

ACUPUNCTURE BOARD

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Approved
California Acupuncture Board
Meeting Minutes
June 13, 2014

First Floor Hearing Room
1625 North Market Street
Sacramento, CA 95834

Teleconference Location:

Junipero Serra State
Building 320 West Fourth
Street
8th Floor Conference Room
Los Angeles, CA 90013

Board members Present

Michael Shi, L.Ac, Chair
Kitman Chan, Vice Chair, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac
Jamie Zamora, Public Member
Hildegarde Aguinaldo, Public Member

Board Legal Counsel

Spencer Walker

Staff Members Present

Terri Thorfinnson, Executive Officer
Tammy Graver, Board Liaison
Kirstine Brothers, Enforcement Coordinator
Marc Johnson, Policy and Regulatory Coordinator

1. Call to Order and Quorum established
2. CLOSED SESSION
Pursuant to Government Code Section 11126(a) (1) the Board met in closed session to Evaluate the Executive Officer's Performance.
3. OPEN SESSION
Announcement Regarding Closed Session - Michael announced that it was decided in closed session that any discussion would be "out in the open", so everything will be in open session. The

Executive Officer's evaluation was done back in the Spring and the next evaluation will be due in November.

4. Discussion and Possible Action Regarding SB 1246 (Lieu) – Michael said that there was a memorandum that was sent out this morning from the B&P and board members were given a copy of that. Terri was called upon by Michael to give an input analysis of the bill. Amendments were as follows: 1) repeals the 2015 date and gave the Board two years until January 1, 2017. 2) It reconstituted the Executive Officer position and specifically prohibits the appointment of an E.O. that has served prior to January 1, 2015. 3) It eliminates the board's authority to approve, monitor, enforce standards for acupuncture training, including its curriculum requirements. This would go into effect as of January 1, 2017, not in 2015. A lot of this authority would impact and repeal all of the education curriculum standards and regulations that were created under this authority. It would also eliminate all board authority to charge fees, receive reimbursement for direct costs of inspections and evaluations of training programs.

Kitman Chan made the following motion regarding the SB 1246 and Michael clarified: Section 1 - Support the Sunrise bill if amended to four years until another Sunrise Review, which would be 2019 instead of 2017. Section 2 – Remain as “Board approved”. Section 3 extended to January 2019. Section 4 – Restore the Board's authority to employ necessary personnel. Section 5 – Oppose this section. Section 6 & 7 – Restore board approved schools and training programs instead of eliminating the board approval. Section 8 – Restore the board's authority through its original intent, which would include both U.S. and Canada, as well as outside of the country. Section 9 – Oppose this amendment. Section 10 – Oppose; Section 11 – Oppose; Section 12 – Oppose, keeping the current authority for fees; Section 13 – Oppose, so to restore the board's authority to have schools reimburse the board for direct costs for inspection and evaluation.

Public comments and concerns were raised as to return the board's authority to approve schools and language that removes the board authority should be removed from the bill. Also, language that refers to the E.O. – remove it. And the date for the next Sunrise Review should be extended beyond the two years. Development of educational regulations is an extensive process. Two years is not enough time. Concern was raised as to how much time the Board members have spent with the committee consultants regarding this bill.

Leondra Clark, representing the Senate Business, Professions and Economic Development Committee addressed the comment and concerns of both the Board Members and the public regarding the bill.

“Thank you all for calling this meeting to discuss the bill. I just want to provide any clarification and answer any questions that the board members might have. So I'll start back – start off by saying that we apologize for the late memo, but due to the late notice of this meeting that we called, we had to move quickly with legislative counsel to create amendments that will be put across in the assembly business and professions committee next week. So the amendments that you see in the memo, that is how the bill will look next week when it's in print. There is a legislative process. It needs time before we can upload that to the system, and that is ready for public consumption.”

“So I understand you're voting on the bill based on how it looks today, but please consider the memo. Because those amendments will be the bill next week. And these amendments are the result of several stakeholders as well as the Bureau for Private and Post-Secondary Education, ACAOM, organizations and bodies and has come to the amendments today.”

“It was also announced at your last meeting that amendments were coming. So this isn't

necessarily a surprise. You all knew that this was going to happen. I believe that Terrence Smith made a statement on behalf of the committee at the last meeting. And I appreciate a lot of the concerns that your members have raised. Kitman, you raised that, you know, the California board has three years. And you're correct. They do. But the system, in view of the legislature, has been broken substantially, and there's been, for instance, no site visits in years, until recent site visits that have been reimplemented."

"The view of the legislature and the committee is that the board has not met the minimum requirements and duties to ensure public protection but, instead, have invested time and resources on, for instance, school approval. I also understand that there were some comments about, "Well, this is a new board, there's new members." But what you all should know is that across all boards, members turn over all the time, and that's not justification for the legislature to not encourage the board to move forward quickly to address the minimum basic duties that they are mandated to do. This is not the first time that this board has not been extended. This is nothing new."

