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*Approved February 23, 2010*  
**ACUPUNCTURE BOARD  
MEETING MINUTES**

DCA – Evergreen Facility  
Sacramento, CA

**FULL BOARD MEETING  
November 19, 2009**

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**Members Present**

*Robert Brewer, Public Member, Chair*

*Charles Kim, Public Member*

*Anyork Lee, L.Ac,*

*George Wedemeyer, Public Member*

*Paul Weisman, Public Member*

**Staff Present**

*Janelle Wedge, Executive Officer*

*Dianne Dobbs, Staff Counsel*

*Erica Davalos, Administrative Coordinator*

*Cathy Hardin Schau, Education Coordinator*

*Kristine Brothers, Enforcement Coordinator*

*Benjamin Bodea, Administrative Technician*

**Guest List on File**

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**1. Call to Order and Establishment of Quorum**

Chair Robert Brewer called the meeting to order at 9:00 a.m. All members were present and a quorum was established.

**2. HEARING: Petition for Reinstatement of Surrendered License**

**Petitioner: Dong Hyun Chang (Case No. PRRL-1A-2009-182)**

**CLOSED SESSION**

**3. The board convened in closed session pursuant to Government Code Section 11126(c)(3) to deliberate and take action on petitioner's hearing and disciplinary matters.**

**OPEN SESSION**

**An announcement regarding closed session was made and the Board reconvened in open session.**

**4. Chair's Report**

Robert thanked everyone for responding to the Board's request for information regarding the many discussions and research going on in Acupuncture.

## 5. Executive Officers Report

Janelle Wedge notified the public that the Department of Consumer Affairs has scheduled a conference in July covering Regulatory Next Practices. It will allow for the consumer boards to meet and discuss regulatory and enforcement models over two days. The Acupuncture Board has been selected to have its Board meeting on July 26, 2010.

Janelle shared that the DCA has developed a new enforcement model which will focus on increased accountability, efficiency and consumer protection. Janelle and Kristine are actively streamlining the enforcement process to achieve the new goals.

SB 1441, chaptered in the statutes of 2008, created the Substance Abuse Coordination Committee within the DCA, comprised of the Executive Officers of the Departments Healing Arts Boards and the Designee of the State Department of Alcohol and Drug Programs. SB 1441 required that the Healing Arts Boards create specific standards to ensure public protection regarding substance abusing licensees. Kristine Brothers was a part of the group drafting these standards which have now been adopted.

The 2009/2010 expenditure report has been provided for the public.

The Consumer's Guide to Acupuncture and Asian Medicine is now available in three languages (English, Chinese and Korean) and all three can be found on our website.

The Board has developed a customer satisfaction survey to better address the needs of our website viewers.

The licensing technician position has been vacated and we are actively recruiting for the position.

## 6. Approval of the September 15, 2009 Acupuncture Board Minutes

Member Lee stated that in the last meeting the board discussed the transfer of credit from non-approved schools but he does not see any record of it in the minutes. He would like the minutes to indicate the exact language adopted.

**CHARLES KIM MOTIONED TO ACCEPT THE MINUTES WITH THE PROPOSED REQUEST. PAUL WEISMAN SECONDED. 5 – 0 – 0. MOTION PASSED.**

## 7. Legislative Update

Janelle Wedge summarized the following bills, including their current status.

AB 48 – California Private Postsecondary Education Act of 2009 – Approved and chaptered

SB 762 – Healing Arts – Approved and chaptered

SB 819 – Added Board to Section 800 reporting requirements – Approved and chaptered

SB 821 – Changed quorum requirement from five to four – Approved and chaptered

SB 294 – Enforcement in Healing Arts Boards – 2 year bill

AB 1391 – Extension of Acupuncture Board Sunset Date to January 2017 – 2 year bill

**PAUL WEISMAN MOTIONED TO SUPPORT AB 1391 TO EXTEND THE BOARD'S SUNSET DATE. ANYORK HAS RECUSED HIMSELF. GEORGE WEDEMEYER SECONDED. 4 – 0 – 0 MOTION PASSED.**

## 8. Update on Sunset Review

Janelle Wedge reminded the Board that it is due to be sunset on January 1, 2011. Janelle advised the Board that even though the legislative hearings on AB 1391, are not true sunset review hearings, the Board still needs to be prepared to address unresolved issues from the 2004 sunset review hearings. Janelle noted that most of the items have been addressed but would like to discuss the unresolved issues at future meetings. The board acknowledged information and approved.

