



ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov



NOTICE OF ACUPUNCTURE BOARD MEETING

APPROVED MEETING MINUTES

June 19, 2015

**HOTEL WHITCOMB
WHITCOMB BALLROOM
1231 MARKET STREET
SAN FRANCISCO, CA 94103**

SAN FRANCISCO, CA

**A webcast of this meeting can be viewed at:
<https://www.youtube.com/watch?v=g8RdfVQjPIU>**

Board Members Present

Michael Shi, L.Ac, President, Licensed Member
Hildegarde Aguinaldo, Vice President, Public Member
Kitman Chan, Public Member
Jamie Zamora, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Dr. Michael Corradino, DAOM, Licensed Member

Legal Counsel

Tamara Colson

Staff Present

Terri Thorfinnson - Executive Officer
Ben Bodea - Continuing Education Coordinator
Tammy Graver - Board Liaison

- 1. Call to Order and Quorum established**
- 2. Opening Remarks –**

Michael welcomed Dr. Corradino as the newest member of the board. He resides in San Diego and brings with him extensive experience in the practice. He is also very active in teaching. Dr. Corradino will also be joining the Education Committee and the Examination Committee. We look forward to working with Dr. Corradino.

3. Public Comment for items not on Agenda

Public comment was made regarding AB 758. Also many applicants that are not being approved to take the exam are asking for the board's help in being approved including foreign applicants. On July 10th there will be a big celebration of the 40th anniversary of legalization of acupuncture in California.

4. Approval of Board Meeting Minutes for February 20, 2015

Jeannie made the motion to approve the minutes as amended and Kitman seconded the motion. Vote: Michael-yes; Hildy-yes; Kitman-yes; Jamie-yes; Francisco-yes; Dr. Corradino-yes; Jeannie- yes. Motion passed.

5. President's Report

Michael encouraged the Board Members to attend school site visits.

6. Executive Officer's Report

- **Staff Update** - Another staff support person has been hired; in the process of interviewing for the open exam position. Jamie asked if we have a dedicated Breeze support person. The answer was no we don't, and we're not sure of a date yet when BreEze will be implemented for the Acupuncture Board. This remains a staffing concern. We currently have 13 staff, two of which are permanent intermittent. These employees can only work approximately 30 hours a week, 1500 hours total for the calendar year.
- **Budget Update** – In reviewing our expenditures over the past year to see where our increases are, we are over costs on travel, so staff attendance at Board meetings has been cut considerably. In addition, the cost drivers for increased office expenditures are as a result of two service contracts for copy machines and also a contract for a transcription company to help with meeting minutes. Investigative services and audit work with OPES has also caused some overages to the budget. Investigation costs as well as evidence fees, court reporter fees, investigative fees, hearing preparation and expert witness fees have also caused some overages in the budget. Enforcement recovery has been made a priority. Shipping costs are high due to mailing board packets, school site reports and mass mailings that need to be done throughout the year. A suggestion was made that possibly we could use flash drives to mail board packet materials. Christine Lally checked with the IT department during the meeting and informed Terri that a drop box solution has been reached and gave the contact name for staff to contact about this. She also said that the two DCA Hearing rooms are free of charge to use for meetings. We still have our "reserve" and 2016-2017 the loan to the General Fund will be repaid at some point in the future. BreEze allocation was also noted in the budget report. School site visits have increased, but the Board does not pay for travel.

- **Exam Update: Audit of NCCAOM exam, March 2015 Exam Statistics**
The National Certification Exam-that audit has been continuing. There were some delays in contracting for security reasons. There will be an extensive legal review and writing of the report hopefully done around December/January timeframe.

The March 2015 CALE results show a passing rate of 56%. The overall pass rate for first time test takers was 72% and the repeat test taker pass rate was 26%. Jamie asked that the cut score be included on the report going forward.

- **Enforcement: Data Report** - We have closed a lot of cases in the last quarter. Many of the cases were old cases. We are within our performance measures for processing internal complaints. Michael assigned to the Education Committee that ethic courses by providers be looked into for the purpose of CEU requirements.

