



## TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS

### LICENSURE COMMITTEE MEETING MINUTES

January 16, 2015

The meeting was called to order at 9:34 a.m. by the Chair, Allen Cline, L.Ac. Committee members present were Rachelle Webb, L.Ac., and Rey Ximenes, M.D.

**Agenda Item 2** – Discussion, recommendation, and possible action regarding **applicants appearing concerning eligibility**

**Applicant #1629** appeared before the Committee on referral by the Executive Director. **Dr. Ximenes** moved to recommend to the full Board that a decision be deferred and the applicant's file be extended until the next scheduled Board meeting so the applicant may submit the documentation requested by Board staff, as well as any additional supporting documentation demonstrating the applicant's current sobriety. Upon successful submission of the required documentation the applicant will be scheduled to reappear before the Committee. Factors influencing this recommendation include the applicant's 2004 felony deferred adjudication for prescription fraud and the applicant's history of substance abuse. **Ms. Webb** seconded. All voted in favor. The motion passed.

**Agenda Item 3 - Discussion, recommendation, and possible action regarding applicants for a Texas Acupuncture License:** There were 22 licensure applicants who met all requirements to be considered for acupuncture licensure by the Texas State Board of Acupuncture Examiners (TSBAE). **Ms. Webb** moved, **Dr. Ximenes** seconded and the motion passed to recommend to the full board that the 22 licensure applicants be approved for licenses and that their names be listed as part of the minutes of this Committee.

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**Agenda Item 4 – Discussion, recommendation, and possible action regarding proposed orders offered by the Executive Director. There were none**

**Agenda Item 5 - Discussion, recommendation, and possible action regarding Board Rules**

- a. 22 TAC 183.4 Licensure

**Ms. Webb moved to recommend to the full Board that the rule be published in the Texas Register as presented for public comment. Dr. Ximenes seconded. All voted in favor. The motion passed.**

- b. 22 TAC 183.6 Denial of License; Discipline of Licensee

**Dr. Ximenes moved to recommend to the full Board that the rule be published in the Texas Register as presented for public comment. Ms. Webb seconded. All voted in favor. The motion passed.**

**Agenda Item 6 - Discussion, recommendation and possible action regarding applicant packets:** Mr. Freshour asked for direction from the committee regarding the release of application materials to applicants appearing before committee. Mr. Freshour explained that at this time applicants who appear before the committee only receive a copy of the committee summary and are not provided copies of the documentation the committee receives. The committee directed staff to make the recommended revisions to the evaluation (form L) and to implement the release of committee packet materials to applicants appearing before committee.

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There being no further business, the meeting was adjourned at 10:12 a.m.

## LIST OF AC APPLICANTS

<u>NAME</u>	<u>APPLIC. STATUS</u>	<u>STATUS DATE</u>
CHANG, C MAY	CS	12/12/2014
COLLINS, ANDREW CLAY	CS	01/02/2015
CYLKOWSKI, LAUREN NICOLE	CS	10/14/2014
GI, YOUNG JIN	CS	12/01/2014
HEDAH, TANYA	CS	10/23/2014
HONEYCUTT, OLIVIA LEE	CS	11/25/2014
IWAMA, MICHELLE	CS	10/13/2014
KAO, YISHU	CS	10/23/2014
LEE, ANDREW KYUNGHO	CS	12/29/2014
LUBKE, JESSICA ROSE	CS	11/12/2014
MCKENDRICK, KRISTY	CS	12/04/2014
MELENDEZ, MARISA	CS	12/04/2014
OVED, ASHLEY	CS	10/27/2014
PERKINS, MOLLY	CS	10/16/2014
QUINN, CANDACE JO	CS	12/08/2014
SANG, MEI	CS	01/13/2015
SAUER, KELLY JESSALYN	CS	01/09/2015
SOSA, LOUBRIEL	CS	01/13/2015
ST PIERRE, LAUREN ELIZABETH	CS	11/22/2014
WELCH ARENA, TWILLA D	CS	11/05/2014
YINGLING, ARDEN	CS	10/14/2014
YUAN, XIAOYING	CS	10/31/2014