## **9. Discussion on Integrative Medicine**

Robert Brewer introduced the discussion on Integrative Medicine. He stated that a key question that comes up is the scope of practice and directive of the profession as a primary care profession. That is, the ability of a consumer to see an acupuncturist or oriental practitioner without reference from a Board certified physician. He elaborated that the public had a right to seek treatment within that scope of practice without the supervision of the other licensing bodies. The discussion on Integrative Medicine would help shed light on how to maintain the practice of acupuncture, ensuring the public's protection while enabling mainstream medicine to accept fully what acupuncture has to offer.

After lengthy discussion, Chair Brewer shared that he felt this discussion is still not moving forward due to the varying agendas within the group. Chair Brewer requested that people put aside each other's hard points of view and listen to each other and find those points of commonality where we can agree to move forward. Discussion concluded with no motion being made.

## **10. Examination Business**

### **a. February 16, 2010 Examination**

The February exam will be held in Southern California for the first time. It will take place Tuesday February 16, 2010 at the Ontario Convention Center in Ontario, California.

### **b. Subject Matter Expert Selection Process**

Irene Wong-Chi and Bob Holmgren from the Office of Professional Examination Services made a presentation on the selection process for subject matter experts, which are used in the examination development process. Bob Holmgren noted that exam development starts with the Occupational Analysis (OA). The exam items do not feed into the OA, rather there is a workshop that is made up of subject matter experts that develop task statements with the previous OA survey often used as the basis for the updated one. The question then is what has changed in your occupation since the last OA and this is determined by the survey that is disseminated for the new OA. Bob Holmgren continued stating that a lot of statistical analyses are carried out on the actual item level data to find out whether items are too easy or difficult.

A question was raised if there is any other pathway for providing input for exam questions. Bob Holmgren said that the OA is the legally defensible document that allows for the creation of the exam. Independent of that, OPES would take a look at an issue if someone approached us with a flaw in our methodology but we would not be able to change some of the numbers because of input beyond the OA data.

### **c. Book/Herb List Review Process**

Irene Wong-Chi and Bob Holmgren addressed that the reference list, the herbal list and the formulas list are presented to SMEs at the OA workshops. SMEs make recommendations for additions or deletions and they are forwarded to the Board. These recommendations were recently forwarded to the Board.

Janelle introduced John Chen, Pharmacist and Acupuncturist, to the Board and that he had taken a look at our formula and herb list. He has pointed out some errors where herbs are banned in the United States as well as various carcinogenic substances. He has also volunteered his time to help identify some of the drug-herb interactions that have been a big issue. This information will then be forwarded to OPES as a reference list.

### **d. Tracking Multiple Test Takers**

Tabled to the next meeting.

## **11. Education Business**

### **a. School Site Report on Nine Star University**

Education Coordinator Cathy Hardin Schau's reported on the school site visit to Nine Star University, which listed several deficiencies. Philip Yang from Nine Star University addressed several concerns from the report. Chair Brewer stated that he is concerned that there are too many deficiencies and that perhaps it is too early to grant the school approval.

**CHARLES KIM MOTIONED THAT NINE STAR UNIVERSITY TAKE SIX MONTHS TO REFINE THEIR CURRICULUM, UPDATE THEIR PAPERWORK FOR THE APPLICATION AND HAVE THEIR BANK RECORDS VERIFIED. PAUL WEISMAN SECONDED. 5 – 0 – 0. MOTION PASSED.**

Member Kim asked how staff can ensure that schools that have been approved maintain the quality they present during the application process. Janelle Wedge responded that staff can revisit the programs. Cathy Hardin Schau added that she reviews each school's Annual Reports which can catch many compliance issues. Member Kim suggested a policy that site visit recur every two to three years. Chair Brewer asked that an agenda item be made talking about school compliance and education concerns. Member Weisman asked if schools must submit syllabi at the time of their annual review. Cathy Hardin Schau responded that they do not offer the syllabi but they must offer their current catalogue. Member Weisman offered that staff adds to the annual report a form that schools' must sign affirming that their syllabi have not changed.

### **b. Update Pending School Applications**

Cathy Hardin Schau reported on the pending school applications. She noted that schools that require out-of-state travel have been informed their visits are on hold until we can get out-of-state travel approval from the Governor's office. Janelle Wedge shared that she has submitted a request to the Budget Office that if there is any board that has received out-of-state approval and they are not going to use it, if they would consider giving the Board their approval.

