



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, August 31, 2016**

LOCATION:

Department of Consumer Affairs – HQ2
1747 North Market Blvd, 1st Floor Meeting Room
Sacramento, CA 95834

TELECONFERENCE LOCATIONS:

US Bank Tower
Conference Room 6L
663 West Fifth Street
Los Angeles, CA 90071

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

Board Members Present - Sacramento

Kitman Chan, Public Member
Francisco Hsieh, Public Member

Board Members Present - Los Angeles

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

Board Member Present - San Diego

Dr. Michael Corradino, DAOM, Licensed Member

Legal Counsel Present - Sacramento

Kelsey Pruden

Staff Present - Sacramento

Ben Bodea, Acting Executive Officer
Jay Herdt, Education Coordinator
Marc Johnson, Policy Coordinator
Van Martini, Office Technician

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 - 9:00 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 9:15am. Marc Johnson (Johnson) called the roll. Aguinaldo – present in Los Angeles, CA; Zamora – present in Los Angeles, CA; Chan – present in Sacramento, CA; Corradino – present in San Diego, CA; Hsieh – present in Sacramento, CA; Kang – present in Los Angeles, CA. **6-0 Quorum established.**

Agenda Item #2 – Opening Remarks (Aguinaldo)

Board President Aguinaldo welcomed the public and thanked everyone for attending.

Agenda Item #3 – Approval of December 11, 2015 Board Meeting Minutes (Board Action)

President Aguinaldo asked for a change on page one for 'Member' to 'Members'. She also noted the change from 'Counsels' to 'Counsel'. Legal Counsel Kelsey Pruden (Pruden) recommended Board Members Jeannie Kang (Kang) and Francisco Hsieh (Hsieh) abstain since they were not present at the December 11, 2015 meeting.

No public comments were made on this item.

MOTION: Vice President Zamora made a motion to approve the December 11, 2015 Board meeting minutes, with the changes addressed today. Board Member Dr. Michael Corradino (Corradino) seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – ABSTAIN; Kang – ABSTAIN. MOTION PASSES 4-0-2.

Agenda Item #4 – Approval of June 10, 2016 Board Meeting Minutes (Board Action)

President Aguinaldo complimented staff on the new format of the Meeting Minutes. She then requested additional detail to the 'Item #10 – Public Comment' section, specifically on the 'issue of bleeding' comment. Staff agreed to review the section and update.

Public Comment suggested a change to the citation of a presenter listed within the minutes from "Kory-Ward Cook" to "Kory Ward-Cook". Board agrees.

MOTION: President Aguinaldo made a motion to approve the June 10, 2016 Board meeting minutes, with the changes to item #10 and the correct name of the presenter. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. MOTION PASSES 6-0.



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

Johnson began with an overview of the current status of SB 1246 Rulemaking package. He noted there had been three letters received during the 45-day public comment period, which began April 12, 2016 and ended on June 6, 2016, and one witness at the June 6, 2016 public hearing. Counsel Pruden commented that the Board is required to respond to any adverse comments received during the 45-day public comment period or during the regulatory hearing. Each comment received will be read aloud in full, along with the proposed staff response. Johnson noted staff is also proposing several changes to the approved regulatory language, and explained the process of re-noticing the regulatory language to the public for the required 15-day comment period.

1. Letter received via Mail dated April 27 from Dr. Bob Damone, DAOM and Dean of Southern California University of Health Sciences, College of Eastern Medicine:

Dr. Damone, in his letter, commended the Board for its transparent preparations for SB 1246 implementation. He expressed concern that the proposed verbiage, as set out in page 2 of the Board's Initial Statement of Reasons (ISOR), was not fully loyal to the nuances of ACAOM accreditation as expressed in SB 1246, specifically Business and Professions Code (BPC) Section 4927.5. Staff recommended acceptance of the comment with the correct language to be included in the FSR.

President Aguinaldo asked about the difference between a substantive and non-substantive change to the proposed regulatory language. Counsel Pruden explained the difference between the two, and that this comment was not considered a change to the regulatory language. She also noted there were changes to the regulatory text, to be addressed after the comments were responded to, and how the Board can respond the comments received.

Discussion commenced on how to accept or reject the comments and proposed responses. President Aguinaldo requested the Board take a global motion approving or denying all comments and responses at once, instead of approving or denying each comment individually.

2. Letter received via mail dated April 28, 2016 from Dr. Bob Damone, Doctor of Acupuncture and Oriental Medicine (DAOM), Dean of Southern California University of Health Sciences (SCUHS), College of Eastern Medicine.