**Total – 22**

**TEXAS MEDICAL BOARD RULES**  
**Texas Administrative Code, Title 22, Part 9**  
**Proposed Changes**

**Chapter 183**

Acupuncture  
§183.4 Licensure  
Page 1 of 7

**Draft – January 7, 2015**

V1-183.4-Initial Draft

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**§183.4. Licensure**

(a) Qualifications. An applicant must present satisfactory proof to the acupuncture board that the applicant:

- (1) is at least 21 years of age;
- (2) is of good professional character as defined in §183.2 of this title (relating to Definitions);
- (3) has successfully completed 60 semester hours of general academic college level courses, other than in acupuncture school, that are not remedial and would be acceptable at the time they were completed for credit on an academic degree at a two or four year institution of higher education within the United States accredited by an agency recognized by the Higher Education Coordinating Board or its equivalent in other states as a regional accrediting body. Coursework completed as a part of a degree program in acupuncture or Oriental medicine may be accepted by the acupuncture board if, in the opinion of the acupuncture board, such coursework is substantially equivalent to the required hours of general academic college level coursework;
- (4) is a graduate of an acceptable approved acupuncture school;
- (5) has taken and passed, within five attempts, each component of the full National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination. If an applicant submits to multiple attempts on a component before and on or after June 1, 2004, the number of attempts shall be combined based on the subject matter tested;
- (6) has taken and passed the CCAOM (Council of Colleges of Acupuncture and Oriental Medicine) Clean Needle Technique (CNT) course and practical examination;
- (7) for applicants who apply for a license on or after September 1, 2007, passes a jurisprudence examination ("JP exam"), which shall be conducted on the licensing requirements and other laws, rules, or regulations applicable to the acupuncture profession in this state. The jurisprudence examination shall be developed and administered as follows:
  - (A) Questions for the JP Exam shall be prepared by agency staff with input from the Acupuncture board and the agency staff shall make arrangements for a facility by which applicants can take the examination.
  - (B) Applicants must pass the JP exam with a score of 75 or better within three attempts, unless the Board allows an additional attempt based upon a showing of good cause. An applicant who is unable to pass the JP exam within three attempts must appear before the Licensure Committee of the board to address the applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure. It is at the discretion of the committee to allow an applicant additional attempts to take the JP exam.
  - (C) An examinee shall not be permitted to bring medical books, compends, notes, medical journals, calculators or other help into the examination room, nor be allowed to communicate by word or sign with another examinee while the examination is in progress without permission of the presiding examiner, nor be allowed to leave the examination room except when so permitted by the presiding examiner.

(D) Irregularities during an examination such as giving or obtaining unauthorized information or aid as evidenced by observation or subsequent statistical analysis of answer sheets, shall be sufficient cause to terminate an applicant's participation in an examination, invalidate the applicant's examination results, or take other appropriate action.

(E) A person who has passed the JP Exam shall not be required to retake the Exam for another or similar license, except as a specific requirement of the board.

(8) is able to communicate in English as demonstrated by one of the following:

(A) passage of the NCCAOM examination taken in English;

(B) passage of the TOEFL (Test of English as a Foreign Language) with a score of 550 or higher on the paper based test or with a score of 213 or higher on the computer based test;

(C) passage of the TSE (Test of Spoken English) with a score of 45 or higher;

(D) passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher;

(E) graduation from an acceptable approved school of acupuncture located in the United States or Canada; or

(F) at the discretion of the acupuncture board, passage of any other similar, validated exam testing English competency given by a testing service with results reported directly to the acupuncture board or with results otherwise subject to verification by direct contact between the testing service and the acupuncture board.

(9) can demonstrate current competence through the active practice of acupuncture.

