



NOTICE OF ACUPUNCTURE BOARD MEETING

Approved Minutes

November 17, 2015

OAKLAND, CA Meeting Location

**Elihu Harris State Building, 1515 Clay Street, 2nd Floor, Room 12
Oakland, CA 94612**

LOS ANGELES, CA Teleconference Location

**Junipero Sera Building, 320 West Fourth Street, Conference Room 8A
Los Angeles, CA 90013**

SAN DIEGO, CA Teleconference Location

**Pacific College of Oriental Medicine, 7445 Mission Valley Road
Conference Room, Main Building 2
San Diego, CA 92108**

The Board plans to webcast this meeting on its website at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

<https://www.youtube.com/watch?v=2JfPDhYbOUo&feature=youtu.be>

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
Van Martini, Office Technician

Acupuncture Board Members

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

FULL BOARD MEETING - 9:30 a.m.

1. Call to Order and Establishment of a Quorum

2. Opening Remarks

Michael welcomed everyone to the Oakland meeting.

3. Public Comment for items not on Agenda

A representative from a group of California Approved Schools advised of a future letter to the Board requesting to change the language in CCR 1399.434, subsection (h) from "... *physically present* ..." to "...*direct supervision*...". Another public comment requested the Board to either add another public comment section at the end of the meeting to accommodate comments that could arise during the meeting, or move the public comment section from the beginning of the meeting to the end of the meeting. There were no public comments from Los Angeles and San Diego.

4. Approval of Board Meeting Minutes

September 18, 2015 – Kitman made the motion to approve the minutes as submitted, and Francisco seconded the motion. Hildy voted Abstain as she was not present at the meeting. Michael, Kitman, Francisco, Jeannie, Jamie, and Dr. Corradino voted yes. Motion passed 6-0-1.

February 14, 2014 Revised – Hildy made the motion to approve as submitted, and Jamie seconded the motion. Michael, Kitman, Francisco, Jeannie, Hildy, Jamie, and Dr. Corradino voted yes. Motion passed 7-0.

5. President's Report

Michael thanked the staff and board members for accommodating his busy schedule for this meeting.

6. Executive Officer's Report

Staff Update – Terri reported on the future vacancies with Patsy Duke, Seasonal Clerk is retiring, and Katie Le, Education Coordinator is taking a job with another Board and her last day will be Dec 1, 2015. Recruitments for both positions have been posted.

Budget Update – Terri informed the Board that this Budget report is for this current year, and reminded the Board that this number will change due to the staff update mentioned above. There were no changes to out-of-state travel because the amount reflected the previous two years' expenses and not of the current year travels. In reviewing the attempt to save in the postage expense area, the utilization of the Cloud Drive provided the materials to the Board members in a timely manner; however, the cost savings factor was not effective with the voluminous printing job like the Sunset Review Report. There was a slight decrease in the DOI- Investigative expense because the Board gained back the staff that was on leave the last fiscal year, in addition to the extra assistance on the investigation from the DOI. Terri confirmed that

we are on track with the budget by having \$360,000.00 under \$3,000,000.00, even though the allotment for the Board is \$3,400,000.00. Dr. Corradino requested the Board to keep both versions of the meeting materials: on Cloud Drive for independent viewing and the hard copies for the meetings. Terri acknowledged the request and planned to keep both format versions.

Exam Update: Audit of NCCAOM exam, August 2015 Exam Statistics, ACAOM update -

Terri reported that OPES was still doing the exam audit. They are finishing up the workshop and the reports. The results are still estimated to be delivered by January 2016. There was a question regarding the communication between the Board and OPES. Terri explained that the Board purposely kept a minimum contact with OPES because The Board acted as the contractors and took care of all the arrangements and clearances for all subject matter experts. Terri reviewed the August 2015 Examination Results Statistics for first-time test takers and re-examinees based on the language preferences. There was no ACAOM update. Terri informed the Board of her unsuccessful attempt to reach Mark McKenzie for a written report regarding the school oversight for this meeting. She will continue to request for the ACAOM update, and will keep the Board informed.