This board, across that last 20 years, has had several Sunset Review cycles where they've been extended for less than four years. So this is not something that's coming out of the blue at all. This has happened before. This is not setting precedence. And this is not the only board that its been extended for a limited time. We've had boards that were extended for one year. So based on the progress of the board and the activities of the board, the legislature makes a decision on how long to extend them. There's no way that the legislature is going to extend this board four years, considering a lot of the issues that many of you have discussed, that you all have had."

"So if you can admit, as a board, that you've had ongoing, longstanding issues that you've grappled with, we as a legislature also observe that. And so, when there's a limited extension, we're saying come back to us, show us that you've made progress. It's not a punishment. It's our duty as a legislature to check in with you and to make sure you're all meeting your basic mandates. Just a second. Sorry."

"I want to clarify the language on the bill and the amendments because there seems to be a lot of confusion, which I understand. This has been quite a process. So I just want to provide that for you so everyone is clear. But before I do that on Sunset Review, Jamie, you had a question about, "Well, does the board still have authority with the new amendments?" Yes. Your authority is restored, which means your amendments – because there's been a lot of talk about, "Well, if you change the language and the regulations are going to go away". No. We are restoring the prior language, which means the prior regulations attached to that language and attached to that authority are back in effect. So we can – I mean you can all continue to want to discuss that, but I just want to make it clear."

"You also asked about the two years, and do we have enough time, and is there a time frame. Let me also clarify. The two years is a check-in for specific issues outlined in the report, which include promulgating regulations which I understand you all are well on your way with and pretty much done with those."

"The other two issues were the exam, which you all have already -- per your last meeting; I remember hearing you were getting some type of budget change proposal to look at the exam. And then the third issue was accreditation. And you all are already looking at that as well. So the argument that two years isn't enough doesn't necessarily fly with us. In addition, please note-- and this might not have been clear -- when you come back in two years, we are not having the board do a full sunset review report. We understand that that takes time and

resources and we are sensitive to that. But for us to all let you go for four years and not check in with you and to see how things are going, that would be irresponsible on the part of the legislature. So what we are asking is that in two years, you come back and give a status check. Not that you've completed all these items. Because, again, we're not unreasonable and we realize that that's not fair, that you don't have enough time to do all of that in a thoughtful manner.”

“We want to see that you all are moving towards completing these tasks in a thoughtful manner in the next two years. So two years, we’re hoping you’ll be able to come back and say, “This is where we’re at with this. We’ve done an audit. These are the results,” or, “We’re still in the process of doing an audit, but we’re showing movement towards the goal”. So I hope that clarifies. Because I’ve heard a lot of back and forth and concerns about that, which I understand. But I hope that’s clear now.”

“The 30 days was brought up in regards to reviewing curriculum. We’re not talking about 30 days going through your school approval process as it currently exists. We’re talking about 30 days to look at a list of curriculum and match it up to the standards that you’ve already established. You’re not establishing new curriculum standards. You already have those in place. You’re merely saying, “School X has this curriculum they’re submitting to us. Doesn’t meet the standards that we’ve had in place for 20 some years.” That is not something that takes more than 30 days. That’s not something that takes probably more than a week. And if we really want to be realistic about it, 30 of the 35 acupuncture schools in this state are already accredited. They’re already approved by the board, which means you’re not looking at that application again. That’s done. There are only five remaining schools that do not have ACAOM accreditation, but they’ve already been board-approved. So that curriculum review has happened. This applies to new schools that might pop up. And if you look across the last 20, 30 years, there hasn’t been a huge influx of schools. You’re not having 20 schools apply for approval or getting established every year. So this is if there is a new school, the process that they would have to go through is submitting their curriculum to the board to ensure that California’s high standards are met.”

“We have heard you all in your meetings. We have heard different organizations say, “We are concerned that the 3,000 hours, the regulations, all that California has worked very hard to establish in the state will go away with this bill.” That is why we have amended – after hearing that, we have amended the bill so that those standards are retained. So please know that we’ve come from a stance of collaboration, we’ve been listening, and this is the proof of it. With that said, you all don’t have schools knocking down your door trying to open up, but if they do, you still have your standards to ensure that those standards are met. When you look at the ACAOM standards that currently exist, there are two areas in which they differ from the California Acupuncture Board school approval process. That is an area of direct clinical supervision and the number of hours needed, clinical and training hours. This bill ensures that those standards are a prerequisite before anyone goes and gets ACAOM accreditation. So, in essence, what’s changing here is that the board now does not send its staff or board members to fly all over the country and to approve schools. You aren’t having schools apply to you and submit a check. We’re letting ACAOM take care of that. They already have those standards in place. But we also raise that California has additional curriculum standards that exceed those of ACAOM. And so we’re saying, “Board, work with ACAOM. Board, you get that application first. You determine if the curriculum is appropriate”. If not, they don’t move on to accreditation. But if you determine that their curriculum standards are high and meet California standards, they move on to accreditation. ACAOM and BPPE will also review their application at that time. So there are several steps, safeguards in place, but you all now don’t have to spend your resources and time on this vast school approval process. You can turn

that over to ACAOM. They have subject matter experts that can go.”

