

**TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS**  
**BOARD MEETING MINUTES**

May 12, 2006

The meeting was called to order on May 12, 2006 at 11:38 a.m. by Terry Glenn Rascoe, M.D., Presiding Officer. Board members present were Sheng Ting (Sam) Chen; Chung-Hwei Chernly, L.Ac.; Donald Counts, M.D.; Pedro (Pete) V. Garcia, Jr.; Hoang Xiong Ho, L.Ac.; Meng-Sheng Linda Lin, L.Ac.; and Claire Smith. Staff members present were Donald W. Patrick, M.D., J.D., Executive Director; Jerry T. Walker, MPH, Deputy Executive Director, Robert D. Simpson, Assistant General Counsel; Jaime Garanflo, Director of Customer Affairs; and various other staff.

**Agenda item #2.** The Executive Session was deferred.

**Agenda item #3, Executive Director's Report.** Dr. Patrick gave an update on the status of the licensure applications of Dallas College of Oriental Medicine teachout graduates.

Dr. Patrick discussed the need to have an interim agreed order or other process to begin early Board monitoring of acupuncturists who are reported impaired by drugs or alcohol. Early participation in the Board drug-testing program would provide much better protection for the public and more information for use by the Board and staff. The Board authorized the Executive Director to sign interim orders or agreements that would place impaired physicians in the Board testing program as early as possible. The Board directed the Executive Director to report acupuncturists with interim orders to the Chair of the Disciplinary and Ethics committee.

Ms. Garanflo gave a report on the late registration fee explanation to be posted on the website with questions and answers pertaining to registration fees for licensed Texas practitioners.

Robert Simpson, Assistant General Counsel, gave a report on a case at the State of Office of Administrative Hearings concerning Sheryl Roe.

**Agenda item #4, Discussion regarding development of rules pursuant to Sunset change in Acupuncture Act, §205.255 regarding delegation of approval of Continuing Acupuncture Education courses to staff.** Agenda item #4 was deferred to the July Board meeting.

**Agenda item #5, Report and discussion regarding the status of the proposed Texas Board of Chiropractic Examiners rule 75.17.** Mr. Simpson gave an update on the Texas Chiropractic Board's adoption of proposed rules concerning acupuncture and scope of practice that provide that chiropractors may use needles as set for by the Chiropractic Board. The Board discussed the issues and concerns regarding the Chiropractic Board's definition of acupuncture; using needles for EMG testing; and ear stapling.

Mari Robinson, Manager of Enforcement, gave a report on the Texas Department of Health investigating the unapproved use of a medical device in ear stapling. Ms. Robinson asked the Board if ear stapling was the practice of acupuncture. After the Board discussed concerns with ear stapling, the Board tabled the issue and directed staff to keep the Board abreast of any developments with the Texas Health Department. The Board directed staff to formulate a response to the Chiropractic board and to consider requesting an Attorney General opinion relating to the Chiropractic rules for acupuncture.

**Agenda item #6, Consideration and Approval of Non-Public Rehabilitation Orders and Modification Request/Termination Request of Non-Public Rehabilitation Orders.** Mr. Garcia moved, Mr. Ho seconded, and the motion passed to go into Executive Session at 12:35 p.m. for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, §152.009; and TEXAS OCCUPATIONS CODE ANNOTATED, §205.304; and Attorney General's Opinion No. H-484. Open session resumed at 12:45 p.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, the Board directed staff to develop a rule not requiring English proficiency testing for licensure applicants if the applicant graduated from an English speaking acupuncture school in the United States.

There were no items for Agenda items #7-#13.

**Agenda item #14, Consideration and approval of cancellation of acupuncture licenses for nonpayment and by request. Mr. Garcia moved, Mr. Ho seconded, and the motion passed to approve the cancellation of acupuncture licenses for nonpayment and by request, as distributed.**

**Agenda item #15, Consideration and Approval of January 13, 2006 Board Meeting Minutes. Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve the January 13, 2006 Board Meeting Minutes.**

**Agenda item #16, Committee reports and the consideration and approval of minutes and action items of committees meeting during the board meeting. Ms. Lin gave a report of the Licensure Committee. Mr. Garcia moved, Ms. Lin seconded, and the motion passed to approve the Licensure Committee minutes and action items.**

**Mr. Garcia gave a report of the Discipline and Ethics Committee. Ms. Lin moved, Ms. Smith seconded, and the motion passed to approve the Discipline and Ethics Committee minutes and action items with two clerical corrections.**

**Dr. Rascoe gave a report of the Education Committee. Mr. Garcia moved, Mr. Ho seconded, and the motion passed to approve the Education Committee minutes and action items.**

Staff announced the Open Government Training as required by state law as of January 1, 2006 was available immediately following the conclusion of the board meeting in the Conference Room and online.

**Agenda item #17, Adjourned.** There being no further items the meeting adjourned at 1:05 p.m.