(A) All applicants for licensure shall provide sufficient documentation to the board that the applicant has, on a full-time basis, actively treated persons, been a student at an acceptable approved acupuncture school, or been on the active teaching faculty of an acceptable approved acupuncture school, within either of the last two years preceding receipt of an application for licensure.

(B) The term "full-time basis," for purposes of this section, shall mean at least 20 hours per week for 40 weeks duration during a given year.

(C) Applicants who do not meet the requirements of subparagraphs (A) and (B) of this paragraph may, in the discretion of the executive director or board, be eligible for an unrestricted license or a restricted license subject to one or more of the following conditions or restrictions:

(i) limitation of the practice of the applicant to specified components of the practice of acupuncture and/or exclusion of specified components of the practice of acupuncture;

(ii) remedial education; or

(iii) such other remedial or restrictive conditions or requirements that, in the discretion of the board are necessary to ensure protection of the public and minimal competency of the applicant to safely practice acupuncture.

#### (10) Alternative License Procedure for Military Spouse.

(A) An applicant who is the spouse of a member of the armed forces of the United States assigned to a military unit headquartered in Texas may be eligible for alternative demonstrations of competency for certain licensure requirements. Unless specifically allowed in this subsection, an applicant must meet the requirements for licensure as specified in this chapter.

(B) To be eligible, an applicant must be the spouse of a person serving on active duty as a member of the armed forces of the United States and meet one of the following requirements:

(i) holds an active unrestricted medical license issued by another state that has licensing requirements that are substantially equivalent to the requirements for a Texas acupuncture license; or

(ii) within the five years preceding the application date held an acupuncture license in this state that expired and was cancelled for nonpayment while the applicant lived in another state for at least six months.

(C) Applications for licensure from applicants qualifying under §183.4(a)(9)(A) and (B) shall be expedited by the board's licensure division.

(D) Alternative Demonstrations of Competency Allowed. Applicants qualifying under §183.4(a)(9)(A) and (B):

(i) are not required to comply with §183.4(c)(1) Original documents/interview; and

(ii) notwithstanding the one year expiration in §183.4(b)(1)(B), are allowed an additional 6 months to complete the application prior to it becoming inactive; and

(iii) notwithstanding the 60 day deadline in §183.4(b)(1)(G), may be considered for permanent licensure up to 5 days prior to the board meeting.

(b) Procedural rules for licensure applicants. The following provisions shall apply to all licensure applicants.

(1) Applicants for licensure:

(A) whose documentation indicates any name other than the name under which the applicant has applied must furnish proof of the name change;

(B) whose applications have been filed with the board in excess of one year will be considered expired. Any fee previously submitted with that application shall be forfeited unless otherwise provided by §175.5 of this title (relating to Payment of Fees or Penalties). Any further request for licensure will require submission of a new application and inclusion of the current licensure fee. An extension to an application may be granted under certain circumstances, including:

(i) Delay by board staff in processing an application;

(ii) Application requires Licensure Committee review after completion of all other processing and will expire prior to the next scheduled meeting;

(iii) Licensure Committee requires an applicant to meet specific additional requirements for licensure and the application will expire prior to deadline established by the Committee;

(iv) Applicant requires a reasonable, limited additional period of time to obtain documentation after completing all other requirements and demonstrating diligence in attempting to provide the required documentation;

(v) Applicant is delayed due to unanticipated military assignments, medical reasons, or catastrophic events;

~~(B) whose application for licensure which has been filed with the board office and which is in excess of one year old from the date of receipt shall be considered expired. Any fee previously submitted with that application shall be forfeited. Any further application procedure for licensure will require submission of a new application and inclusion of the current licensure fee;~~

(C) who in any way falsify the application may be required to appear before the acupuncture board. It will be at the discretion of the acupuncture board whether or not the applicant will be issued a Texas acupuncture license;

(D) on whom adverse information is received by the acupuncture board may be required to appear before the acupuncture board. It will be at the discretion of the acupuncture board whether or not the applicant will be issued a Texas license;

(E) shall be required to comply with the acupuncture board's rules and regulations which are in effect at the time the completed application form and fee are filed with the board;

(F) may be required to sit for additional oral, written, or practical examinations or demonstrations that, in the opinion of the acupuncture board, are necessary to determine competency of the applicant;

(G) must have the application for licensure completed and legible in every detail 60 days prior to the acupuncture board meeting in which they are to be considered for licensure unless otherwise determined by the acupuncture board based on good cause.

