

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

MINUTES FOR THE NOVEMBER 6, 2008 BOARD MEETING

The Texas Board of Chiropractic Examiners (the Board) met in a regularly scheduled board meeting on November 6, 2008. The meeting was held in the William P. Hobby Building, Room 102, located at 333 Guadalupe Street, Austin, Texas 78701. A recording of the meeting was made and is on file at the Board offices. This is a summary of the minutes of that meeting.

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

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

Action Taken: Dr. Kenneth Perkins called the meeting to order at 1:09 p.m. and called the roll. A quorum was present. Board members present were:

Kenneth Perkins, D.C., President
Scott Isdale, D.C., Vice-President
Kathleen Summers, D.C., Secretary-Treasurer
Ms. Marcia Daughtrey, Public Member
Janette Kurban, D.C.
Cynthia Tays, D.C.
Ms. Kenya Woodruff, Public Member

Board members who were absent by permission were:

Armando Elizarde, Jr., Public Member
David Sime, D.C.

Counsel and staff members present were:

Jeb Boyt, J.D., General Counsel, Assistant Attorney General
Joe Thrash, J.D., General Counsel, Assistant Attorney General
Glenn Parker, Executive Director
Scott Parker, Director of Enforcement
Jennifer Hertsenberg, Director of Licensing
Mary Feys, Administrative Assistant for Enforcement

2. APPROVAL OF MINUTES

Dr. Kenneth Perkins, D.C.

Action Taken: The Board reviewed and approved without changes the minutes from the August 14, 2008 Board Meeting.

3. PUBLIC COMMENTS

Dr. Kenneth Perkins, D.C.

Action Taken: Dr. Perkins opened the floor to public comments from licensees, the general public or other interested stakeholders to address the Board. There were no comments made.

4. EXECUTIVE COMMITTEE BUSINESS

Dr. Kenneth Perkins, D.C.

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

Action Taken: None. Dr. Kenneth Perkins informed the Board of the planned participation by Dr. Perkins and Dr. Kurban in the November National Board Part IV examinations.

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

Action Taken: None. Executive Director Glenn Parker presented written and oral reports to the Board concerning recent agency activities, statistical reports, audit outcomes, revenues and expenditures, licensing information, enforcement information and comments received concerning the August newsletter. Mr. Parker will give the Board a schedule of key dates and events for the upcoming 81st legislative session and explained the significance of those items.

4.3 Consideration and Approval of Draft for Operating Budget for AY 2009

Action Taken: None. Executive Director Glenn Parker pulled this item from the agenda.

4.4 Review of Applicants for Executive Peer Review Committee and Possible Appointment of One or More Members

Action Taken: After discussion, the Board approved the following appointments to the Executive Peer Review Committee without opposition:

1. Dr. Timothy J. Lee of Pasadena, Texas
2. Dr. Tim McCullough of Friendswood, Texas
3. Dr. Thomas Klesmit of Heath, Texas

5. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE BUSINESS

Dr. David Sime, D.C.

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

5.1.1 – Francis Ajayi

Action Taken: After consideration of all relevant information, including information derived from background

checks, the Board voted without opposition to approve the request by Francis Ajayi to sit for the Jurisprudence Examination. The Board also voted without opposition to impose a one-year period of probation on the D.C. license of Francis Ajayi in the event that he passes the Jurisprudence Examination and becomes licensed. Staff was ordered to prepare an Agreed Order with the terms of the probation for Mr. Ajayi to sign before issuing a license to him.

5.1.2 – Christopher Babb

Action Taken: After consideration of all relevant information, including information derived from background checks, the Board voted by a vote of 6 to 1 to approve the request by Christopher Babb to sit for the Jurisprudence Examination. The Board also voted without opposition to impose a two-year period of probation on the D.C. license of Christopher Babb in the event that he passes the Jurisprudence Examination and becomes licensed. Staff was ordered to prepare an Agreed Order with the terms of the probation for Mr. Babb to sign before issuing a license to him.

5.1.3 – Roger Hollrah

Action Taken: After consideration of all relevant information, including information derived from background checks, the Board voted without opposition to deny the request by Roger Hollrah to sit for the Jurisprudence Examination.

5.1.4 – Daniel Beau Ryan Ellis

Action Taken: After consideration of all relevant information, including information derived from background checks, the Board voted without opposition to deny the request by Daniel Beau Ryan Ellis to sit for the Jurisprudence Examination.

- 5.2 The L& E Committee will make its recommendation to the Board concerning the following individual's request to be given permission to renew his DC license late (more than 1 year) for Good Cause:

5.2.1 - Craig D. Olsen

Action Taken: After consideration of all relevant information, the Board voted without opposition to deny the request by Craig D. Olsen to be allowed to renew his previously held D.C. license more than a year late "for

good cause” and stipulated that Mr. Olsen must meet all current requirements to be re-licensed, including passing all applicable examinations.

6. RULES COMMITTEE BUSINESS

Janette Kurban, D.C.

6.1 Consideration of Proposed New Rules or Rules Amendments Eligible for Adoption

Proposed New Rule §80.11 (Code of Ethics) concerning the adoption by the Board of a rule defining a Code of Ethics for the practice of chiropractic in Texas was published in the Texas Register on October 3, 2008 and will be eligible for adoption at the November 6, 2008 board meeting . As of October 24, 2008 the agency had receive an e-mail from one individual who had several comments concerning the proposed rule.

Action Taken: After discussion the Board voted 6-0 (with Dr. Scott Isdale abstaining) to approve New Rule 80.11 (Code of Ethics) with minor revisions from the text previously published in the Texas Register.

