

Texas State Board of Acupuncture Examiners



BOARD MEETING MINUTES

May 14, 2010

The meeting was called to order at 10:14 a.m. on May 14, 2010, by Allen Cline, L.Ac., Presiding Officer. Board members present were Terry Rascoe, M.D., Assistant Presiding Officer; Raymond J. Graham, Secretary/ Treasurer; Chung-Hwei Chernly, L.Ac.; Suehing Yee Chiang; Karen Siegel, L.Ac.; Rachelle L. Webb, L.Ac.; and Reynaldo Ximenes, M.D. Linda Drain was not in attendance. Staff members present were Mari Robinson, Executive Director; Jaime Garanflo, Director of Licensure; Jennifer Kaufman, Assistant General Counsel; and various other staff.

Agenda item #2, Board Member Report. Ms. Webb gave a report of the Chiropractic Stakeholder workgroup. After discussion, the board directed staff to file a request for the specific type of acupuncture courses and training required by the Chiropractic Board for chiropractors to practice acupuncture.

Agenda item #3, Executive Director Report. Ms. Robinson gave a report on the Physician Health Program (PHP) that is actively working through referrals in its initial start up phase. Respondents will be referred back to the board if they violate their contract with the PHP.

Ms. Robinson gave a report that the Enforcement Report will be available later in June and will be presented at the November Acupuncture Board meeting.

Ms. Robinson gave a report on the proposed five percent budget cuts that were submitted to the Legislative Budget Board for approval and the status of the requested exemption from the cuts. The board discussed the budget cuts including the current hiring freeze and a possible fee increase.

Ms. Robinson gave a report on the timeline to post board meeting agenda items and requested members to notify staff ten days in advance of any items for the agenda. After discussing the rule-making process, the board directed staff to send the names of the members of the Acupuncture stakeholder group to the board members..

After reviewing the process of approving board committee minutes, Ms. Robinson reported that it was determined by the Assistant General Counsel that the action items should be approved during the full board meeting and the committee minutes should be approved at the next committee meeting. The final process will be presented for consideration at the November board meeting.

Ms. Goode reported that the long-term Strategic Plan for 2011-15 and the Legislative Appropriation Request for 2012-13 will be submitted as required.

Agenda item #4, Public Comments. William Morris, Academy of Oriental Medicine signed-in and presented oral comments. After discussion, the board directed staff to present to an

acupuncture stakeholder group for input options and level of training proposals regarding the practice of acupuncture with a training permit in the confines of an acupuncture school, similar to a physician in training permit.

Deanne Newbold signed-in and presented public comments. After discussion, the board directed staff to review a possible rule change regarding appropriate credit for informal ethics continuing education at the Acupuncture Stakeholder group and to add to the next board meeting agenda.

Lisa Lin, Texas College of Traditional Chinese Medicine, signed-in and presented oral comments.

Agenda item #21, Proposal for Decision. Christopher Butler, L.Ac. Ms. Robinson was recused. Thomas H. Walston, State Office of Administrative Law Judge (ALJ), gave a presentation. Scott Freshour, staff attorney, was present and gave a presentation. Mr. Christopher Butler was present with his attorney, Tim Weitz. Mr. Weitz gave a presentation.

After discussion, **Mr. Graham moved, Ms. Siegel seconded, and the motion passed to go into Executive Session at 12:27 a.m., for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act Section 551.071, Government Code.** Open session resumed at 1:16 p.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, **Dr. Rascoe moved, Mr. Graham seconded, and the motion passed to approve the ALJs Proposal for Decision except to add that Mr. Butler is advised to delete any reference to the title of Dr. in future professional material, including on his website; and to change the penalty from \$500 to \$250 due to the following mitigating factors, 1.) the fax did include information that Mr. Butler was an acupuncturist, although the information was not in the proper form as required; 2.) his apparent lack of intent to deceive the public; and 3.) his cooperation with the board.**

Mr. Weitz challenged the vote and the vote was re-taken with a call for a hand vote. Mr. Chernly abstained. The vote passed to approve Dr. Rascoes original motion to adopt the ALJs Proposal for Decision except to add that Mr. Butler is advised to delete any reference to the title of Dr. in future professional material, including his website; and to change the penalty from \$500 to \$250 due to the following mitigating factors, 1.) the fax did include information that Mr. Butler was an acupuncturist, although the information was not in the proper form as required; 2.) his apparent lack of intent to deceive the public; and 3.) his cooperation with the board.

Agenda item #6, Discussion, recommendation, and possible action regarding the licensure process for visiting Acupuncturists teaching in PhD programs in Texas schools.

After discussion, the board directed staff to review the options to offer temporary acupuncture facility permits for one year or for a licensure type for facility training that may be used in affiliated institutions.

Agenda item #8, Discussion, recommendation, and possible action regarding board directed projects. After discussion, the board directed staff to start the development of two projects: 1.) an electronic newsletter for acupuncturists; and, 2.) an FAQ for acupuncturists on the website.

Agenda item #7, Discussion, recommendation, and possible action regarding 22TAC 183.3 relating to the charges and responsibilities of the Acupuncture Board committees. The board discussed board members reviewing the committee descriptions to point out and to determine the need for specific committees to meet. After the discussion, the board directed staff to continue the current process to schedule committee meetings.

There were no items for Agenda item #9.

Agenda item #10, Consideration and approval of Agreed Board Orders. After discussion, **Ms. Siegel moved, Dr. Rascoe seconded, and the motion passed to approve the Agreed Board Order for H. L. Helen Liu, L.Ac., as written.**

There were no items for Agenda items #11-17.

Agenda item #18, Discussion and recommendation regarding proposed rule changes to 22 T.A.C. Chapter 183. Section 183.2, Definitions. After discussion, **Ms. Siegel moved, Mr. Graham seconded, and the motion passed to approve and send to the Medical Board the proposed rule changes to 22 T.A.C. Chapter 183. 183.2, Definitions.**

Agenda item #19, Review, discussion, and possible action regarding selected files and cases. After discussion, **Mr. Graham moved, Ms. Siegel seconded, and the motion passed to dismiss log #10-0464, as presented.**

Agenda item #20, Discussion, recommendation, and possible action regarding applicants for a Texas Acupuncture License. After discussion, **Dr. Ximenes moved, Ms. Siegel seconded, and the motion passed to approve the list of licensee applicants, as presented.**

Agenda item #22, Consideration and approval of Board Meeting January 29, 2010 minutes. After consideration, **Mr. Graham moved, Dr. Ximenes seconded, and the motion passed to approve the January 28, 2010 board meeting minutes.**

Agenda item #23, Committee reports and the consideration and approval of committee action items.

Dr. Rascoe gave a report of the Education Committee meeting. After discussion, **Dr. Rascoe moved, Mr. Chernly seconded, and the motion passed to approve the Education Committee action items.**

Agenda item #5, Discussion, recommendation, and possible direction regarding the I.D. for the Healing Art Identification Act. Ms. Kaufman gave a summary of the Healing Art Identification Act. After discussion, the board directed staff to draft a rule to address 1.) that using the designation L.Ac immediately before or after another degree is not important, 2.) to clarify the act. The board directed staff to add ID. For the Healing Art Identification Act to the developing FAQ on the website.

Agenda item #23, Adjourn. There being no further items the meeting adjourned at 2:34 p.m.