



Draft
**ACUPUNCTURE BOARD
MEETING MINUTES**

Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109

FULL BOARD MEETING
February 24, 2011

Members Present

Robert Brewer, Public Member, Chair
Charles Kim, Public Member
Anyork Lee, L.Ac.
George Wedemeyer, Public Member
Paul Weisman, Public Member
Nancy Carroll, L.Ac.
Frank He, L.Ac.

Staff Present

Janelle Wedge, Executive Officer
Spencer Walker, Staff Counsel
Kristine Brothers, Enforcement Coordinator
Benjamin Bodea, Education Coordinator
Benjamin Bodea, Administrative Technician

Guest List on File

1. Call to Order and Establishment of a Quorum

Quorum Established and meeting called to order at approximately 9:00 AM.

2. Examination Business

Chair Robert Brewer opened up the meeting to allow for testimony regarding the CALE in the Korean language. Legal counsel Spencer Walker recommended allowing testimony only during open session and the remainder will be handled in closed session pursuant to Government Code section 11126(c)(1).

James Kim of the Korean Asian Medicine and Acupuncture Association of the California shared that they feel sympathy for the Korean students who could not complete the examination. He stated that he experienced similar difficulties when he took the exam years ago and suggested that Korean translations be put in parentheses after the Chinese Characters regarding herbs. He is aware that his suggestion had been addressed. He looks forward to the Boards assessment of what occurred with this exam. Jung Won Yu, graduate of Dongguk, asked if there was a translator for the Korean test. He stated that 90% of the test questions were in Chinese. He asked if the Board reviewed the test before the final print. If so, was this intentional? An exam taker from South Baylo University, was shocked by the exam and asked that the Board apologize for what occurred in the exam. Member Charles Kim asked what she did when she saw the test. She said she talked to the proctor and she believes he talked to the Board and was told that the examinees were to leave the answers they couldn't read blank. Paul Weisman asked for background on what happened. Janelle Wedge responded that this would be discussed in closed session. Another student shared that they were shocked to hear that Board Members were not aware of what has occurred. Several students shared that the shock that most Korean test takers were undergoing was causing quite a commotion making it difficult to focus. Janelle Wedge stated that she has all the students' statements on file. Anthony Kim, South Baylo graduate, stated that he had difficulty reaching anyone at the Board to discuss this issue. Robert Brewer stated that he appreciates the involvement of the students in this matter and assured the public that the issue

will be discussed during closed session. A proper solution will be arrived at and the results will be announced as soon as possible.

**3. HEARING: Petition for Reinstatement of Surrendered License
Petitioner: Yihan Fang (Case No. PRRL-1A-2010-197)**

Board heard Petition

**4. HEARING: Petition for Early Termination of Probation or Modification
Petitioner: Kweon Young Yoo (Case No. PETP-1A-2002-132)**

Board heard Petition

5. CLOSED SESSION The board convened in closed session pursuant to Government Code Section 11126(c)(1) and (c)(3) to discuss/take action on examination administration, above hearings and disciplinary actions.

6. Announcement from Closed Session

Chair Brewer stated that regarding the issues with the Korean language test, the Board will be taking several steps. The Board will immediately be appointing an Examination Committee to look at these types of issues. The Board will also be working with the Office of Professional Exam Services to see how soon the test can be re-administered to the Korean test takers in the format you were trained to take. The Board will look into the possibility of offering the test before the August 2011 exam. Those that took the test will not be required to pay again. Chair Brewer announced that Charles Kim has been appointed to head the Examination Committee. Frank He will also be a part of the Committee. Spencer Walker noted that the Korean Exam was originally entirely set for closed session but the Board allowed the public to offer testimony.

7. Election of Officers.

Nancy Carroll nominated Robert Brewer for Chair and AnYork Lee nominated George Wedemeyer. Robert Brewer received four votes and was elected Board Chair. Frank He nominated AnYork Lee for Vice-Chair and Robert Brewer nominated Charles Kim. Charles Kim received four votes and was elected Vice-Chair. Member Weisman suggested that the Chair position alternate to other members to allow for more input on the Board.

8. Executive Officer's Report

Board Updates - Executive Officer Janelle Wedge reported that the Board has three vacant positions with both of the receptionist positions open. Due to the hiring freeze, these positions can only be filled by current Department of Consumer Affairs employees making the filling of these essential positions more of a challenge. The office has reworked the phone answering system so that all calls ring on all staff's phones in the hopes that this will allow the public greater access to the office until the positions are filled. Janelle reported that all staff, including Board members, will be required to complete a Sexual Harassment Prevention training. Janelle further reported that the Board's relocation to the new office is on schedule for August. The cost of the new office space will increase by \$ 0.75 per square foot for a total of \$2.25 a sq ft. Square footage is around 3,500. The new furniture will cost around \$50,000.

DCA Updates - The Director of DCA has been holding conference calls for Board Chairs and Executive Officers on a monthly basis to keep the Boards apprised of Department issues.

Budget Updates - Governor Jerry Brown has cancelled the previous administrations proposal to sell and leaseback 11 state properties stating that this would cost the state and taxpayers more in the long run. The Governor proposed to borrow from special funds reserves to offset the supposed gains from the sell and leaseback proposal. \$5 million will be borrowed from the Acupuncture Board to be paid back with interest by FY 2013-14.

Charles Kim stated that he had attempted to call and email the Board on several occasions with no response. As such he would like to raise the issue of office efficiency as an agenda item at the next meeting.

