



Texas State Board of Acupuncture Examiners

BOARD MEETING

FRIDAY, August 4, 2023

The meeting was called to order on August 4, 2023 at 9:01 a.m. by Donna S. Guthery, LAc., Presiding Officer. Board members present were Grant E. Weidler, MAOM, L.Ac; Sheri J. Davidson, L.Ac; Samantha Gonzalez; Mary E. Hebert, M.D.; and Rey Ximenes, M.D. Elisabeth Lee "Ellee" Carlson, D.A.O.M., L.Ac and Maria M. Garcia did not attend. Staff members present were Stephen "Brint" Carlton, J.D., Executive Director; Scott Freshour, J.D., General Counsel; Robert Breddt, M.D., Medical Director; and various other staff.

Agenda Item #2, Board Member Report. Ms. Guthery acknowledged Dr. Graham for his work on the board. A Resolution will be sent to Dr. Graham.

Agenda Item #3, Executive Director's Report.

Budget update. Mr. Carlton gave an update on the agency's budget.

Legislative Update. Mr. Carlton gave an update on the legislative session.

Internal Audit.

Rules Update. Mr. Carlton gave an update on the review of the rules by the General Counsel staff.

Agenda Item #4, Medical Director Report. There was nothing to report.

Agenda Item #5, Consideration and possible action regarding pending litigation. Mr. Freshour gave a report on pending litigation.

Agenda Item #6, Discussion, recommendation, and possible action regarding referrals from the Texas Physician Health Program.

- A. Discussion, recommendation and possible action regarding referrals.** There were none.
- B. Report on Emergent Referrals.** There were none.
- C. Other Discussion Items – Program Activity Reports.** A Program Activity Report and Drug Screening Quarterly Report was provided to the board. Mr. Carlton gave an update on the changes in TXPHP fees effective September 1.

Agenda Item #7, Discussion, recommendation, and possible action regarding approval of Acudetox Training Program. Ellen Vincent, POCA Auricular Acu-technicians gave a presentation to become a recognized acudetox training program in Texas. After consideration, **Dr. Ximenes moved, Dr. Hebert seconded and the motion passed to approve POCA Auricular Acu-technicians as a recognized Acudetox Training Program.**

Agenda Item #8, Report from staff on initial request to become an approved provider. There were none.

Agenda Item #9, Report from staff on renewal of approved providers. Ms. Unterborn reported that two providers, Oigong Awareness, LLC and Texas Association of Acupuncture & Oriental Medicine, were renewed as an approved provider.

Agenda Item #10, Report from staff on continuing acupuncture education courses approved. Ms. Unterborn provided a report on approved continuing education courses.

Agenda Item #11, Discussion, recommendation and possible action regarding applicants appearing concerning eligibility. There were none.

Agenda Item #12, Discussion, recommendation, and possible action regarding applicants for a Texas Acupuncture License. Ms. Unterborn reported that there were **20** applicants who met all requirements to be considered for permanent licensure by the full Board. **Dr. Hebert moved to recommend that the 20 acupuncture licensure applicants determined to meet eligibility requirements by staff be approved. Ms. Guthery seconded the motion. All voted in favor and the motion passed.**

Agenda Item #13, Reports and discussion regarding the Investigation, Litigation, and Compliance Departments.

- A. Enforcement Activity Report.** Amy Swanholm provided the Enforcement Activity Report.
- B. Warning Letters Report.** Nothing to report.
- C. Criminal Case Review Report.** Amy Swanholm provided the Criminal Case Review Report.
- D. Report Regarding Cases Over One Year Old.** Amy Swanholm provided the Report Regarding Cases Over One Year Old.
- E. Report on Temporary Suspensions.** Nothing to report.
- F. Report on Rehearing Requests.** Nothing to report.

There were no items for Agenda Items #14-16.

At 9:19 am, Ms. Guthrie moved and Ms. Gonzalez seconded to go into Executive Session for the purpose of 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 9:56 am.

Agenda Item #17, Appeals. After discussion, **Ms. Guthery moved, Dr. Ximenes seconded, and the motion passed to grant the appeal and gather more information on the procedure itself and what type of needle was used in the procedure.**

There were no items for Agenda Items #18-19.

Agenda Item #20, Consideration and Approval of Modification Request/Termination Request Orders. After consideration, **Dr. Hebert moved, Mr. Weidler seconded, and the motion passed to approve the Modification Request/Termination Request for Zamarripa, Denise, AC.**

Agenda Item #21, Consideration and Approval of Remedial Plans. After consideration, **Dr. Weidler moved, Dr. Hebert seconded, and the motion passed to approve the Remedial Plans for Bartell, Anne, AC.**

Agenda Item #22, Consideration and Approval of Agreed Orders. After consideration, **Ms. Guthery moved, Dr. Weidler seconded, and the motion passed to approve the Agreed Orders for Ho, Huy Xuan, AC.**

Agenda Item #23, Consideration and Approval of Mediated Settlement Agreed Orders. There were none.

Agenda Item #24, Open forum for Public Comments. Mr. Wally Doggett signed in and made public comments.

Agenda Item #25, Consideration and Approval of the April 14, 2023 Board Meeting Minutes. After consideration, **Ms. Hebert moved, Ms. Guthery seconded, and the motion passed to approve the April 21, 2023 board meeting minutes.**

Agenda Item #26, Nomination and election of officers. Tabled with no action.

Agenda Item #27, Adjourn. There being no further items, **Dr. Ximenes moved, Dr. Hebert seconded, and the motion passed to adjourn the meeting at 10:08 am.**