

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS  
MAY 5, 2000 BOARD MEETING MINUTES

The meeting was called to order at 1:15 p.m. by Assistant Presiding Officer, Everett G. Heinze, Jr., M.D. Board members present were Cheng Ming Chang, L.Ac.; Pedro (Pete) V. Garcia, Jr.; Meng-Sheng Linda Lin, L.Ac.; Dee Ann Newbold, L.Ac.; and Marshall D. Voris, Ph.D., Ed.D., L.Ac. Also present were Bruce A. Levy, M.D., J.D., Executive Director; Jerry T. Walker, Chief Operating Officer; Michele Shackelford, Assistant General Counsel; and various other staff.

Dr. Heinze announced that the Board would go into executive session at 1:16 p.m. under the authority of the Open Meetings Act, Section 551.071 of the Government Code and the Medical Practice Act, Article 4495b, Texas Revised Civil Statutes, Sections 2.07(b) and 2.09(o) for private consultation and advice of counsel concerning litigation relative to possible disciplinary action. Open session resumed at 1:30 p.m. and it was announced that no action was taken during executive session.

Mr. Walker gave a brief report and announced that there were no updates regarding Medical Board action relating to acupuncture issues.

Next on the agenda was discussion, recommendation, and possible action regarding newsletter articles and web site information relating to acupuncture. Jill Wiggins, Public Information Director, was present to answer the Board members questions. The members agreed that the information on the web page regarding acupuncture needs to be updated. They also expressed an interest in having a separate page in the newsletter devoted to acupuncture and actions taken by the Acupuncture Board. Following discussion, Ms. Newbold moved, Dr. Voris seconded, and the motion passed to have the newsletter include a page devoted to acupuncture that will include disciplinary actions, reminders about continuing acupuncture education, license renewal, updates on rules, and other information pertinent to acupuncture practice. In addition, staff was directed to update the information on the web.

Dr. Levy gave a brief report and updated the Board members on the search for a new Executive Director. He announced that final interviews would be conducted on May 12. He also stated that he would be joining the Federation of State Medical Boards later in the year as Deputy Executive Vice President of Leadership Services.

Next on the agenda was discussion, recommendation, and possible action regarding the policy of some blood banks to not accept donations from someone who has received acupuncture treatment. Staff reported that research revealed that each blood bank determines its own guidelines and that a blood donor who has received acupuncture treatment is considered similar to someone who has had a tattoo. There was extensive discussion regarding the need to educate blood banks, blood donors, and acupuncturists regarding sterile needle technique. Several board members suggested writing a letter to blood banks, the Food and Drug Administration, and the NIH. In addition, Dr. Levy suggested placing an article in the newsletter to assist acupuncturists in dealing with patient complaints regarding this issue. Following discussion, Ms. Newbold moved, Mr. Chang seconded, and the motion passed to post a sample letter in the newsletter that acupuncturists may use to send to blood banks explaining the requirement to use sterile needles when giving acupuncture treatment; to send a letter to all blood banks in Texas; and to send a letter to the NIH expressing the Boards concern regarding blood bank guidelines.

The next item on the agenda was discussion, recommendation, and possible action regarding advertising in the telephone book under the heading of acupuncturists by practitioners not licensed as acupuncturists. Dr. Levy explained that this is an ongoing problem and that staff had written to phone companies in the past expressing concern. Mr. Walker stated that he had contacted Southwestern Bell and explained that the phone company does not verify licensure status of advertisers. There was discussion regarding preparing an insert for the annual registration notices that would educate licensees in the proper use of titles. Ms. Newbold moved, Dr. Voris seconded, and the motion passed to direct staff to write a strongly worded reminder about advertising and the use of titles; and to research title protection in other statutes, such as those governing the practice of chiropractic and physical therapy.

Rule review and discussion, recommendation, and possible action regarding proposed amendments to Chapter 183, Acupuncture, were next. Pat Wood, Executive Assistant, reviewed each proposed change as discussed at the previous Board meeting, as well as suggestions from the Texas Acupuncture Association (TAA).

TAA suggested an amendment to §183.2(1) regarding ability to communicate in the English language. Following discussion, Mr. Garcia moved, Mr. Chang seconded, and the motion passed to leave the rule as it currently reads.

TAA suggested an amendment to □183.2(16) by adding the words of acupuncture to clarify the type of practice. Ms. Newbold moved, Dr. Heinze seconded, and the motion passed to approve the change.

TAA suggested an amendment to □183.2(17)(E) to create a biennial renewal of an acupuncturist license. Staff pointed out that the statute requires an annual registration.

