



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

**California Acupuncture Board
Public Board Meeting
APPROVED Meeting Minutes
Wednesday, October 26, 2016**

Site 1

**Department of Consumer Affairs – HQ1
1625 North Market Blvd, 1st Floor Hearing Room
Sacramento, CA 95834**

Site 2

**550 South Hope Street
Suite #1910, Conference Room
Los Angeles, CA**

Board Members Present (Sacramento)

Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Francisco Hsieh, Public Member

Board Members Present (Los Angeles)

Hildegarde Aguinaldo, President, Public Member
Jeannie Kang, L.Ac, Licensed Member

Board Member Absent

Dr. Michael Corradino, DAOM, Licensed Member

Legal Counsel Present

Kelsey Pruden

Staff Present

Ben Bodea, Executive Officer
Kristine Brothers, Enforcement Coordinator
Jay Herdt, Education Coordinator
Marc Johnson, Policy Coordinator

Acupuncture Board Members

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

FULL BOARD MEETING - 9:30 AM

Agenda Item #1 – Call to Order, Roll Call and Establishment of a Quorum

Hildegarde Aguinaldo (Aguinaldo), Board President, called the meeting to order at 9:45am. Policy Coordinator Marc Johnson (Johnson) called the roll. Hildegarde



Aguinaldo – present in Los Angeles; Jaime Zamora – present in Sacramento; Kitman Chan – present in Sacramento; Dr. Michael Corradino – absent; Francisco Hsieh – present in Sacramento; Jeannie Kang – present in Los Angeles. **5-0 Quorum established.**

Agenda Item #2 – Approval of August 31, 2016, Board Meeting Minutes (Johnson)

The Board reviewed the August 31, 2016 public meeting minutes. Vice President Jamie Zamora (Zamora) requested a minor change on page 3 from “2106” to “2016”.

There was no public comment on this item.

*MOTION: President Aguinaldo made a motion to approve the August 31, 2016 Board meeting minutes with the minor change on page 3. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Agenda Item #3 – Approval of September 21, 2016, Board Meeting Minutes (Johnson)

The Board reviewed the September 21, 2016 public meeting minutes. No changes were made.

There was no public comment on this item.

*MOTION: Vice President Zamora made a motion to approve the September 21, 2016 Board meeting minutes. Board Member Kitman Chan (Chan) seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Agenda Item #4 – Regulatory Update (Johnson)

Johnson gave the Board an update on all regulatory rulemaking packages currently with the Board. President Aguinaldo asked staff to include an additional column on future regulatory updates with due dates for the individual regulations.

a. Title 16, California Code of Regulations (CCR), Sections 1399.480, 1400.1, 1400.2, 1400.3 - Sponsored Free Health Care Events (AB 2699)

This rulemaking was disapproved by the Office of Administrative Law (OAL); the Board has 120 days to cure the issues and re-submit to OAL for approval. Johnson indicated the disapproval was not a major setback, and that staff would be revising the package to resubmit to OAL. The changes will be brought to the Board at the next meeting for possible approval then.



b. Title 16, CCR Section 1399.455 – Advertising Guidelines: Display of License Number in Advertising

Johnson noted this package was being revised by staff and will be brought back to the Board at a future public meeting.

c. Title 16, CCR Section 1399.450(b) - Prostitution Enforcement and Condition of Office

Executive Officer Benjamin Bodea (EO Bodea) referred this rulemaking package to the Enforcement Committee for further development.

d. Title 16, CCR Section 1399.482.2 – Continuing Education Ethics Requirement

EO Bodea referred this rulemaking package to the Education Committee for further development.

e. Title 16, CCR Section 1399.451(a) – Hand Hygiene Requirements

Johnson noted staff is currently developing this rulemaking package for submittal to OAL by Spring 2017.

There was no public comment on these items.

Agenda Item #5 – Consideration and possible action regarding proposed regulations - Title 16 of the California Code of Regulations (CCR) Sections 1399.433, 1399.434, 1399.437 and Repeal of CCR Section 1399.436 – Implementation of SB 1246 (Johnson)

Johnson provided a short background on the SB 1246 regulatory package. He noted there were two letters received during the second 15-day public comment period. He read aloud the full text of each comment and the proposed Board response. The Board decided to vote on each comment and proposed response individually rather than taking a global motion on all of the comments.

1. Letter received via mail dated October 5, 2016 from Dr. Bob Damone, Doctor of Acupuncture and Oriental Medicine (DAOM), Dean of Southern California University of Health Sciences, College of Eastern Medicine.

Johnson identified five distinct comments to be addressed from Dr. Damone's letter.

