

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

Committee Meetings: 8:30 a.m. – Noon  
(See Committee Agendas for Times and Room Numbers)  
Board Meeting: 1:00 p.m. – Adjournment  
Hobby Building, Tower 2, Room 225

**MINUTES FROM THE  
February 19, 2015  
BOARD MEETING**

**BOARD MEETING AGENDA**

The Texas Board of Chiropractic Examiners will consider and act, if necessary, on matters within the jurisdiction of the Board which are listed on this agenda. The Board may meet from time-to-time in executive session with respect to the agenda items as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code.

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

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

**Action Taken:** Board President Dr. Cynthia Tays called the meeting to order at 1:03 PM and called the roll. All board members were present with the exception of Dr. Patrick Thomas, and a quorum was announced.

Dr. Montgomery **MOVED** to excuse Dr. Thomas' absence, and Ms. Woodruff **SECONDED**. After consideration, the Board **APPROVED** the motion.

Others present were:

H.J. Liller, Assistant Attorney General  
Yvette Yarbrough, Executive Director  
Bryan Snoddy, General Counsel  
Scott Parker, Director of Enforcement  
Steve Franz, Investigator  
Jennifer Hertsenberg, Director of Licensure  
Arlethia Middleton, Chief Fiscal Officer

## 2. APPROVAL OF MINUTES

Approval of Minutes from the November 13, 2014 Board Meeting

**Action Taken:** Mr. Steinberg **MOVED** and Ms. Woodruff **SECONDED** approval. After consideration, the minutes were **APPROVED**.

## 3. PUBLIC COMMENTS

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

**Action Taken:** Dr. Tays opened the floor to comments from the public.

## 4. EXECUTIVE COMMITTEE BUSINESS

*Cynthia Tays, D.C.*

### 4.1 President's Report

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

**Action Taken:** None. This item was for informational purposes only.

### 4.2 Executive Director's Report

Executive Director Yvette Yarbrough will present written and oral reports to the Board concerning recent agency activities, statistical reports, audit outcomes, revenues and expenditures, licensing information, enforcement information and issues from the legislative session. Mrs. Yarbrough will answer questions from the board members concerning any agency operations, legislative issues and other matters of concern to the Board.

**Action Taken:** None. This item was for informational purposes only.

### 4.3 FCLB Delegate Selection

The Board will nominate and vote on a delegate and alternate delegate to the Federation of Chiropractic Licensing Boards (FCLB) for 2015. The delegate and/or alternate will be able to participate in the FCLB Annual Business Meeting in New Orleans on May 9, 2015.

**Action Taken:** Dr. Campion, Dr. Riggs, and Dr. Tays indicated their interest. After a paper vote, the Board approved Dr. Tays as the delegate and Dr. Campion as the alternate delegate.

#### 4.4 NBCE Delegate Selection

The Board will nominate and vote on a delegate and alternate delegate to the National Board of Chiropractic Examiners (NBCE) for 2015. The delegate and/or alternate will be able to participate in the NBCE Annual Business Meeting in New Orleans on May 8, 2015 (during the FCLB annual Congress).

**Action Taken:** Dr. Montgomery **MOVED** and Ms. Boatright **SECONDED** approval of Dr. Tays as the delegate and Dr. Campion as the alternate delegate. After consideration, the motion was **APPROVED**.

#### 4.5 NBCE Part IV Examiner Selection

The Board will nominate and vote on two board members to act as examiners in the administration of the May examination and the Part IV Test Committee meeting. The May examination will be held on May 15, 16 and 17, 2015. The Test Committee Meeting will be held on June 12 and 13, 2015.

**Action Taken:** Dr. Montgomery **MOVED** and Dr. Campion **SECONDED** approval of Dr. Riggs as the Test Committee Meeting attendee. After consideration, the motion was **APPROVED**.

Dr. Tays volunteered as the May Part IV examiner. After consideration, the Board approved her appointment.

Dr. Campion volunteered as the November Part IV examiner. After consideration, the Board approved her appointment.

#### 4.6 Enforcement Committee Restructure

Dr. Tays will lead a discussion about possible restructure of the Enforcement Committee. This is an item that was tabled at the November 2014 meeting.