Enforcement: Data Report – Terri explained the revision in the category of the enforcement data report that now included pre-licensure under the Criminal Charges/Convictions category to reflect the proportionate numbers of enforcement data among licensees. She also clarified the average overall processing time of 1,323 days in the disciplinary actions category only applied to cases with full formal disciplinary actions. Dr. Corradino suggested having that notated to make it clearer for the Board members and also to the public.

Legislative Update – The Governor vetoed AB 85. SB 800 that had the Board's fix for the Canadian training program to be considered foreign program was signed. AB 1352 also was signed into law. This bill would affect the convictions category of the Board's enforcement unit. The Board can only consider disciplinary actions for convicted cases, not for minor cases that were dismissed. 80% of the cases in the Board's old chart were affected by the signing of this bill, which limits our ability to discipline based on prior convictions. However, we still have the capacity to discipline when needed, and protect the public.

Regulatory Update – AB 2699, Sponsored Free Health-Care Events, BPC 138, Display of licensure by Acupuncture Board, Prostitution prevention package were approved by the Board and will be prepared for submission to Agency for final OAL approval. SB 1441, Uniform Standards Related to Substance Abuse and Recommended Guidelines for Disciplinary Orders and Conditions of Probation, along with Updating of Disciplinary Guidelines (Sections 1399.469) will also be submitted for final OAL approval. SB 1246, Foreign Equivalency Standards will be reviewing later in the meeting.

7. Education Committee Report – Kitman recapped the Education Committee Meeting agendas on September 25, 2015. There were four agenda items discussed: 1) Adopting the current curriculum for clinical standards with minor revisions. 2) Adopting the same standard for foreign and domestic training. 3) Repealing the old curriculum standard to stay compliant with SB 1246. 4) Considering the proposed Regulatory Language for Education and Clinical Training outside of the United States related to the implementation of SB 1246.

8. Consideration and Possible Action Related to the Sunset Review Report

Michael shifted the discussion to Sunset Review Report (item 12) to allow more time to discuss the voluminous and detailed report that was thoroughly reviewed by Hildy and Jeannie. There was a concern on item #50: whether DCA limited resources would webcast the Board's meetings and Committee meetings. Terri confirmed that all of the Board meetings are webcast, and committee meetings are not unless there are no other Board requests for webcast on the same day, and then DCA would have available resources to approve our request to a webcast the committee meetings. Various layout issues and phraseology revisions were corrected.

- Hildy moved to approve the Sunset Report with the changes discussed, direct staff to make necessary changes to format the report, and provide the Sunset Committee with the authority to approve necessary and critical substantive changes between now and the close of business November 18, 2015.
- Jeannie seconded the motion.
- Michael, Kitman, Francisco, Jeannie, Hildy, Jamie, and Dr. Corradino voted yes. Motion passed 7-0.

9. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.434 Proposed Regulatory Revisions to Curriculum Standards for Training Related to Implementation of Senate Bill (SB) 1246

Terri reviewed the memo and proposed regulatory language included in the board materials. She highlighted the changes to the regulatory language. She explained that the changes include moving the total hours to the beginning paragraph of the section and revising the language in the beginning of the section to comply with SB 1246. The discussion focused on the wording related to making the coding wording reflect current standards. The Board considered the Education Committee recommendation to maintain the current curriculum requirements. Various motions were made and withdrawn.

- Jeannie made a new motion to approve the proposed regulatory language except that Section 1399.434 (d) (9) would read coding procedures for current procedural codes, including current procedural code (CPT) and ICD-10 diagnostic codes and all references to ICD-9 would be replaced with ICD-10 for noticing purposes and to direct staff to commence the rulemaking process and delegate to EO the authority to make technical or non-substantive changes.
- Hildy seconded the first motion.
- Michael, Kitman, Francisco, Jeannie, Hildy, Jamie, and Dr. Corradino voted yes. Motion passed 7-0.

10. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.433 Regulatory Language Establishing Standards for Education and Clinical Experience Outside the United States Pursuant to Business and Professions Code Section 4939 Related to the Implementation of SB 1246

Terri went over the memo and proposed regulatory language included in the board materials. She explained that pursuant to SB 1246 implementation and BPC Section 4939 that the Board is required to establish standards for education and clinical experience outside the United States. The Board considered the Education Committee recommendation that the same curriculum standards should be utilized for all licensees regardless of where their education and training was received. The Board heavily discussed the issue of the language of coding procedures or current procedural and diagnostic codes and ensuring that the current standards were reflected in the propose language. Many motions related to the coding were made and withdrawn.

- Hildy made a new motion to approve the regulatory language for 1399.433 except that Section 1399.433 (d) (9) shall read coding procedures for current procedural codes, including CPT (Current Procedural Terminology) and ICD-10 diagnostic codes and all references to ICD-9 will be changed to ICD-10 for noticing purposes and to direct staff to commence the rulemaking process and delegate to EO the authority to make technical or non-substantive changes.
- Jeannie seconded the motion.
- Michael, Kitman, Francisco, Jeannie, Hildy, and Dr. Corradino voted yes. Jamie voted no. Motion passed 6-1.

11. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.436 Proposed Regulatory Revisions to Curriculum Standards for Training Beginning Prior to 1/1/05 Related to Implementation of SB 1246

Terri reviewed the memo and proposed regulatory language contained in the board meeting materials. She explained that the recommendation was to repeal the entire Title 16 Section 1399.436 because it is the old curriculum standard, which does not comply with the implementation language of SB 1246. The Board members discussed the recommendation from the Education Committee to repeal this section. A concern from the public was raised regarding the applicants who did the coursework before 2005 would not be eligible to meet the new curriculum standards of 3000 hours. Terri confirmed that all applicants for license after January 1, 2017 will have to meet the 3,000 hour curriculum standard. The number of hours for an approved training program in effect after January 2017 is 3,000 hours.

Kitman made the motion to adopt the recommendation of the Education Committee to repeal Section 1399.436 and notice to direct staff to commence the rulemaking process and delegate to the EO the authority to make technical or non-substantive changes.

- Dr. Corradino seconded the motion.
- Michael, Kitman, Francisco, Jeannie, Hildy, Jamie, and Dr. Corradino voted yes. Motion passed 7-0.

12. Consideration and Possible Action Related to Title 16, California Code of Regulations (CCR) Section 1399.437 Proposed Regulatory Language Related to Documentation Required for Board Approval of Curriculum Related to Implementation of SB 1246

Terri went over the memo and proposed regulatory language contained in the Board materials. The purpose of this section is to define the new requirements for Board Approval of Curriculum related to Implementation of SB 1246. The proposed regulatory language sets forth the curriculum approval process and required documentation. This process addresses the consequences for incomplete and abandoned applications pursuant to BPC Section 4927.5 (b). Board members discussed the Education Committee recommendation and the proposed language and voted to approve the proposed regulatory language including the form to be incorporated into the regulation by reference as suggested.

- Hildy moved to adopt the recommendation of the Education Committee regarding the proposed amendment to California Code of Regulations, Title 16, Section 1399.437, and adopt the proposed regulation and for notice to direct staff to commence the rulemaking process and delegate authority to the EO to make any non-substantive changes as required.

- Jeannie seconded the motion.
- Michael, Kitman, Francisco, Jeannie, Hildy, Jamie, and Dr. Corradino voted yes. Motion passed 7-0.

13. Future Agenda Items.

A public comment requested clarification on distance courses requirements for Continuing Education.

14. Adjournment – 12:03pm

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

**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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