7. Committee Reports:

- **Education Committee** – Kitman gave a report on the Education Committee. They reviewed a school application for Board approval and recommended CIIS/ ACTCM be approved. The Committee reviewed two applications for Board approval by EMS Safety Services, Inc. and Save-a-Life Educators Inc. as CPR and First Aid providers. The committee discussed and approved proposed regulatory language changing the Board's regulatory requirements related to CPR and First Aid.
- **Executive Committee** - Michael gave a report regarding the meeting that was held 5/29/15. Discussions included staffing, budget and shortfalls going forward. Also discussed were increasing fees, increasing CE providers. Hildy mentioned that they also looked at AB12 that would delete obsolete regulations and regulations that conflict. With legislation there would be a 2019 deadline but Terri suggested that we make that our own Board's responsibility and action. The enforcement committee will be taking a look into this.
- **Enforcement Committee** - Hildy gave the update that the committee assessed the National Practitioners Database and which package they want to use. They decided that out of state applicants will be checked and the contract would be revisited on an annual bases. The cost would be approximately \$3,300.00.

8. Consideration of Recommendation from Enforcement Committee Regarding Proposal to Contract with National Practitioner Data Bank (Sunset Recommendation)

The Board discussed the proposal to contract with the National Practitioner Data Bank. Hildy made the motion to adopt the Enforcement Committee's recommendation to contract with the NPDB to have continuous query for out of state licensees, which is estimated to be \$3,321.00 and to evaluate in a year to see where we are at. Jeannie seconded the motion. Francisco-yes; Kitman-yes; Michael-yes; Jeannie-yes, Hildy-yes; Dr. Corradino-yes. Motion passed.

9. Consideration of Recommendations By Education Committee Regarding School Seeking Approval of Acupuncture Training Program (Board Action)

Ben Bodea gave an overview of what a school site visit entails so Tamara and Dr. Corradino would have an understanding of the process. Most school visits take three days. During those three days, the Board inspects the school, clinics, reviews records, conducts interview and drafts an exit report, which is presented to the school on the final day of the visit.

- **American College of Traditional Chinese Medicine (ACTCM) at California Institute of Integral Studies (CIIS)**

Hildy made a motion that the Board approve the school with the stipulation that the Board revisit the school in six months for another site visit. Jeannie seconded the motion. Vote: Francisco-yes; Jamie-yes; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. An amended motion was made to make the as of date of 7/1/15. The votes were re-taken: Francisco-yes; Jamie-yes; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. Motion passed. Legal counsel advised that the above motion needed to be rescinded and a new motion needed to be made. Hildy made the motion to rescind the previous motion. Vote: Francisco-yes; Jamie-yes; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. Motion passed. A new motion was made by Hildy to make the approval of CIIS effective 7/1/15. Jeannie seconded the motion. Vote: Francisco-yes; Jamie-yes; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. Motion passed.

10. **Review of School Compliance Site Visits: (Board Action)**

Dr. Anyork Lee, Subject Matter Expert, joined the meeting for this portion via teleconference. These schools are seeking approval as a result of school site visits.

- **Alhambra Medical University** – Alhambra University had 38 finding in the curriculum and three items in the clinical that were not in compliance during the site visit. The school's corrective action has corrected all non-compliance and the school is now in full compliance. Comment was made from the school that the board needs to look at how the regulations are being applied in the field. SME's are coming up with their opinion of what should be in the charts.
- **Kingston University** – Kingston University had one finding of non-compliance in the curriculum and one finding of non-compliance in the clinical training. The corrective action has corrected all non-compliance and the school is in compliance. Representations of the school were present.
- **Stanton University** – Stanton University had several curriculum issues and a few clinical findings of non-compliance. The school's corrective action has brought the school into full compliance. Representatives of the school were present and spoke about their non-compliance issues.
- **Saint Luke University** - St. Luke's indicated their intention to close their acupuncture training program and thus end the Board approval of their program. They cited the need to get two accreditations – one for their theological program, which is a good portion of the school's curriculum, and one for the acupuncture program. The Board received a letter that the school is ending their acupuncture program. The Board should send the school a letter acknowledging that the school no longer wishes to seek approval and also note an end date for their program and Board approval.
- **University of South Los Angeles** - This school did not come into full compliance and we did receive a letter that they are still working on the non-compliance issues. Michael asked when this school was originally approved. The answer was 2006. This school was visited over half a year ago and they have made several attempts to come into compliance. He then asked what options the Board could take and legal counsel advised that one option is to utilize the section that allows you to suspend, revoke or put on probation and the Board would need to say that is what the Board is doing. The school needs to be notified of this action from the Board so that they have the opportunity to address the Board before the Board actually makes that decision or the Board could take no action.