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

6.2.1 Proposed Amendment to Rule 75.17 (Scope of Practice) concerning Manipulation Under Anesthesia (MUA) to define whether MUA is or is not within the scope of practice for properly trained doctors of chiropractic.

Action Taken: After discussion the Board voted without opposition to publish for notice and comment in the Texas Register the proposed amendment to Rule 75.17 (Scope of Practice) concerning MUA.

6.2.2 Proposed New Rule §75.21 relating to acupuncture

This proposed new rule would set forth the minimal acceptable qualifications and procedures for the practice of acupuncture by licensed doctors of chiropractic.

Action Taken: After discussion the Board voted without opposition to publish for notice and comment in the Texas Register the proposed new Rule 75.21 concerning the minimum qualifications for licensed doctors of chiropractic who wish to practice acupuncture within the scope of chiropractic.

6.2.3 Proposed Amendment to Rule §80.5 concerning Content of Chiropractic Records

The purpose of this proposed rule amendment is to provide clearer standards for the contents of chiropractic records.

Action Taken: After discussion, the Board voted without opposition to publish for notice and comment in the Texas Register the proposed amendment to Rule 80.5 concerning content and maintenance of chiropractic records.

6.3 Scope of Practice Questions and Issues

There are no scope-of-practice questions for this meeting.

6.4 Update on other issues under consideration by the Committee

6.4.1 Dr. Kurban will update the Board on the Committee's discussion of a possible new or amended rule to specify the requirements for the Board's recognition of Preceptorships and/or Postceptorships for students officially enrolled in a CCE accredited school of chiropractic.

Action Taken: None

6.4.2 Dr. Kurban will update the Board on the Committee's discussion of possible amendments to existing Rule §80.1 concerning delegation.

Action Taken: None

7. ENFORCEMENT COMMITTEE BUSINESS

Dr. Scott Isdale, D.C.

7.1 Consideration of SOAH Proposals for Decisions

There are no SOAH Proposals for Decisions at this meeting.

Action Taken: None

7.2 VOID – There is no agenda item 7.2 for this meeting.

7.3 Consideration of Accepted Agreed Orders: The Board will consider approval of the following Agreed Orders that have been recommended by the Enforcement Committee and accepted by the Respondents (some cases listed below may not be considered if the signed Agreed Orders are not received from the Respondents prior to the Board meeting).

- 7.3.1 Case # 107-088
- 7.3.2 Case # 108-027
- 7.3.3 Case # 108-038
- 7.3.4 Case # 108-062
- 7.3.5 Case # 108-154

- 7.3.6 Case # 108-165
- 7.3.7 Case # 108-167
- 7.3.8 Case # 108-217
- 7.3.9 Case # 108-182

Action Taken: The Board approved without opposition all Proposed Agreed Orders as presented.

7.4 Recommendations to Approve or Deny Requests to Expunge Records

- 7.4.1 Case # 101-034 Recommendation to approve
- 7.4.2 Case # 101-201 Recommendation to approve
- 7.4.3 Case # 101-219 Recommendation to approve
- 7.4.4 Case # 103-178 Recommendation to approve

Action Taken: The Board voted without opposition to approve all requests to expunge records as presented.

7.5 Statutory Revocations for Felony Convictions and Imprisonment

There are no statutory revocations to consider at this meeting.

Action Taken: None

8. EXECUTIVE SESSION

Dr. Kenneth Perkins, D.C.

The Board may meet in Executive Session for:

Consultation with counsel pursuant to Section 551.071, Government Code wherein the Board and essential staff will receive a briefing from assigned Assistant Attorney General concerning pending or contemplated litigation and settlement offers including but not limited to:

8.1 Texas Medical Association lawsuit against the Board

The Board may also meet in Executive Session regarding personnel matters pursuant to Section 551.074, specifically the annual evaluation of the Executive Director, Glenn Parker.

8.2 Annual Evaluation of the Executive Director, Glenn Parker

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

Action Taken: None. The Board entered into Executive Session at 2:06 p.m. and resumed in Open Session at 2:33 p.m. During the Executive Session, Board members received an update from Counsel on the lawsuit filed against the Board by the Texas Medical Association. The Board also considered the annual evaluation of Executive Director Glenn Parker.

9. CALL FOR FUTURE ITEMS for discussion and/or consideration by the Board
Dr. Kenneth Perkins, D.C.

Action Taken: Dr. Perkins invited board members and interested parties to submit potential agenda items to himself or to Executive Director Glenn Parker.

10. MEETING DATES & ADJOURNMENT
Dr. Kenneth Perkins, D.C.

10.1 The Board meeting dates for Calendar Year 2009 are:

- (1) February 25, 2009 (Board may consider moving to Feb 26, 2009)
- (2) May 14, 2009
- (3) August 13, 2009
- (4) November 12, 2009

10.2 The next Enforcement Committee dates are scheduled for:

- (1) November 18, 2008
- (2) December – No Enforcement Committee meeting
- (3) January 20, 2009

10.3 Adjournment at: _____ PM.

Action Taken: Dr. Perkins reminded members of future meeting dates. The Board voted without opposition to move the board meeting in February 2009 from Wednesday, February 25 to Thursday, February 26, 2009. The meeting was adjourned at 2:37 p.m.

Statement: I affirm that the above is a true and correct rendering of the minutes for the Texas Board of Chiropractic Examiners Board Meeting held on the above referenced date. These minutes from the board meeting held on November 6, 2008 were approved by the Texas Board of Chiropractic Examiners at its next regularly scheduled board meeting held on February 26, 2009.

Glenn Parker
Executive Director
Texas Board of Chiropractic Examiners

February 26, 2009

Date