“I’ll wrap up. There was also a question about how long it takes for ACAOM candidacy. I heard the figure “six years” thrown out there. That’s not accurate. ACAOM candidacy happens after the school has been in existence for a year, and it takes about six months for them to go into candidacy status. After that, it takes another two and a half years, approximately, before they are accredited. So accreditation is typically a three-year process with ACAOM. And what we’ve done to ensure that students are protected, per the request of the BPPE, is, we have ensured that any students that graduate from a program who are in candidacy status with ACAOM – those first two classes will be protected. They will be able to sit for licensure. So that’s another attempt to work with an association or an organization to make sure that students are protected. I’ve heard a lot of talk about, “We’re going to lose the specificity within our current regs. We’re going to repeal our current regs.” This bill will allow you to preserve current regs, and it doesn’t take two years, even if the regs needed to be promulgated again, because you already have the language, you already have the standards. If, in fact, you had to promulgate again, it would be as simple as resubmitting what you already have. I don’t suspect that you will have to do that, anyway, because this bill restores the authority that you already have. So the only thing that would be gone, in a sense, would be your ability to charge the fee and go on a site visit.”

“And, honestly, when the legislature looks at the history of this board and we look at your mandate of basic duties, we feel that you all have unfortunately had some trouble in the areas of enforcement, consumer protection, etc. And if your focus is taken off of going on site visits and all of that, we hope that it will help you focus on those basic duties that you’re mandated to do. That is your charge as board members.”

“So, though we would like to have control over everything on the record – go on site visits and do all of these other duties – if you’re not meeting your basic duties, none of that matters. And if there is an association that can handle those duties and you can work together and you can preserve California’s high standards at the same time, we as a legislature feel that that’s highly reasonable.”

“There were some comments made about, you know, the committee being biased. I heard last meeting I was mean-spirited. I want you to know of the committee is not biased. We’re incredibly concerned with public protection and bringing the CAB in line with their mandates.”

“Also, be very careful when you consider – I know it can be very confusing. There’s lots of different associations. Most of the other healing arts boards that we work with have one or two associations. You guys have 8 million. And so that makes it very difficult. But I ask that you be very careful. I was just looking at a list that was passed out, and it was represented as, “All these people,” you know, “are going to not support the bill”. But I must say, I just have to be correct, that several of these organizations have already written support letters for this bill. Some of these organizations are actual acupuncture offices.”

“So you as board members, you know, it’s your job to protect the public and let us in the legislature figure out who represents who, who doesn’t, what their opinion is, what not, because it can get very confusing.”

“And I believe this is just a list of people who attended at dinner. I don’t know that this is an official opposition support. I mean, I see South Balogh University; they support. I see the Korean Acupuncture Association. We have a support letter from them.”

“So in the analysis that comes from assembly B & P, you will see who truly supports and doesn’t support this bill by their registering a letter with the committee, with the legislature. So that’s always one place you can look for the truth.”

“Another thing – let’s see, anything else here. There’s so much said. I guess I’ll just end there. But I know I’ve said a lot, and hopefully it’s helped with the clarification. You all have had a lot of questions about this bill.”

“Again, I apologize for the late memo, but we didn’t realize you were going to have a last-minute board meeting. We’re glad you did. This discussion is important.”

“If there are any questions, you can direct them to the committee and those amendments should be in print next week.”

There was a lot of discussion regarding clarification of the motion. A vote was taken and there were 5 for the motion and 1 abstained.

Spencer reminded the board that once the amendments come out in the legislation there will most likely be another board meeting.

5. Public Comments on Items not on the Agenda – Dr. James Han, PhD in oriental medicine and California certified acupuncturist talked about a petition he submitted to the board on April 26, 2014 asking that herbal medicine be added to the scope and practice of acupuncturists. Jamie asked what the legislative process is for SB 1246 from here. The answer was once the bill is in print and Terri has seen it she will share it with Michael and Spencer and also send to the board members. Then another meeting will be scheduled to go over the amendments

6. Adjournment

THE AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE ACUPUNCTURE BOARD’S WEBSITE AT: www.acupuncture.ca.gov

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