It was decided by the Board to place this entire school review agenda item on September's Board meeting agenda. The schools will be notified and may attend to present any information and the Board will be taking action to approve or deny at that time.

11. Consideration of Education Committee Recommendation for Request for Board Approval of CPR and First Aid Curricula pursuant to Title 16 California Code of Regulations (CCR) Sections 1399.434 (f) (3) and 1399.436 (a) (14): (Board Action) - EMS Safety Services, Inc. & Save - A - Life Educators, Inc.

Legal counsel advised that the course work that EMS Safety Services, Inc. and Save-A-Life Educators, Inc. needs to be equivalent to the coursework of the courses approved by the Board in our regulations. This topic was passed back to the Education Committee to examine the course information to ensure that these two companies are able to teach students what is needed per our regulations. Staff needs to send a letter to both above companies notifying them that this is still being deliberated and no decision to approve has been made. The Board needs to be able to ensure that all approved providers will assist the Board in verifying fraudulent documents.

12. Consideration of Education Committee Recommendation for Proposed Regulatory Changes to CCR Sections 1399.434 (f) (3) and 1399.436 (a) (14) Regarding CPR and First Aid level certification (Board Action)

Legal counsel Dorothea Johnson, (Chief Legal Counsel and Deputy Director, DCA) recommended that the Board look at the regulations before certifying any company that their program meets our regulations: "I just wanted to point to what your counsel said when she indicated that it's very important that the Board refer back to your regulations and make sure each of the individual organizations that you certify have met the requirements as set forth in title 161399.434(f). That requires you to have a minimum of 40 hours. It's not just CPR but there are an additional five elements that each must be met before you and certify that they are equivalent. I have not seen anything in your materials that indicates that that has been done and I would request or urge you to make sure that that's been done before you take a vote to certify them as equivalent".

Michael directed that the staff needs to send a letter to both above companies notifying them that this is still being deliberated and no decision to approve has been made and when this will be revisited. They also need to send their curriculum details to the Board. The Education Committee will revisit this topic.

One of the issues discussed is that the regulations cite 8 hours requirement that is no longer the length of the course work, so the Board needs to address this issue. The choices of the various training levels have become more varied. The recommendation was to have legal counsel draft language to look at the points that talk about that CPR, AED and first aid requirements should be required at the health care provider certification level and not at the lay person certification. All courses must be "in person" training - no on-line training and eliminate the eight hour requirement in favor of healthcare provider certification from Board approved organizations and require that applicants and licensees must have current CPR, AED and first aid health care provider certification and they must renew each time it expires as long as they are licensed or applying for licensure. Those seeking to be reissued a new license pursuant to the Business and Professions Code 4969b will also need to apply. It was recommended that the language stipulate exactly what is included in the course. A suggestion was made by Dr. Corradino that a breakdown in criteria instead of stipulating number of hours might be a solution so that the

regulation wouldn't have to be changed frequently. A suggestion was made also by the public noting that in curriculum design in the education field now they are moving away from specifying hours and moving towards "competency based language" and encouraged the board to look at that as an option. Michael mentioned that the site visit team, SMEs or an advisory board could look into this as an option for getting this information. Michael sent this issue back to the Education Committee for further work.