TAA suggested an amendment to □183.2(23) regarding the term used to describe a permit or license from another state. Following discussion, the consensus of the Board was to leave the rule as it currently reads.

TAA suggested an amendment to □183.3(h) regarding public input during a Board meeting. Since this issue has been addressed in the citizen communication policy statement, no action was taken to make additional changes.

TAA suggested an amendment to □183.4(b)(1)(C) regarding examinations. Dr. Voris moved to accept other examinations, in addition to the NCCAOM examination. Following discussion regarding the cost involved in the validation of examinations, Dr. Voris withdrew his motion. No action was taken on the suggestion by TAA.

TAA suggested an amendment to □183.4(c)(3)(F) regarding licensure documentation. Following discussion, the Board decided to leave the rule as it currently reads.

TAA suggested an amendment to □183.4(c)(3)(I) regarding false documentation, changing the word shall to may. The Board accepted this recommendation.

TAA suggested an amendment to □183.4(d)(1) regarding the issuance of a license. The Board accepted this recommendation to add for review and for the license to be issued.

TAA suggested an amendment to □183.4(d)(2) regarding temporary licenses. Staff pointed out that the suggestion was in contradiction with the statute.

TAA suggested an amendment to □183.4(e)(2) regarding distinguished professor temporary licenses. Following discussion, Dr. Voris moved, Mr. Garcia seconded, and the motion passed to substitute the language from the Medical Boards rules regarding distinguished professor temporary licenses found in Chapter 163.

TAA suggested amendments to □183.5 regarding biennial renewal of licenses and penalty fees. Staff pointed out that statute requires annual renewal of licenses.

TAA suggested an amendment to □183.8(d)(2)(B) regarding investigations. The Board did not agree with the suggestion.

TAA suggested amendments to §§183.8(f)(2) and 183.10(c)(1) to correct several administrative errors. The Board concurred.

TAA suggested deleting §183.18 regarding automatic licensure in its entirety since it is obsolete. The Board concurred.

TAA suggested an amendment to §183.19(a) regarding the use of professional titles that would allow the use of the title Doctor of Oriental Medicine or D.O.M. Following discussion, the Board determined that additional research was needed.

The Board discussed the make-up of the Executive Committee and its responsibilities as outlined in §183.3(g)(4). Several changes were made to the proposed rule. Following discussion, Ms. Newbold moved and Dr. Voris seconded the motion to have the Executive Committee consist of the Presiding Officer, the Assistant Presiding Officer, and the Secretary-Treasurer, with additional members as needed to have at least two acupuncturists, one physician, and one public members on the committee. Mr. Garcia moved to table the discussion until further research is done. Following discussion, Mr. Garcia withdrew his motion. A vote was taken on Ms. Newbolds motion. The motion passed.

There was discussion regarding the form in §183.12, Patient Records, entitled Form to be Completed by Patient, Attesting that the Acupuncturist Has Referred Him/Her. Ms. Newbold moved, Mr. Garcia seconded, and the motion passed to amend the section and make the form optional.

Dr. Voris recommended that §183.2(a)(36)(C) be deleted. Following discussion, the Board recommended that the Education Committee further review this issue and make a recommendation to the full Board. Dr. Voris also asked for clarification regarding several sections of the rules that are statutorily required. He also recommended increasing the continuing acupuncture education hours to 24 per year. The Board took no action at this time.

Following discussion, Ms. Newbold moved, Mr. Chang seconded, and the motion passed to approve the proposed amendments to Chapter 183, with changes as discussed, and to recommend to the Medical Board that these changes be published in the Texas Register for public comment.

Mr. Garcia moved, Dr. Voris seconded, and the motion passed to approve the minutes of the January 21, 2000 Education Committee meeting, the January 21, 2000 Licensure Committee

meeting, and the January 21, 2000 full board meeting, with changes on the full board minutes as noted.

Dr. Heinze gave a report of the Licensure Committee meeting. Ms. Newbold moved, Mr. Garcia seconded, and the motion passed to approve the report and action items.

Ms. Newbold gave a report of the Discipline and Ethics Committee. Mr. Garcia moved, Dr. Voris seconded, and the motion passed to approve the report and action items.

Ms. Newbold gave a report of the Education Committee. Mr. Garcia moved, Mr. Chang seconded, and the motion passed to approve the report and action items.

Dr. Heinze gave a report of the Executive Committee meeting. Dr. Voris moved, Ms. Lin seconded, and the motion passed to approve the report and, based on further discussion, to not ask Dr. Kanz to present his information to the full board, but to direct staff to investigate the new complaint.

There being no further business, Mr. Garcia moved, Dr. Voris seconded, and the motion passed to adjourn the meeting at 4:46 p.m.