, Executive Director 512-305-6716

Jo Manning, Executive Assistant 512-305-6906

Arlethia Middleton, Chief Financial Officer 512-305-6709

Nikell Williams, Programmer Analyst 512-305-7874