



## Texas State Board of Acupuncture Examiners

### BOARD MEETING MINUTES

May 8, 2015

The meeting was called to order at 9:55 a.m. by Allen D. Cline, L.Ac., Presiding Officer. Board members present were Suehing Yee Chiang; Raymond Graham; Jingyu Gu, L.Ac; Claudia E. Harsh, M.D.; Rachelle Webb, L.Ac.; and Rey Ximenes, M.D. Linda Wynn Drain, J.D., and Donna S. Guthery, L.Ac., were not present. Staff members present were Mari Robinson, J.D., Executive Director; Robert Breidt, M.D., Medical Director; Scott Freshour, General Counsel; Tonie Knight, Manager of Licensure; Megan Goode, Governmental Affairs and Public Information Manager; and the Assistant General Counsels, Rob Blech, Wendy Pajak and Sarah Tuthill; and various other staff.

There were no items for Agenda item #2.

#### **Agenda item #3, Executive Director's Report.**

**Budget.** Ms. Robinson reported the budget is on track to end the fiscal year balanced with no residual funds.

**Legislative Update.** Ms. Robinson gave a legislative update that included FY16-17 budget decisions to fund exceptional items for additional FTEs. Ms. Robinson gave a brief summary of the status of priority legislation related to the transfer of Prescription Access in Texas from DPS to the Board of Pharmacy; the composition of the Physician Assistants Board; the Interstate Compact for Medical Licensure; and the Sunset recommendations to transfer four regulatory programs from DSHS to TMB. No pending legislation is directly related to the Acupuncture Board.

**Agenda item #4, Discussion, recommendation, and possible action relating to delegation of acupuncture.** The board discussed action related to a physician delegating acupuncture to a licensee type that is not listed by statute to be delegated to practice acupuncture.

**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. Cline moved, Dr. Ximenes seconded and the motion passed to go into Executive Session at 10:16 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 10:36 a.m. and it was announced that no action was taken. A certified agenda was made.

After discussion, **Mr. Gu moved, Mr. Graham seconded, and the motion passed for staff to explore the possibility of filing an amicus brief in support of the Acupuncture Association in the lawsuit against the Chiropractic Board.**

**Agenda item #6, Discussion, recommendation, and possible action regarding rule 183.10.** Dr. Gu presented information regarding the requirement for acupuncturists to take vital signs for new patient visits. Ms. Robinson reviewed a brief history of 183.10.

After discussion, **Dr. Gu moved and Mr. Cline seconded a motion to send 183.10 to a stakeholder group for comments relating replacing the requirement to take vital signs during an initial patient visit with the requirement to take vital signs as necessary.** The motion failed.

There were no items for Agenda item #7.

**Agenda item #8, Consideration and Approval of Agreed Board Orders.** After discussion, **Mr. Graham moved, Ms. Webb seconded, and the motion passed to approve the Voluntary and Permanent Surrender Agreed Order for Taro Nakamura, AC.**

There were no items for Agenda items #9-18.

**Agenda item #19, Discussion, recommendation, and possible action regarding requests to become approved providers.** Ms. Knight summarized the presented requests to become approved providers including the Korean Acupunctures Association in Texas that was approved by staff as an approved provider. After discussion, **Dr. Ximenes moved, Ms. Webb seconded, and the motion passed to approve Applied Clinical Nutrition Seminars, Inc.; and The Whole Circle, as approved providers.**

**Agenda item #20, Report from staff of CAE courses approved.** Ms. Knight presented a report on CAE courses that were approved by staff.

**Agenda item #21, Discussion, recommendation, and possible action regarding requests for approval of continuing acupuncture education courses.** Ms. Webb moved, Dr. Harsh seconded, and the motion pass to approve **Advanced TCM & Acupuncture Application; and VFT Medicine Basic Seminar at Meng-Chen Hao, LAC, as approved acupuncture education courses, as presented.**

**Agenda item #22, Review, discussion, and possible action regarding selected files and cases.** After discussion, **Dr. Ximenes moved, Mr. Gu seconded, and the motion passed to dismiss Legal #15-0249 and Log #15-2246.**

There were no items for agenda item #23.

**Agenda item #24, Discussion, recommendation, and possible action regarding a proposed adoption for a rule change, including proposed amendments to 22 T.A.C. Chapter 183.**

- a. **§183.4. Licensure.** Rob Blech gave a brief summary. No written comments were received. No one signed in for oral comments. **Mr. Gu moved, Dr. Harsh seconded, and the motion passed to refer 22 T.A.C. §183.4. Licensure to the Medical Board for adoption.**
- b. **§183.6 Denial of License, Discipline.** Rob Blech gave a brief summary. No written comments were received. No one signed in for oral comments. **Mr. Gu moved, Dr. Harsh seconded, and the motion passed to refer 22 T.A.C. §183.6 Denial of License; Discipline to the Medical Board for adoption.**

**Agenda item #25, Discussion, recommendation, and possible action regarding §183.7.** After discussion, the board directed staff to do a statutory analysis of 183.7(c) relating to adding facial rejuvenation to the list of exempted items that do not require a referral and bring back to the board for discussion.

Mr. Cline requested an update on the dry needling letter. Mr. Graham requested the website be updated with new board members later this summer.

**Agenda item #26, Open forum for public comments.** Mary Boone signed in for Carol Solesbee, who presented oral comments.

**Agenda item #27, Consideration and approval of January 16, 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 #28, Committee reports and the consideration and approval of committee action items.**

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

There being no additional items, **Mr. Gu moved, Ms. Webb seconded, and the motion passed to adjourn the meeting at 12:27 p.m.**