(2) Applicants for licensure who wish to request reasonable accommodation due to a disability must submit the request at the time of filing the application.

(3) Applicants who have been licensed in any other state, province, or country shall complete a notarized oath or other verified sworn statement in regard to the following:

(A) whether the license, certificate, or authority has been the subject of proceedings against the applicant for the restriction for cause, cancellation for cause, suspension for cause, or revocation of the license, certificate, or authority to practice in the state, province, or country, and if so, the status of such proceedings and any resulting action; and

(B) whether an investigation in regard to the applicant is pending in any jurisdiction or a prosecution is pending against the applicant in any state, federal, national, local, or provincial court for any offense that under the laws of the state of Texas is a felony, and if so, the status of such prosecution or investigation.

(4) An applicant for a license to practice acupuncture may not be required to appear before the acupuncture board or any of its committees unless the application raises questions about the applicant's:

(A) physical or mental impairment;

(B) criminal conviction; or

(C) revocation of a professional license.

(c) Licensure documentation.

(1) Original documents/interview. Upon request, any applicant must appear for a personal interview at the board offices and present original documents to a representative of the board for inspection. Original documents may include, but are not limited to, those listed in paragraph (2) of this subsection.

(2) Required documentation. Documentation required of all applicants for licensure shall include the following:

(A) Birth certificate/proof of age. Each applicant for licensure must provide a copy of either a birth certificate and translation, if necessary, to prove that the applicant is at least 21 years of age. In instances where a birth certificate is not available, the applicant must provide copies of a passport or other suitable alternate documentation.

(B) Name change. Any applicant who submits documentation showing a name other than the name under which the applicant has applied must present copies of marriage licenses, divorce decrees, or court orders stating the name change. In cases where the applicant's name has been changed by naturalization the applicant must submit the original naturalization certificate by hand delivery or by certified mail to the board office for inspection.

(C) Examination scores. Each applicant for licensure must have a certified transcript of grades submitted directly from the appropriate testing service to the acupuncture board for all examinations used in Texas for purposes of licensure in Texas.

(D) Dean's certification. Each applicant for licensure must have a certificate of graduation submitted directly from the school of acupuncture on a form provided by the acupuncture board. The applicant shall attach to the form a recent photograph, meeting United States Government

passport standards, before submitting it to the school of acupuncture. The school shall have the Dean or the designated appointee sign the form attesting to the information on the form and placing the school seal over the photograph.

(E) Diploma or certificate. All applicants for licensure must submit a copy of their diploma or certificate of graduation.

(F) Evaluations. All applicants must provide, on a form furnished by the acupuncture board, evaluations of their professional affiliations for the past ten years or since graduation from acupuncture school, whichever is the shorter period.

(G) Preacupuncture school transcript. Each applicant must have the appropriate school or schools submit a copy of the record of their undergraduate education directly to the acupuncture board. Transcripts must show courses taken and grades obtained. If determined that the documentation submitted by the applicant is not sufficient to show proof of the completion of 60 semester hours of college courses other than in acupuncture school, the applicant must obtain coursework verification by submitting documentation to the acupuncture board for a determination as to the adequacy of such education or to a two or four year institution of higher education within the United States. The institution must be preapproved by the board's executive director and accredited by an agency recognized as a regional accrediting body by the Texas Higher Education Coordinating Board or its equivalent in another state.

