

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS
BOARD MEETING MINUTES
SEPTEMBER 4, 2001

The meeting was called to order at 1:00 p.m. by Presiding Officer, Everett G. Heinze, Jr., M.D. Board members present were Pedro (Pete) V. Garcia, Jr.; Everett G. Heinze, Jr., M.D.; Meng-Sheng Linda Lin, L.Ac.; Dee Ann Newbold, L.Ac.; Claire H. Smith; and Marshall D. Voris, Ph.D., Ed.D., L.Ac. Staff members present were Jerry Walker, Interim Executive Director; Michele Shackelford, J.D., General Counsel; Jennifer Soffer, J.D., Assistant General Counsel; and various other staff.

Agenda item #2, regarding executive session, was next. Ms. Newbold moved, Mr. Garcia seconded, and the motion passed to go into executive session at 1:03 p.m. for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action, and for consideration of possible rehabilitation orders under the authority of the Open Meetings Act, GOVERNMENT CODE, §551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, §§152.009, 205.304, 205.356, and 205.357; and Attorney Generals Opinion No. H-484. Open session resumed at 2:05 p.m. and it was announced that no action was taken during executive session. A certified agenda was made.

Agenda item #3, regarding board briefings, was next. Ms. Soffer briefed the board on rule-making procedures, outlining the time-line involved when a rule is proposed and sent to the Medical Board for approval.

Agenda item #4, regarding the Executive Director's report, was considered. Mr. Walker reported that a recommendation for the new Executive Director would be made by the Search Committee to the Medical Board later this week. He stated that it was anticipated that the new Executive Director would begin work within several weeks.

Agenda item #5, regarding a review of board procedural rules, was considered. Ms. Shackelford reported on procedural rules relating to the appointment of committees and the protocol for assumption of duties in the absence of the presiding officer or committee chair.

Agenda item #6, regarding a legislative update, was next. Jane McFarland, Director of Physician Profile, reported on recent legislation affecting the agency, including several bills directly affecting the practice of acupuncture.

Agenda item #7, regarding Attorney General Opinion JC-0379, was next. Ms. Shackelford summarized A.G. Opinion JC-0379 and asked for guidance from the Board as to how to proceed. Following discussion regarding the effect that the Opinion will have on the practice of acupuncture, **Mr. Garcia moved, Dr. Voris seconded, and the motion passed to direct staff to draft a letter to the Attorney General stating the Board's concerns and bring it back to the November Board meeting for review. Dr. Voris moved and Ms. Newbold seconded the motion to defer final action on complaints made against licensed acupuncturists relating to the practice of energy flow exercises until this issue is resolved or clarified. Following further discussion, the motion was withdrawn.**

Agenda item #8, regarding clarification of the definition of energy flow exercise, was next. It was announced that no action was necessary at this time.

Agenda item #9, regarding the use of the title "Oriental Medical Doctor," was next. Ms. Shackelford reported on the history of previous actions concerning this issue, including a proposed rule change previously sent to the Medical Board in 1996 that was rejected. Following a lengthy discussion, **Dr. Voris moved, Ms. Lin seconded, and the motion passed to direct staff to research the questions of granting of titles and granting of degrees as it relates to the Board's authority in these areas and to set up a public hearing at the next Acupuncture Board meeting to take comment regarding the use of titles.**

Agenda item #11, regarding authorized practice without referral, was next. Ms. Shackelford discussed Senate Bill 643, the analysis of the bill, and the proposed wording for a rule change. She also stated that the Medical Board has been tasked with adopting rules relating to this issue and asked for the Acupuncture Board's input on the wording.

Agenda item #10, regarding proposed revisions to Chapter 183, Acupuncture, was next. Ms. Newbold moved, Ms. Smith seconded, and the motion passed to approve the proposed changes as amended on §183.6 and recommend the language to the Medical Board for approval and publication. Ms. Smith moved, Mr. Garcia seconded, and the motion passed to approve the proposed changes on §§183.2-.21 and recommend the changes to the Medical Board for approval and publication.

It was announced that there were no orders to be considered for agenda items #12-19.

Agenda item #20, regarding the April 23, 2001 board meeting minutes, was considered. Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve the minutes.

Agenda item #21, regarding the April 23, 2001 Education Committee meeting minutes, was next. Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve the minutes, as amended.

Agenda item #22, regarding the April 23, 2001 Licensure Committee meeting minutes, was next. Mr. Garcia moved, Ms. Lin seconded, and the motion passed to approve the minutes.

Agenda item #23, regarding a report of the September 4, 2001 Education Committee meeting, was next. Ms. Newbold reported that the committee reviewed 12 continuing acupuncture education applications with the following results: 10 were approved, one was approved contingent upon receipt of additional information and one was denied. **Mr. Garcia moved, Ms. Smith seconded, and the motion passed to approve the report and action items.**

Agenda item #24, regarding a report of the September 4, 2001 Licensure Committee meeting, was next. Dr. Heinze gave a report and recommended 9 applications for unconditional approval and 3 for deferral. **Ms. Lin moved and Dr. Voris seconded the motion to approve the report and action items. Ms. Newbold moved, Dr. Voris seconded, and the motion passed to go into executive session at 4:40 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 4:43 p.m. and it was announced that no action was taken during executive session. A certified agenda was made. **The motion made by Ms. Lin passed.**

Agenda item #25, regarding a report of the September 4, 2001 Discipline and Ethics Committee meeting, was next. Mr. Garcia reported that the committee reviewed one file and recommended continued investigation. **Dr. Voris moved, Ms. Lin seconded, and the motion passed to approve the minutes and action items.**

There being no further business, **Mr. Garcia moved, Ms. Newbold seconded, and the motion passed to adjourn the meeting at 4:48 p.m.**