First, regarding the proposed language for 1399.433h and 1399.434h, Dr. Damone felt that the practice of Acupuncture needling is something that could be performed safely by well-trained Acupuncture interns early in their training and well before a 700-hour minimum supervisory period. Staff recommended rejection of the comment, on the basis that the proposed changes to the regulation do not alter any of the current clinical

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requirements that have been in regulation since 2005, and that needling is a precise procedure that requires supervision.

Public comment was taken on this item. Dr. Steven Given, CIIS, disagreed with Staff's recommendation of rejection of the comment. He stated that under ACAOM, schools were required to provide supervision in stages, and that even though there is not always line-of-sight supervision, it doesn't mean there isn't proper supervision. He felt by having the line-of-sight requirement in place students are not learning independence and self-correction in work and that may be hindering public safety. Board Member Jeannie Kang (Kang) commented that she has heard from many schools about this requirement, and that it was difficult for them to abide by the supervision requirement. She wanted the Board to examine the issue more closely.

Legal Counsel Kelsey Pruden (Pruden) clarified that the Board removed the 700 hours and line-of-sight language from the regulation, and that the Board could promulgate regulations to address the issue but did not recommend that at this time due to the pressing timeline. She noted there was still a 'physically present' element to the regulation and that is what people may be commenting on. Member Kang agreed and asked that the issue be addressed in the future at a Board Committee meeting.

Ron Zaidman, Five Branches University, felt that the proposed regulations were troublesome and how it may not support the safety of the patients nor quality of education. Dr. Bob Damone, SCUHS, thanked the Board for its attention on the issue. He felt the comment made by the Board did not address the issue, and felt that excessive supervision can actually lead to an unsafe situation for students.

President Aguinaldo indicated she was comfortable with the proposed language as is, but the language provides the Board the opportunity to make a decision in the future about clinical supervision. She noted the Board needed to focus on the proposed language to move forward.

*MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment regarding CCR Sections 1399.433h and 1399.434h. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Second, Dr. Damone pointed out the difference between clinical supervision regulations for acupuncture tutorials and acupuncture training programs by referring to the Board's CCR Section 1399.426. He felt that section reflected a reasonable approach to safe and pedagogically sound clinical supervision for both acupuncture tutorials and acupuncture training programs. Staff recommended rejection of the comment, since a tutorial candidate works in very close proximity at all times with the supervisor in an environment much different from an acupuncture school; thus, the requirements of CCR Section 1399.426 would not be applicable here.

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Public comment was taken on this item. Dr. Bob Damone, SCUHS, disagreed with the proposed staff response. Dr. Steven Given, CIIS, also disagreed with the staff response. President Aguinaldo asked that an Acupuncture School's supervision hours and required supervisory presence be assigned to the Education Committee as a future agenda item.

*MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment regarding CCR Section 1399.433h and 1399.434h. Board Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Third, Dr. Damone cited the resident clinical supervision standards from the Accreditation Commission for Graduate Medical Education (ACGME) and felt a similar model would fit perfectly within the clinical supervision regulations for the Board's Acupuncture Training programs. Staff proposed rejecting the comment, as the ACGME standards reflect the Entrustable Professional Activity (EPA) used within the education models for physicians and osteopaths, which staff asserts do not readily translate to acupuncture education models.

Public comment was taken on this item. Dr. Steven Given, CIIS, disagreed with the staff response, stating that the process for levels of supervision is the same for Medical student and Acupuncture, by matching the level of supervision with the needs of the training program. Member Kang agreed there was a need to look at how a student individually gets trained in needling; however she felt there is some justification for a supervisor at the student's training. She also wanted the Board to look at the ACGME standards as a future Education Committee agenda item. Dr. Bob Damone, SCUHS, disagreed with the Board response, and stated he wanted to use the ACGME standards as a model in the future for applying to Acupuncture education.

*MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment regarding CCR Section 1399.433h and 1399.434h. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Fourth, Dr. Damone notes the interpretation of 'Immediate and Direct Supervision' by the California Chiropractic Board, and feels that the California Chiropractic Board defines the terms "immediate and direct" supervision in a more liberal fashion than does the California Acupuncture Board. Staff recommended rejection of this comment, as Chiropractic education and practice has a different type of learning and clinical training than Acupuncture.

There was no public comment on this item.

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MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Fifth, Dr. Damone asked that the Board consider placing on a future agenda the issue of updating and modernizing the California acupuncture clinical supervision regulations. Staff recommended rejection of this comment, as the Board is currently restoring the proposed regulations regarding clinical supervision so that there will be no proposed changes to what is currently in place.

Public comment was taken on the item. Dr. Steven Given, CIIS, encouraged the Board to continue to make space for the discussion.