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Dr. Damone, in his letter, expressed further concern regarding the verbiage in the proposed CCR Section 1399.437(e), which he felt should be further defined in its narrow sense as coursework listed 1399.433. Otherwise, CAB approved schools may appear to be expected to acquire CAB approval at least 30 days in advance of even minor curriculum changes, even to those courses which do not affect CAB-required coursework. This could potentially interfere with a given program's ability to meet with agility the evolving needs of its student, accreditors, and regulatory bodies. Staff recommended acceptance of the comment with accompanying changes to CCR Section 1399.437(e). Johnson then read aloud the proposed change to Section 1399.437(e).

Member Chan asked what the difference between coursework and curriculum. Counsel Pruden explained that the statute allows the Board to approve curriculum via an application which the school would submit. If a school were to change the coursework within that curriculum, they would need to notify the Board. President Aguinaldo asked what would fall under a minor change to a curriculum that should not be captured under coursework. Public comment came from Dr. Steve Given, DAOM, L.Ac, Associate Academic Dean of the California Institute of Integral Studies, who stated that there was concern as to how the Board would be notified even if the change was considered minor, and what would constitute a substantive change.

Discussion commenced on what schools would be required to submit in making changes, and what would constitute a major or minor change to curriculum or coursework. Interim Executive Officer Benjamin Bodea (IEO Bodea) clarified what constitutes a change to curriculum. He noted the proposed language does not define a major or minor change to the curriculum, merely that any changes to coursework – such as a syllabus change which goes through an internal school process such as a committee – would need to be sent to the Board for approval.

President Aguinaldo felt that any changes to coursework that would bring the school out of compliance with the regulation would need to be reported to the Board. IEO Bodea agreed. He cautioned against trying to define it further, saying that some training programs may not interpret what constitutes a minor change to their curriculum as others might do. Vice President Zamora felt that it would not be difficult for schools to notify the Board of changes to their coursework especially when its primary purpose is to protect the public through compliance with the required curriculum.

Counsel Pruden suggested a change to the beginning of 1399.433 and 1399.434, by changing 'criteria' to 'coursework that contains the following criteria' in order to better tie in with 1399.437(e). President Aguinaldo agreed, feeling the Board could not get much more specific. She then asked if schools typically had elaborate 14-15 page syllabuses; IEO Bodea replied that the Board only looks at the syllabus listed on the application itself.

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Member Kang was concerned about the impact of the proposed language on smaller schools; she felt that larger schools were less affected by it, but wanted to make sure that in order to protect the public that the smaller schools also would be compliant with it as well. Vice President Zamora felt the language as proposed was sufficient.

The Board decided to take individual motions and votes on each comment received.

*MOTION FOR DAMONE LETTER #1: Vice President Zamora made a motion to approve the staff response to accept the comment and adopt the response as written in the Board packet. Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

*MOTION FOR DAMONE LETTER #2: President Aguinaldo made a motion to accept the comment and adopt the changes to 1399.437(e) as specified by Legal Counsel. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

3. Letter received via mail dated May 25, 2016 from Dr. Steven Given, DAOM, L.Ac, Associate Academic Dean of the California Institute of Integral Studies.

Johnson noted Dr. Given's letter had three distinct comments to be addressed.

First, Dr. Given expressed concern regarding the status of an institution with ACAOM as set out on page two of the ISOR, stating the ISOR did not completely notate the language from BPC Section 4927.5. Staff recommended acceptance of this comment, with the correct language from 4927.5 to be included in the FSR.

No public comment was taken on this item.

*MOTION: Vice President Zamora made a motion to accept the staff recommendation to accept the comment and to include the language from BPC Section 4927.5 in the FSR. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Second, Dr. Given's concern was regarding the review of curriculum as set out in CCR Section 1399.437(e). He felt the language as written would make it unclear when or how an institution would be required to resubmit curriculum to the Board. Staff recommended acceptance of this comment with the accompanying changes to CCR Section 1399.437(e).

Counsel Pruden suggested additional changes to 1399.437 to include how and when the submittal is required. IEO Bodea pointed out the SB 1246 does require 30 days for Board review of submitted curriculum, although it does not define what a re-submittal

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timeline would be. Member Corradino felt the Board dealt with the issue in the previous comment. Member Kang asked what a re-submittal of curriculum might mean under the statute. After discussion of the issue, the Board felt that the existing language was sufficient.

Discussion commenced on how acupuncture training programs would be required to re-submit changes to their curriculum.

*MOTION: Vice President Zamora made a motion to accept the staff recommendation to accept the comment and adopt the response as written in the Board packet. Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Third, Dr. Given felt that as long as any improvement to an institution's curriculum leaves the institution fully in compliance with CA regulations, no further review by CAB was necessary. He also stated that such review would be burdensome and would make it harder from institutions to make positive changes to their program of study. Staff recommended rejection of this comment, on the basis that the Board is charged with protecting the public and does so by ensuring that any changes to an approved acupuncture training program's curriculum continues to meet Board requirements..