**Action Taken:** None.

#### 4.7 Recognition of Outgoing Board Members

The Board will recognize outgoing Board members Dr. Larry Montgomery, Dr. Patrick Thomas, and Ms. Anne Boatright, whose terms expire this month.

**Action Taken:** None.

## **5. EXECUTIVE SESSION**

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

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

5.1.2 Texas Medical Association lawsuit against the Board regarding Rule 75.17 Scope allowing DCs to perform Vestibular-Ocular-Nystagmus testing and challenge to diagnosis, as well as TMA challenge to definitions of "musculoskeletal system" and "subluxation complex."

5.1.3 Eric VanderWerff, DC vs. TBCE – Lawsuit and appeal brought by Dr. VanderWerff challenging a Board Order issued in an enforcement case

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

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

**Action Taken:** None. The Board went into Executive Session at 2:15 PM and reconvened in Open Session at 2:38 PM.

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

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

6.1 Consideration of Motions Related to Executive Session

**Action Taken:** None.

## **7. LICENSURE AND EDUCATIONAL STANDARDS COMMITTEE BUSINESS**

### 7.1 Late License Renewal with Good Cause

#### 7.1.1 Talih Ayache, License #5698 Non-Renewable

**Action Taken:** Ms. Woodruff **MOVED** and Dr. Montgomery **SECONDED** approval of the late license renewal with good cause. After consideration, the Board **APPROVED** the motion.

### 7.2 Facility Application Approval

#### 7.2.1 Michael Koris, License #8149 Probation

**Action Taken:** Ms. Woodruff **MOVED** and Dr. Montgomery **SECONDED** approval of the facility application, with the facility owner's probation to run concurrent with his licensure probation. After consideration, the Board **APPROVED** the motion.

### 7.3 License Reinstatement from a Non-Renewable Status

#### 7.3.1 Lisa Pray, License #9883 Non-Renewable

**Action Taken:** Dr. Tays **MOVED** and Dr. Riggs **SECONDED** denial of the license reinstatement based on Texas Occupations Code, § 201.502(a)(1). After consideration, the Board **APPROVED** the motion.

### 7.4 License Reinstatement from a Revoked Status

#### 7.4.1 Thomas Clark, License #6532 Revoked

**Action Taken:** Dr. Tays **MOVED** and Dr. Riggs **SECONDED** approval of the license reinstatement upon the applicant's successful completion of the EBAS examination within one year (prior to taking the jurisprudence examination). After consideration, the Board **APPROVED** the motion.

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

**Action Taken:** None.

## 8. RULES COMMITTEE BUSINESS

### 8.1 Discussion and Consideration of Rule Amendments and Repeals

#### 8.1.1 Discussion and consideration of Rule Review Plan.

**Action Taken:** The Rules Committee **MOVED** and Dr. Champion **SECONDED** approval of the Rule Review Plan recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

#### 8.1.2 Discussion and consideration to propose the repeal of Rule 78.17 (Spinal Screenings).

**Action Taken:** The Rules Committee **MOVED** and Dr. Champion **SECONDED** to propose amendments to Rule 78.17 as recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

#### 8.1.3 Discussion and consideration to amend Rule 75.6 (Failure to Meet Continuing Education Requirements).

**Action Taken:** The Rules Committee **MOVED** and Mr. Steinberg **SECONDED** to propose the amendment as recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

#### 8.1.4 Discussion and consideration to amend Rule 77.5 (Delegation of Authority).

**Action Taken:** The Rules Committee **MOVED** and Dr. Champion **SECONDED** to propose the amendment as recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

#### 8.1.5 Discussion and consideration to amend Rule 77.9 (Out of Facility Practice).

**Action Taken:** The Rules Committee **MOVED** and Dr. Riggs **SECONDED** to propose the amendment as recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

#### 8.1.6 Discussion and consideration to amend Rule 75.5 (Continuing Education).

**Action Taken:** The Rules Committee **MOVED** and Dr. Riggs **SECONDED** to propose the amendment as recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

8.1.7 Discussion and consideration to amend Rule 78.6 (Required Fees and Charges).

**Action Taken:** The Rules Committee **MOVED** and Mr. Steinberg **SECONDED** to propose the amendment as recommended by the Rules Committee. After consideration, the Board **APPROVED** the motion.