### **c. CLEP Exams**

Megan Haungs, with American College of TCM in San Francisco, submitted a proposal to the Board to amend the section in the regulations regarding 100% transfer credit for courses completed successfully in basic sciences, clinical medicine, case and practice management, public health and professional development at a school which is approved. The amendment would be to allow up to eight semester credits or twelve quarter credits may be awarded for courses in the basic sciences by testing of the College Level Examination Program (CLEP). CLEP exams, the college level examinations programs, are administered by the College Board which is a not-for-profit association. Ms. Haungs stressed that CLEP determines competency which is applicable nationally. Member Kim shared that at this point he does not feel comfortable changing the regulations and giving students the impression that if you take CLEP it will be easier. Until we have enough issues regarding CLEP he does not feel it is the proper time for it to be addressed. The Board made no motion.

### **d. Continuing Education Audit**

Education Coordinator Cathy Hardin Schau reported on the continuing education audits. Currently, staff carries out random CE audits of licensees. Staff solicits licensees for their certificates of completion they've received and staff then checks those against the database listing all the approved courses offered so far. Approximately 38% of those audited have been referred to enforcement for allegedly fraudulently reporting they completed the required hours or the courses they completed were not approved by the Board. Once referred to enforcement a citation with fine is usually issued. If the order of abatement

and/or fine in the citation is not complied with or if they continue to violate the law, the matter would be sent to the Attorney General's Office for a full disciplinary action. Member Lee urged staff to focus on CE Providers that keep coming up as problematic for licensees in their audits. The Board asked Cathy Hardin Schau to present the members with a list of the CE Providers and their instructors at the next board meeting.

## **11. Enforcement Business**

### **a. Enforcement Case Report**

Enforcement Coordinator Kristine Brothers presented to the Board the Enforcement Case Report. She noted that she's included the accusations and decisions that have taken place since the last meeting as the Board had requested at the last meeting. Janelle Wedge suggested that since this is the same information that is sent to Members between the Board meetings that a list of the name and accusation may suffice as a summary. The Board agreed with the suggestion. Neil Miller asked if the numbers are higher than past years. Kristine Brothers responded that more complaints are being lodged. Neil Miller asked if there are any patterns that come up with these problems and if it is possible to analyze the trends to address the issues they represent. Member Weisman asked Chair Brewer if the Board's website can address that there are new members on the Board and that this board will take a serious look at the misconduct that is occurring in the profession. Chair Brewer agreed and added that he had seen information on the Acupuncture Board Website noting the new measures that Enforcement is taking. He also noted that the new Disciplinary Guidelines will be introduced soon and we could get these messages out at that time.

### **b. Proposed Regulatory Language for Additional Practice Locations**

Janelle stated that the intent of this proposed regulation is to limit individuals obtaining a duplicate license for some other reason than an acupuncture business. Within the application for duplicate license we will require that they submit the business license listing them specifically on it or if they are leasing the space then they must submit the lease. If it is a clinic supervisor they can submit a letter for the school.

**CHARLES KIM MOTIONED TO DIRECT STAFF TO MOVE FORWARD WITH THE PROPOSED REGULATORY LANGUAGE FOR ADDITIONAL PRACTICE LOCATIONS. GEORGE WEDEMEYER SECONDED. 5 – 0 – 0. MOTION PASSED.**

## **13. Setting the 2010 Acupuncture Board Meeting Dates and Locations**

February 23, 2010 in San Diego  
May 13, 2010 in San Francisco  
July 26, 2010 in Sacramento  
September 16, 2010 in Los Angeles  
November 18, 2010 in Orange County

## **14. Public Comment Period**

Dr. Goldblatt asked the Board to put on its website the definition of Primary Care. Janelle Wedge responded that the Board has yet to formally decide what that definition is. When staff last tried to submit regulation defining it, it led to the Board being reconstituted. Dr. Goldblatt volunteered to bring in information on the various definitions of Primary Care and First-Point-of-Contact. She also said she would bring in a glossary of Acupuncture acronyms. Dr. Goldblatt asked if the public finds information to share with the Board would it function best to forward the information to [the Executive Officer]. Janelle responded yes. Ted Priebe stated that there is a formal definition of Primary Care for California in the California Code of Regulations, Title 22, Division 3, Subdivision 1, Chapter 3, Article 2, 22CCR51170.5. He also noted that the Institute of Medicine has a definition that came out in 1996 that defines as well as establishes the educational training requirements for core competencies in medicine. Neil Miller asked that the committees reconvene to address the issues the Board has been raising in the last year and further

work towards those goals (scope of practice, education, competencies and curriculum). Ted Priebe shared that he does not see the value of holding committees for scope of practice and primary care since we already have legal opinions on this. Dr. Sperber asked that in future discussions speakers present the sources of their claims.

## **15. Adjournment**

**CHARLES KIM MOVED TO ADJOURN. PAUL WEISMAN SECONDED. 5 – 0 – 0.  
MOTION PASSED.**

Meeting adjourned at 5:00 PM.