No public comment was taken on this item.

*MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment and adopt the response as written in the Board packet. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Finally, Dr. Given cautioned the Board regarding attempting to ensure that licensed acupuncturists continue to meet the same educational training and clinical experience standards. He hoped that Board staff and commissioners would create an environment where an institution may meet or exceed the standards set out in regulation. Staff recommended rejection of this comment, since the Board is merely setting minimum standards for approved training program curriculum, not making the program exceed those standards as proposed.

No public comment was taken on this item.

*MOTION: Board Member Chan made a motion to accept the staff recommendation to reject the comment and adopt the response as written in the Board packet. Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***



4. Comments received at the June 6, 2016 public hearing in Sacramento, CA:

Johnson noted one person provided feedback at the June 6, 2016 hearing in Sacramento. Dr. Steven Given, DAOM, L.Ac, Associate Academic Dean of the California Institute of Integral Studies had six distinct comments regarding the proposed rulemaking.

First, Dr. Given suggested a correction on proposed CCR Section 1399.433(b) (1) (G) – ‘Jin Gui’ is listed. Dr. Given feels ‘Yaolae’ should be added to further define the term. Staff recommended rejection of this comment, feeling ‘Jin Gui’ was a significant enough identifier.

There was discussion on the meaning of the term. Member Corradino clarified that the term was a technique used in Acupuncture training, and the term was okay as is.

Public comment was taken on the item. Dr. Given felt it was not burdensome to include the full name of the texts in regulation. Member Kang asked about the terms ‘Asian’ and ‘Oriental’ medicine in the text, which Counsel Pruden explained would be taken up when the review of the language took place later in the meeting. President Aguinaldo asked the issue of namings and terms be assigned to the Board’s Education Committee for review.

*MOTION: President Aguinaldo made a motion to accept the staff recommendation to reject the comment and adopt the response as written in the Board packet. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – NO; Kang – YES. **MOTION PASSES 5-1***

Second, Dr. Given noted the ‘Clean Needle Technique’ manual as referred in the proposed CCR Section 1399.433b (2)(K) is no longer published by the National Acupuncture Foundation. It is now published by the Council of Colleges of Acupuncture and Oriental medicine and available on their website. Staff recommended acceptance of the comment with the corresponding changes to be made to 1399.433b (2)(K) and 1399.434b(2)(K).

*MOTION: Member Corradino made a motion to accept the staff recommendation to accept the comment and adopt the changes to CCR Sections 1399.433b(2)(K) and 1399.434b(2)(K) with the additional changes discussed. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

There was no public comment on this item.

Third, Dr. Given pointed out language in CCR Section 1399.433h (4) and 1399.434h(4), which he felt was outdated, referring to “subsection H - clinical practice hours – nine

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hundred fifty hours” and the “statement in subsection 4 – thereafter two hundred seventy five hours the clinical supervisor shall be physically present at the needling of the patient”. He stated that California is the only state which requires this, and there was virtually no evidence that is necessary or enhances the training of the intern. He also noted “that in the following sentence...that the clinic supervisor shall be in close proximity, and is true for all stages of clinical stages and continues to be true.” Staff recommended rejection of the comment and proposed changes to CCR Sections 1399.433(h(4) and 1399.434h(4).

Johnson read aloud the proposed changes the text. IEO Bodea explained the reasoning for the proposed changes, stating that the Board was not changing anything in the section, merely clarifying a regulation that has been in place since 2005 and adding words so that it is clearer to the schools. Member Kang asked if the issue could be dealt with during the Board’s proposed Omnibus regulatory package in the future; IEO Bodea said it could be.

*MOTION: President Aguinaldo made a motion to accept the staff recommendation to reject the comment and adopt the language as discussed today. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Fourth, Dr. Given repeated his written comment that a statement in the ISOR referring to approved training programs does not list the full text of the statute. Staff recommended acceptance of this comment, with the correct and full language from CA BPC Section 4927.5 to be included in the FSR.

There was no public comment on this item.

*MOTION: President Aguinaldo made a motion to accept the staff recommendation to accept the comment and make the changes to the FSR. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Fifth, Dr. Given reiterated his written comment regarding curriculum review. He felt “the Board should have complete authority first 30 days as per SB 1246, but thereafter the review of curriculum needs to be ended as far as CAB is concerned.” He states “that under the accreditation process, schools are constantly improving and changing curriculum – and if an institution were required to go back to CAB for every time they made improvement to their curriculum, institutions would have a disincentive to continue to improve their curriculum as is required by accreditation, and believes that CAB would be inundated with minor changes, when in fact it is not necessary for CAB to approve that.” Staff recommended rejection of this comment, on the basis that in order to protect the public and to ensure that California Board requirements apply to all acupuncture



training programs, it is necessary to require approved training programs to submit all changes to their Board approved curriculum.

