



Texas State Board of Acupuncture Examiners

BOARD MEETING MINUTES

October 9, 2015

The meeting was called to order at 10:08 a.m. by Allen D. Cline, L.Ac., Presiding Officer. Board members present were Linda Wynn Drain, J.D.; Raymond Graham; Jingyu Gu, L.Ac; Donna S. Guthery, L.Ac; Claudia E. Harsh, M.D.; Rachelle Webb, L.Ac.; and Rey Ximenes, M.D. Suehing Yee Chiang was not present. Staff members present were Mari Robinson, J.D., Executive Director; Scott Freshour, General Counsel; Monique Johnston, Interim Manager of Licensure; Megan Goode, Governmental Affairs and Communication Manager; the Assistant General Counsels, Rob Blech, Wendy Pajak Sarah Tuthill, and John Langley; and various other staff.

Agenda item #2, Board Member Report. Mr. Cline requested information on the status of any updates to the jurisprudence exam. Ms. Robinson reported staff is continuing to work on updating the boards' jurisprudence exams.

Agenda item #3, Executive Director's Report.

Legislative Update. Ms. Robinson gave an overview of the four regulatory programs for Medical Physicists, Perfusionists, Respiratory Care Therapists, and Radiologists, which were transitioned from the Department of State Health Services, as recommended by the Sunset Commission.

The Sunset Review process is scheduled to start in April 2016. The Self-Evaluation Report included three issues that impact acupunctures, scope of practice; delegation of acupuncture; and the practice of acupuncture.

Audit. Ms. Robinson presented the Internal Audit Report that was on the processes and controls of the agency to ensure compliance with state requirements for licensing physicians.

Budget. Ms. Robinson reported the FY15 budget ended balanced and the FY16 budget started September 1st.

Outreach update. Ms. Robinson presented the current Outreach schedule.

Personnel update. Ms. Robinson introduced Monique Johnston as the new Interim Licensure Manager.

Agenda item #4, Discussion, recommendation, and possible action regarding dry needling. Mr. Blech presented a draft letter as requested to seek an Attorney General Opinion

regarding the practice of trigger point dry needling and to seek clarification if the practice of acupuncture was encompassed under the scope of Physical Therapists. After discussion, **Mr. Gu moved, Dr. Ximenes seconded, and the motion passed to approve the draft letter to the Attorney General with clerical edits.**

Agenda item #5, Consideration and possible action regarding pending litigation. Mr. Freshour gave a brief report on the ongoing lawsuit between the Acupuncture Association vs Chiropractic Board regarding the practice of acupuncture. After discussion, **Mr. Ximenes moved, Mr. Graham seconded and the motion passed to go into Executive Session at 10:40 a.m., for 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 10:59 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, **Mr. Graham moved, Dr. Ximenes seconded, and the motion passed to prepare a statement reaffirming the statutes and standards of the Texas State Board of Acupuncture with the board member signatures.**

There were no items for Agenda items #6-15.

Agenda item #16, Consideration and Approval of cease and desist orders. After discussion, **Ms. Drain moved, Dr. Ximenes seconded, and the motion passed to approve the Cease and Desist Order for Lee Li, L.Ac.**

Agenda item #18, Review, discussion, and possible action regarding selected files and cases. After discussion, **Mr. Graham moved, Ms. Drain seconded, and the motion passed to dismiss Log #15-1204; Legal #15-0057, Legal #15-0473, and Legal #15-0646.**

There were no items for agenda item #19.

Agenda item #20, Discussion, recommendation, and possible action regarding a proposed adoption for a rule change, including proposed amendments to 22 T.A.C. Chapter 183.

- a. **§183.23 Inactive Status License.** Rob Blech gave a brief summary. No written comments were received. No one signed in for oral comments. **Dr. Ximenes moved, Mr. Gu seconded, and the motion passed to refer 22 T.A.C. §183.23 Inactive Status License to the Medical Board for adoption.**
- b. **§183.26 Retired License.** Rob Blech gave a brief summary. No written comments were received. No one signed in for oral comments. **Dr. Ximenes moved, Mr. Gu seconded, and the motion passed to refer 22 T.A.C. §183.26 Retired License to the Medical Board for adoption.**

Agenda item #22, Open forum for public comments. Lisa Lin, L.Ac, signed in and presented oral comments. Staff will look at where rules are posted.

Agenda item #23, Consideration and approval of May 8, 2015 Board Meeting Minutes. Dr. Ximenes moved, Mr. Graham seconded, and the motion passed to approve the January 16, 2015 minutes and action items.

Agenda item #21, Report §183.7(c). Mr. Blech gave a report. After discussion, Mr. Gu moved, Ms. Drain seconded, and the motion passed to request the Medical Board to approve the use of facial rejuvenation for acupuncturists without a physician referral.

Agenda item #28, Committee reports and the consideration and approval of committee action items.

Ms. Webb gave a report of the Education Committee. **Mr. Graham moved, Mr. Gu seconded, and the motion passed to approve the minutes and action items with a clerical correct of Ms. Drain's name.**

Mr. Cline gave a report of the Licensure Committee. **Dr. Ximenes, Mr. Graham seconded, and the motion passed to approve the Licensure Committee meeting minutes and action items.**

There being no additional items, **Dr. Ximenes moved, Mr. Graham seconded, and the motion passed to adjourn the meeting at 11:30 a.m.**