MOTION: Vice President Zamora made a motion to approve the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

2. Letter received via mail dated October 10, 2016 from Dr. Gregory Lane, Doctor of Acupuncture and Oriental Medicine (DAOM), Director of Clinical Services, Pacific College of Oriental Medicine.

Johnson noted that in his letter Dr. Lane thanked the Board and acknowledged all of the hard work and time invested by the Board in deliberating the issues. He stated that Dr. Lane's letter had three comments regarding the proposed regulatory action.

First, Dr. Lane felt that there remains work to be done in further revision of the regulatory language as it relates to clinical supervision in acupuncture programs. He asked that the Board consider recommendations for regulation modification that would serve ideal clinical supervision in acupuncture training programs as a future agenda item. Staff recommended rejection of this comment, as the Board is currently restoring the proposed regulations regarding clinical supervision so that there will be no proposed changes to what is currently in place.

There was no public comment on this item.

MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Second, Dr. Lane also cited ACGME common program requirements, stating that the current evidence and best practices in health professions education supported a tiered

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approach, which aims towards a higher level of autonomy of the clinical student utilizing competency-based assessments on the part of the supervisors. Staff recommended rejection of this comment, on the basis that ACGME standards reflect the Entrustable Professional Activity (EPA) used within the education models for physicians and osteopaths. Staff feels those standards do not readily translate to acupuncture education models.

There was no public comment on this item.

MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Third, Dr. Lane stated he would like to bring attention to the CAB that there are inconsistencies in the regulations governing clinical supervision in acupuncture tutorials and in acupuncture training programs. He asked that these regulations be considered in a future agenda for re-wording to close disparity and bring into alignment the regulations. Staff recommended rejection of the comment, since a tutorial candidate works in very close proximity at all times with the supervisor in an environment much different from an acupuncture school, and the tutorial program requires more hours to complete. Therefore, the requirements from CCR Section 1399.426 would not be applicable here.

There was no public comment on this item.

MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1

Johnson then turned to the proposed Order of Adoption for the proposed regulatory package. He explained that this would be used to complete the rulemaking file and will be submitted to DCA and Agency for final approval.

There was no public comment on this item.

MOTION: President Aguinaldo motioned to approve the proposed order of adoption for the proposed regulations, to delegate the authority to the executive officer to complete the rulemaking file and to make any technical and non-substantive changes that may be required. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES.

MOTION PASSES 5-0-0-1



Agenda Item #6 – Consideration and possible action regarding proposed regulations - Title 16, CCR Section 1399.469 – Uniform Standards Related to Substance Abuse (Johnson)

This item was continued from the September 21, 2016 Board meeting. Johnson provided a short history on the regulatory package and explained why staff was proposing to create a separate Uniform Standards document, instead of combining with the Board's Disciplinary Guidelines as originally proposed.

Counsel Pruden further explained that based upon changes to Business and Professions Code Section 315 the current SB 1441 regulatory language needed to be changed. She also stated that the current Disciplinary Guidelines were considered outdated and would be taken up by the Board at a future date. For clarity purposes, she felt it would be best if the Uniform Standards were separated from the Disciplinary Guidelines, making two separate documents. She noted a recent opinion by the Attorney General's office which made some changes to SB 1441 implementation, and the new language gives the Board flexibility when considering disciplinary action against a licensee.

Counsel Pruden also noted the proposed Uniform Standards document incorporated by reference was originally in single strikethrough to indicate changes, but double strikethrough would be used.

There was no public comment on this item.

*MOTION: Vice President Zamora made a motion to approve the proposed modified text and document for a 15-day public comment period and if there are no comments, to delegate the authority to the executive officer to make any technical and non-substantive changes that may be required and to adopt the proposed regulatory language. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – ABSENT; Hsieh – YES; Kang – YES. **MOTION PASSES 5-0-0-1***

Agenda Item #7 – Public Comment for items not on Agenda (Aguinaldo)

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

There were no public comments made.

Agenda Item #8 – Future Agenda Items (Aguinaldo)

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President Aguinaldo asked that all Board Members review their committee agendas for the upcoming committee meetings in December to make sure nothing has been missed.

EO Bodea announced the next public Board meeting would be moved from Friday, November 18, 2016 to Wednesday, December 14, 2016 and would be held in Oakland. He noted there would be committee meetings first and then a full Board meeting. At that time the Board will also set the 2017 public meeting schedule.

President Aguinaldo also announced that Benjamin Bodea had been formally appointed as Executive Officer.

Agenda Item #9 – Adjournment (Aguinaldo)

Adjournment at 11:30 a.m.