13. Implementation of SB 1246: Discussion and Assignment to Education Committee

These changes are due to become effective on January 1, 2017

Terri discussed that we want to move forward with implementation, so the discussion was taken in parts. She requested legal counsel to prepare a formal opinion interpreting SB 1246, since there has been some disagreement over the interpretation. Legal Counsel had indicated that such an opinion will take time and require additional legal review. She walked the Board through by editing just the regulations that are affected by SB 1246, so the Board could see what was going to be affected.

14. Sunset Review Update

Jamie asked if discussions have begun with the Accreditation Commission for Acupuncture (ACAOM) regarding the transition as stated in SB 1246. Terri explained that preliminary discussion had begun. Jamie requested having an update regarding this at the next Education Committee meeting or the next Board meeting, whichever happens first. Terri also indicated that the Board's role would be to consider what their expectations of ACAOM are going forward. The specifics have yet to be determined and should be scheduled for a future meeting.

15. Strategic Plan Update

Terri reviewed the update chart and informed the Board that we are on track for all our deliverables.

16. Review and Consideration of Legislation:

The Executive Committee reviewed the list of bills and recommended that the Board take a position on the bills in bold.

AB 12 (Cooley) State Government: administrative regulations: review

AB 19 (Chang) GO Biz: administrative review: review

AB 41 (Chau) Healing Arts Provider Discrimination

AB 85 (Wilk) Open Meetings Law: two member committees: public*

Kitman made the motion to oppose AB 85; Dr. Corradino seconded the motion. Vote: Francisco-yes; Jamie-abstain; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. Motion passed.

AB 483 (Patterson) Healing Arts Initial Licensure Proration Licensing Fees

AB 758 (Chau) Acupuncture and Training Programs

AB 333 (Melendez) Healing Arts: continuing education credit for CPR instructors

SB 800 (Committee on Business, Professions and Economic Development) **

Jamie made the motion to support SB 800; Hildy seconded the motion. Vote: Francisco-yes; Jamie-yes; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. Motioned passed.

AB 1351 (Eggman) Deferred Entry of Judgment: pre-trial diversion*

The Board did not take a position on this bill

AB 1352 (Eggman) Deferred Entry of Judgment: withdrawal of plea*

The Board did not take a position on this bill

***Bills that the Executive Committee recommends the Board consider taking a position**

****Executive Committee recommends a support position**

Other Bills Tracking

AB 351 (Jones-Sawyer) Public Contracts: small business

AB 611 (Dahle) Controlled substances: prescription reporting

AB 728 (Hadley) State Government: financial reporting

AB 750 (Low) Business and Professions License

AB 797 (Steinorth) Regulations: effective dates & legislative review

AB 1060 (Bonilla) Business and Professions Licensure

17. Regulatory Update

The status of regulatory packages was reviewed:

- Acupuncture Advertising Guidelines
- Continuing Education Ethics Requirement
- Consumer Protection Enforcement Initiative (CPEI)
This was approved by the office of Administrative Law; effective date is 10/01/2015
- Sponsored Free Health Care Events - filed
- Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation
- Hygiene guidelines
- Prostitution Prevention regulation
- BPC 138 Implementation of Notice to Consumers of Licensure by California Acupuncture Board - filed

18. Request for New License pursuant to Business and Professions Code 4967 (b): James Skoien

Hildy made a motion to adopt the Enforcement Committee recommendation that Mr. Skoien be issued a new license without having to take the exam. Jeannie seconded the motion. Vote: Francisco-yes; Jamie-yes; Michael-yes; Hildy-yes; Kitman-yes; Jeannie-yes; Dr. Corradino-yes. Motion passed.

19. Future Agenda Items

- Jeannie requested that at the next Board meeting there be a closed session for the Board to be briefed on the conclusion of two personnel complaints pursuant to page 9 of the Board Administration Manual
- Hildy requested that Michael formalize his report regarding any updates with meeting he has had with stakeholders.

20. Adjournment