(H) School of acupuncture transcript. Each applicant must have his or her acupuncture school submit a transcript of courses taken and grades obtained directly to the acupuncture board. Transcripts must clearly demonstrate completion of 1,800 instructional hours, with at least 450 hours of herbal studies.

(I) Fingerprint card. Each applicant must submit his or her fingerprints according to the procedure prescribed by the board.

(J) Other verification. For good cause shown, with the approval of the acupuncture board, verification of any information required by this subsection may be made by a means not otherwise provided for in this subsection.

(3) Additional documentation. Applicants may be required to submit other documentation, including but not limited to the following:

(A) Translations. An accurate certified translation of any document that is in a language other than the English language along with the original document or a certified copy of the original document which has been translated.

(B) Arrest Records. If an applicant has ever been arrested, a copy of the arrest and arrest disposition from the arresting authority and submitted by that authority directly to the acupuncture board.

(C) Malpractice. If an applicant has ever been named in a malpractice claim filed with any liability carrier or if an applicant has ever been named in a malpractice suit, the applicant shall submit the following:

(i) a completed liability carrier form furnished by the acupuncture board regarding each claim filed against the applicant's insurance;

(ii) for each claim that becomes a malpractice suit, a letter from the attorney representing the applicant directly to this board explaining the allegation, dates of the allegation, and current status of the suit. If the suit has been closed, the attorney must state the disposition of the suit, and if any money was paid, the amount of the settlement, unless release of such information is prohibited by law or an order of a court with competent jurisdiction. If such letter is not available, the applicant will be required to furnish a notarized affidavit explaining why this letter



cannot be provided; and

(iii) a statement, composed by the applicant, explaining the circumstances pertaining to patient care in defense of the allegations.

(D) Inpatient treatment for alcohol/substance abuse or mental illness. Each applicant that has been admitted to an inpatient facility within the last five years for the treatment of alcohol/substance abuse or mental illness must submit the following:

- (i) an applicant's statement explaining the circumstances of the hospitalization;
- (ii) an admitting summary and discharge summary, submitted directly from the inpatient facility;
- (iii) a statement from the applicant's treating physician/psychotherapist as to diagnosis, prognosis, medications prescribed, and follow-up treatment recommended; and
- (iv) a copy of any contracts or agreements signed with any licensing authority.

(E) Outpatient treatment for alcohol/substance abuse or mental illness. Each applicant that has been treated on an outpatient basis within the last five years for alcohol/substance abuse or mental illness must submit the following:

- (i) an applicant's statement explaining the circumstances of the outpatient treatment;
- (ii) a statement from the applicant's treating physician/psychotherapist as to diagnosis, prognosis, medications prescribed, and follow-up treatment recommended; and
- (iii) a copy of any contracts or agreements signed with any licensing authority.

(F) Additional documentation. Additional documentation as is deemed necessary to facilitate the investigation of any application for licensure.

(G) DD214. A copy of the DD214 indicating separation from any branch of the United States military.

(H) Other verification. For good cause shown, with the approval of the acupuncture board, verification of any information required by this subsection may be made by a means not otherwise provided for in this subsection.

(I) False documentation. Falsification of any affidavit or submission of false information to obtain a license may subject an acupuncturist to denial of a license or to discipline pursuant to the Act, §205.351.

(4) Substitute documents/proof. The acupuncture board may, at its discretion, allow substitute documents where proof of exhaustive efforts on the applicant's part to secure the required documents is presented. These exceptions are reviewed by the acupuncture board, a board committee, or the board's executive director on an individual case-by-case basis.

(d) Temporary license.

(1) Issuance. The acupuncture board may, through the executive director of the agency, issue a temporary license to a licensure applicant who:

(A) appears to meet all the qualifications for an acupuncture license under the Act, but is waiting for the next scheduled meeting of the acupuncture board for review and for the license to be issued; or

(B) has not, on a full-time basis, actively practiced as an acupuncturist as defined under subsection (a)(9) of this section but meets all other requirements for licensure.

