

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS
BOARD MEETING MINUTES
January 13, 2006

The meeting was called to order on January 13, 2006 at 10:58 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, Michele Shackelford, General Counsel; Jaime Garanfio, Director of Customer Affairs; and various other staff.

Agenda item #2. Mr. Garcia moved, Dr. Counts seconded, and the motion passed to go into Executive Session at 11:01 a.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 11:15 a.m. and it was announced that no action was taken. A certified agenda was made.

Agenda item #3, Executive Director's Report. Dr. Patrick went over the end of the year enforcement report. Dr. Patrick presented information on the new statutory authority for the Acupuncture Board to issue a cease and desist letter for persons identified as practicing acupuncture in Texas without a license. The Board directed staff to include education on the web-site concerning the new authority and to proceed aggressively if a complaint concerning the unlicensed practice of acupuncture was determined to be correct.

Dr. Patrick reported on the changes to the agency rules to become effective at the end of January concerning enforcement that would affect acupuncture licenses. Dr. Patrick then presented an overview of the Enforcement activities of the agency for fiscal year 2005.

Michele Shackelford presented information concerning the October 2005 draft of proposed rules currently under development by the Texas Board of Chiropractic Examiners relating to the authority of chiropractors to perform acupuncture. The Board directed staff to communicate with the Executive Director of the Texas Board of Chiropractic Examiners and to present written comments on the proposed rules concerning the following issues: request for the Acupuncture Board to be involved in the rule development process; lack of statutory support to authorize a chiropractor to perform acupuncture; lack of definition for acupuncture or acupuncture procedures allowed to be performed by chiropractors; and lack of required training in acupuncture for chiropractors. The Board directed staff to send a copy of the rule comments to all Board members.

Ms. Shackelford reported that the Texas Medical Board rules as reviewed by the Acupuncture Board were presented to the Medical Board and passed as proposed. Dr. Patrick reported the Open Government Training as required by state law as of January 1, 2006 was available from staff and online. The Board directed staff to schedule open government training for the Board after the next meeting.

Agenda item #4, Presentation of request for rule change regarding Chapter 183.4, Acupuncture Licensure relating to the number of examination attempts allowed. Ms. Shackelford presented a request for rule change regarding Chapter 183. After discussion, **Mr. Garcia moved, Ms. Smith seconded, and the motion passed to deny the request for consideration of a rule change to Chapter 183.4 to remove the current licensure requirement that an applicant must pass each component of the NCCAOM examination within three attempts.**

Agenda item #5, Discussion, recommendation and possible action regarding Chapter 183, Acupuncture, relating to changes mandated by SB419. Ms. Shackelford reviewed the Acupuncture Workgroup recommendations concerning the Tier One Revisions to Rule 183. After discussion, **Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve to recommend to the Texas Medical Board the rule changes to Rule 183 as presented with the inclusion of recommendations from the Acupuncture Workgroup.**

Agenda item #6, Discussion, recommendation and possible action regarding Chapter 161, General Provisions, relating to the deletion of 161.6(5) Licensure Committee, regarding the role of the Medical Board in reviewing and taking action on applicants for Acupuncture licensure. Ms. Shackelford reported that the Medical Board has adopted changes to Chapter 161 that delete Licensure Committee duties concerning taking action on applicants for Acupuncture licensure since that is now a duty of the Acupuncture Board. Since this was a report, there was no action required regarding Chapter 161.

There were no items for Agenda items #7-#15.

Agenda item #16. Election of Officers. After discussion, Mr. Garcia nominated Ms. Lin as Assistant Presiding Officer. A vote was called. All voted in favor of Ms. Lin. Dr. Rascoe announced Ms. Lin as the Assistant Presiding Officer. Mr. Garcia nominated Ms. Smith as Secretary/Treasurer. A vote was called. All voted in favor of Ms. Smith. Dr. Rascoe announced Ms Smith as the Secretary/Treasurer.

Agenda item #17, Consideration and Approval of October 28, 2005 Board Meeting Minutes. After discussion, Mr. Garcia moved, Dr. Counts seconded, and the motion passed to approve the October 28, 2005 Board Meeting Minutes as distributed.

Agenda item #18, Consideration and Approval of October 28, 2005 Discipline and Ethics Committee Meeting Minutes. After discussion, Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve the October 28, 2005 Discipline and Ethics Committee Meeting Minutes.

Agenda item #19, Consideration and Approval of the Board Meeting Dates for Calendar Year 2007. After discussion, Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve the Board Meeting Dates for Calendar Year 2007.

Agenda item #20, 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 Meeting. After discussion, **Mr. Garcia moved, Dr. Counts seconded, and the motion passed to approve the Licensure Committee Meeting minutes and action items.**

Dr. Rascoe gave a report of the Education Committee Meeting. After discussion, **Ms. Smith moved, Mr. Garcia seconded, and the motion passed to approve the Education Committee Meeting Minutes with a clerical correction and action items.**

Agenda item #21, Adjourn. There being no further items, **Ms. Smith moved, Mr. Garcia seconded, and the meeting was adjourned at 1:20 p.m.**