There were no public comments on this item.

*MOTION: President Aguinaldo made a motion to accept the staff recommendation to reject the comment and adopt the response as written in the Board packet. Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Finally, Dr. Given said that in “a statement made in documents forwarded to me that licensed acupuncturists continue to meet the same training and clinical experience standards. More in the spirit of education under accreditation should meet or exceed those standards.” He feels “it is in fact not appropriate for a Board to say that everybody must meet the same standards...we should be able to meet or exceed those standards according to the review of faculty and the academic leadership of the individual institution...that is in fact what is happening now, institutions do have an opportunity to exceed those standards as they see fit.” Staff recommended rejection of this comment, as the Board is setting minimum standards for Approved Training Program curriculum, not making the program exceed the standards as proposed.

There was no public comment on this item.

*MOTION: Vice President Zamora made a motion to accept the staff recommendation to reject the comment and adopt the response as written in the Board packet. Board Member Chan seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

5. Proposed additional changes to SB 1246 regulatory text:

Counsel Pruden reviewed the changes to the regulatory text, some of which have already been reviewed and approved by the Board. She also detailed the additional proposed changes not already reviewed:

CCR Section 1399.433, adding the words ‘clinical experience’, as required by statute.

CCR Section 1399.433, adding additional language about international education training hours which mirrors 1399.434, as required by statute.

CCR Section 1399.433b (2)(K) removal of ‘as its primary reference’, which makes the regulation more specific.

Addition of authority and reference sections, which details the statutes the Board is making more specific or implementing, as required by the Administrative Procedure Act.



CCR Section 1399.437, adding the updated revision date for the “Application for Board Approval of Curriculum”.

CCR Section 1399.437a (5), adding the words ‘all information and documentation submitted under this section shall be in English’, in order to clarify the application must be in English.

CCR Section 1399.437b, defining what a complete application is and requiring all information and documentation.

CCR Section 1399.437c, adding additional information as to how the application may be incomplete and again defining that a complete application is.

There were no public comments on this item.

*MOTION: Vice President Zamora made the following motion – “I move to amend the proposed language as staff has recommended, to approve the modified text for a 15-day comment period and delegate to the Executive Officer, if there are no comments received during the public comment period, the authority to make technical, non-substantive changes as necessary in completing the rulemaking file.” President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

Agenda Item #6 – Consideration and possible action related to proposed regulatory adoption of Title 16 of CCR Section 1399.457 – Standardized 801 Malpractice Reporting Form (Johnson)

This item was not taken up by the Board. Counsel Pruden announced the Board already had the legal authority to develop a form as set out in California Business and Professions Code Section 804.

There was no public comment on this item.

Agenda Item #7 – Legislative Update: AB 2190 (Salas and Hill) (Johnson)

Johnson gave a short update on the Board’s Sunset Bill, AB 2190. The bill has been approved by the Legislature and is on its way to the Governor for approval or denial. He noted the Board had a good and collaborative process with the Legislature during work on AB 2190.

There was no public comment on this item.



Agenda Item #8 – Pursuant to Government Code section 11126(c)(1), the Board will meet in closed session to discuss the possible appointment of Interim Executive Officer.

This item was moved to the end of the Agenda by President Aguinaldo.

Agenda Item #9 – Consideration and Possible Action to Approve the California Acupuncture Board Member Administrative Manual (Bodea)

AEO Bodea reviewed the changes to the Administrative Manual. The changes are minor and non-substantive.

There was no public comment on this item.

MOTION: President Aguinaldo made the motion to accept the changes to the manual as specified in the Board packet and delegate to the Executive Officer the authority to make non-substantive changes. Vice President Zamora seconded the motion.

Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. MOTION PASSES 6-0.

Agenda Item #10 – 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 on items not on the Agenda.

Agenda Item #11 – Future Agenda Items (Aguinaldo)

Member Kang asked about the history of the sale of needles in California. This will be taken up at the September meeting.

Member Corradino asked that the issue of First Professional Doctorate degrees being issued by acupuncture schools be placed on a future agenda, as he noted the degrees are going to be issued within the next year or two.

(Taken out of order) Agenda Item #8 – Pursuant to Government Code section 11126(c)(1), the Board will meet in closed session to discuss the possible appointment of an Interim Executive Officer.

The Board went into closed session to discuss this item. Upon resuming open session, President Aguinaldo announced that Benjamin Bodea has been named Interim Executive Officer.



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ADJOURNMENT AT 1:45pm.