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

**Action Taken:** None.

## **9. ENFORCEMENT COMMITTEE BUSINESS**

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

9.1.1 Case # 111-038 & 111-159

9.1.2 Case # 111-113

9.1.3 Case # 2013-160

9.1.4 Case # 2013-171

9.1.5 Case # 2013-303

9.1.6 Case # 2013-305

9.1.7 Case # 2013-360

9.1.8 Case # 2014-109

9.1.9 Case # 2014-114

9.1.10 Case # 2014-177

9.1.11 Case # 2014-182

9.1.12 Case # 2014-183

9.1.13 Case # 2014-188

9.1.14 Case # 2014-223

9.1.15 Case # 2014-244

9.1.16 Case # 2014-264

9.1.17 Case # 2014-265

9.1.18 Case # 2015-002

9.1.19 Case # 2015-007

9.1.20 Case # 2015-036

**Action Taken:** Ms. Woodruff **MOVED** and Dr. Riggs **SECONDED** to approve the Agreed Orders. After consideration, the Board **APPROVED** the motion.

9.2 Consideration of Requests to Expunge Records

9.2.1 Case # 2013-184

**Action Taken:** Dr. Riggs **MOVED** and Dr. Montgomery **SECONDED** to deny the expungement based on failure to meet criteria. After consideration, the Board **APPROVED** the motion.

9.2.2 Case # 102-238

**Action Taken:** Dr. Montgomery **MOVED** and Dr. Riggs **SECONDED** to approve the expungement. After consideration, the Board **APPROVED** the motion.

9.3 Consideration of Board Orders

9.3.1 Case # 2012-075

9.3.2 Case# 2013-111

9.3.3 Case# 2013-138

9.3.4 Case# 2012-247

9.3.5 Case # 2012-112

9.3.6 Case # 2013-008

**Action Taken:** Ms. Woodruff **MOVED** and Dr. Riggs **SECONDED** to approve the Board Orders. After consideration, the Board **APPROVED** the motion.

9.4 Consideration of Cease and Desist Orders

9.4.1 Case # 2013-297

9.4.2 Case# 2013-302

9.4.3 Case# 2014-027

9.4.4 Case# 2014-112

9.4.5 Case# 2014-150

9.4.6 Case# 2014-157

9.4.7 Case# 2014-174

9.4.8 Case# 2014-201

9.4.9 Case# 2014-223

9.4.10Case# 2014-248

9.4.11Case# 2015-003

9.4.12Case# 2015-014

9.4.13Case# 2015-044

9.4.14Case# 2015-066

9.4.15 Case# 2015-106

**Action Taken:** Dr. Riggs **MOVED** and Dr. Montgomery **SECONDED** to approve the Orders in agenda items 9.4.1 through 9.4.14. After consideration, the Board **APPROVED** the motion. Ms. Woodruff **MOVED** and Dr. Riggs **SECONDED** to approve the Order in agenda items 9.4.15. After consideration, the Board **APPROVED** the motion.

9.5 Consideration of Revocation Order

9.5.1 Case #2015-035

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

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

**Action Taken:** None.

**10. MISCELLANEOUS**

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

**Action Taken:** None.

10.2 Future Meeting Dates:

The planned Board meeting dates for Calendar Year 2015 are:

- (1) May 21, 2015
- (2) August 20, 2015
- (3) November 19, 2015

\*Note: All planned board meeting dates after November 2015 may be found on the agency's website (under "Calendar") at: [www.tbce.state.tx.us](http://www.tbce.state.tx.us). All dates are tentative until posted in the Texas Register.

The next Enforcement Committee dates apart from the board meetings are scheduled for:

- (1) April 14, 2015
- (2) May 20, 2015
- (3) July 14, 2015
- (4) August 19, 2015

**Action Taken:** None.

10.3           Adjournment at: 3:55 PM.

**Statement:** I affirm that the above is a true and correct rendering of the minutes for the Texas Board of Chiropractic Examiners Board Meeting held on the above referenced date. These minutes from the board meeting held on February 19, 2015 were approved by the Texas Board of Chiropractic Examiners at its next regularly scheduled board meeting held on May 21, 2015.



Yvette Yarbrough  
Executive Director  
Texas Board of Chiropractic Examiners

May 21, 2015  
Date