(2) Duration/renewal. A temporary license shall be valid for 100 days from the date issued and may be extended only for another 30 days after the date the initial temporary license expires. Issuance of a temporary license may be subject to restrictions at the discretion of the executive director and shall not be deemed dispositive in regard to the decision by the acupuncture board to grant or deny an application for a permanent license.

(e) Distinguished professor temporary license. (1) Issuance. The acupuncture board may issue a

distinguished professor temporary license to an acupuncturist who:

(A) holds a substantially equivalent license, certificate, or authority to practice acupuncture in another state, province, or country;

(B) agrees to and limits any acupuncture practice in this state to acupuncture practice for demonstration or teaching purposes for acupuncture students and/or instructors, and in direct affiliation with an acupuncture school that is a candidate for accreditation or has accreditation through the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) at which the students are trained and/or the instructors teach;

(C) agrees to and limits practice to demonstrations or instruction under the direct supervision of a licensed Texas acupuncturist who holds an unrestricted license to practice acupuncture in this state;

(D) pays any required fees for issuance of the distinguished professor temporary license; and

(E) passes the JP Exam, as provided in subsection (a)(7) of this section.

(2) Duration. The distinguished professor temporary license shall be valid for a continuous one-year period; however, the permit is revocable at any time the board deems necessary. The distinguished professor temporary license shall automatically expire one year after the date of issuance. The distinguished professor temporary license may not be renewed or reissued.

(3) Disciplinary action. A distinguished professor temporary license may be denied, terminated, canceled, suspended, or revoked for any violation of acupuncture board rules or the Act, Subchapter H.

(f) Relicensure. If an acupuncturist's license has been expired for one year, it is considered to have been canceled, and the acupuncturist may not renew the license. The acupuncturist may submit an application for relicensure and must comply with the requirements and procedures for obtaining an original license.

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**TEXAS MEDICAL BOARD RULES**  
**Texas Administrative Code, Title 22, Part 9**  
**Proposed Changes**

**Chapter 183**

Acupuncture

§183.6 Denial of License; Discipline of Licensee

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V1-183.6-Initial Draft

§183.6. Denial of License; Discipline of Licensee

(a) An applicant for a license under the Act shall be subject to denial of the application pursuant to the provisions of §205.351 of the Act.

(b) An acupuncturist who holds a license issued under authority of the Act shall be subject to discipline, including revocation of license, pursuant to §205.351 of the Act.

(c) The denial of licensure or the imposition of disciplinary action by the acupuncture board pursuant to §205.351 of the Act shall be in accordance with the Act, the procedures set forth in Chapters 187 and 190 of this title (relating to Procedural Rules and Disciplinary Guidelines), the Administrative Procedure Act, and the rules of the State Office of Administrative Hearings. Chapters 187 and 190 of this title (relating to Procedural Rules and Disciplinary Guidelines) shall be applied to acupuncturists to the extent applicable. If the provisions of Chapter 187 or Chapter 190 conflict with the Act or rules under this chapter, the Act and provisions of this chapter shall control.

(d) Disciplinary guidelines.

(1) Chapter 190 of this title (relating to Disciplinary Guidelines) shall apply to acupuncturists regulated under this chapter and be used as guidelines for the following areas as they relate to the denial of licensure or disciplinary action of a licensee:

- (A) practice inconsistent with public health and welfare;
- (B) unprofessional or dishonorable conduct;
- (C) disciplinary actions by state boards and peer groups;
- (D) repeated and recurring meritorious health care liability claims;
- (E) aggravating and mitigating factors ; and
- (F) criminal convictions.

(2) If the provisions of Chapter 190 conflict with the Act or rules under this chapter, the Act and provisions of this chapter shall control.

(e) Pursuant to §205.352 of the Act, §187.9 of this title (relating to Board Action), and §187.13 (relating to Informal Board Proceedings Relating to Licensure Eligibility) the Board may impose a nondisciplinary remedial plan to resolve an investigation of a complaint or as a condition for licensure.