9. Director's Report

LaVonne Powell reported the Director's Report. She stated that although the hiring freeze is still in effect there may be more wiggle room in the months to come easing the situation. Director Stiger has been asked to stay on a while longer. There has been very few appointments made so far as the attention is focused on the Budget. Cell phones have been asked to be turned in. The Department is looking at initiating a new more formal process of using Expert Consultants without hindering the Enforcement and placing the power more within the Boards jurisdiction, actions cutting down time from four days to two. LaVonne thanked the Board for being responsive to this new process and that when the Board goes up for Sunset review the Board will be in very good shape. The BREEZE program is in the works but the Department is waiting for the final product before moving on with it. The Acupuncture Board is scheduled to move to the new system by 2012-13. Charles Kim asked if the Special Fund that the Governor is borrowing is a done deal. LaVonne Powell affirmed it. Charles Kim asked if they are likely to pay the Board back. LaVonne responded that they always have. Robert Brewer asked about the wiggle room for the hiring freeze. LaVonne responded that the budget has been the primary concern, excluding exemptions for the moment but that Core Functions are next in line and this would include Enforcement and Licensing.

10. Approval of November 18, 2010 Meeting Minutes

CHARLES KIM MOTIONED TO APPROVE THE NOVEMBER 18, 2010 MEETING MINUTES. PAUL WEISMAN SECONDED. VOTE: 5 – 0 – 0 MOTION PASSED

11. Administrative update

a. Legislation

1. *AB 72 (Eng)* – Health Care Coverage – Requires Acupuncture to be covered by health insurance carriers.

AnYork Lee stated that this has come up before and it's crucial for the Acupuncture profession to receive insurance coverage such that it no longer is viewed as a secondary medical profession. Neil Miller asked the Board to support this bill and further asked how the new federal health coverage effect acupuncture coverage. CAMA urges the Board to support this bill as this will lead to greater access to consumers and that if California passes this it will be the second state in the nation to do so. Janelle Wedge noted that this is just in the beginning phase and subject to changes but will keep the Board apprised.

b. Regulations

1. *Implementation of AB 2699 (Healing Arts: Licensure Exemption)*

Spencer Walker discussed the proposed regulation allowing out of state health care providers to provide services at a free event to underprivileged populations. These regulations were developed by the Department to provide consistency. The Board will need to decide what educational/experience requirements along with out-of-state licensure. The Board will also need to consider the fee for the processing. The Medical Board has established that fee at \$25.00. The Board will also have to set the parameters for denials. Robert Brewer asked what kind of events the Department is considering to inspire these regulations. Counsel Walker responded that he is uncertain although this is currently law and the department is asking that the Acupuncture Board finalize our requirements. Robert Brewer asked to have this agenda item for the next Board meeting and for suggestions be sent to Executive Director Janelle Wedge. It was suggested that this provision could be used in terms of emergencies as in if an earthquake or fire. Bill Mosca presented SB 628 (Yee?) changes the licensing title from Licensed Acupuncturist to Practitioner of Traditional Chinese Medicine, allow for Doctor of Traditional Chinese Medicine after they have earned their Doctorate, change the Board's name to Board of Traditional Chinese Medicine, introduce a practitioner of Chinese Traumatology licensed under the Board, there would be a period in which senior Tui Na practitioners would be grandfathered in as Chinese Medicine Traumatologists after which it would be closed. Chair Brewer asked Bill Mosca to forward the information to Janelle Wedge.

12. Education Business

a. Update Pending School Applications

Several schools are still awaiting approval. The Board is still waiting on exemptions for out of State Travel to visit those schools.

b. School Site Report on Nine Star University

The Board reviewed the latest report. Chair Brewer asked the new Education Coordinator, Benjamin Bodea, if Nine Star University has met the Board's requirements. Benjamin Bodea affirmed that they had and that he and Janelle Wedge were very pleased with the changes they instituted. Member Kim asked to agendize a probationary term for new schools.

ANYORK LEE MOTIONED TO APPROVE NINE STAR UNIVERSITY. FRANK HE SECONDED. VOTE: 5 – 0 – 0 MOTION PASSED

c. School Site Report on Golden State University

The Board reviewed the report and addendum submitted by Sunny Kim, School president and owner. Chair Brewer asked about any concerns. Benjamin Bodea noted that it is a small school with five students as well as three that are auditing the courses. The school's clinic currently does not have a sink in each treatment room. Member Weisman asked if there are any special provisions regarding the Master's Program. Janelle Wedge responded that the Board doesn't require that the school offer a Master's program only that they abide by our training requirements. AnYork Lee asked how many classes were currently being taught. Benjamin Bodea responded that Golden State University is currently offering six courses this semester. Sunny Kim, President, confirmed six courses. She noted that she's had twenty students over the last four years but since Golden State University does not have Acupuncture Board approval the students have had to transfer to an approved school to get their clinical training and prepare for the exam. AnYork asked how many instructors currently. Sunny Kim responded that there are six instructors and presented the schedule. Charles Kim asked if we reviewed their financial records. Benjamin Bodea responded that we have reviewed their financial records except for their 2010 returns which we received two days ago. He also noted that the income the school claimed from the clinic was a little concerning. Sunny Kim responded that the school has a low overhead and the clinic sees over twenty patients a week. She also noted that the Fire Department has always signed off on her water connections and that there is a restroom next to the treatment rooms. She can also expand her school within the building she currently occupies. Frank He asked how many students she would like her school to have. Sunny Kim responded that she prefers a small school to give a better to the students. The school is hoping to introduce a doctoral program as well. Member Lee noted that when schools start out small their financial status is usually in the clear but that when they start taking on more students they run into the required increasing overhead costs of the school expanding. Robert Brewer noted he supports small schools offering the quality of education that they can but there is concern of a school's financial viability in light of several schools closing due to finances. He would like to see a business plan for the school. Mike Kim, on the Schools Board, asked if there were any discrepancies in the education requirements. Janelle Wedge responded that the curriculum was within the Board's requirements. Robert Brewer asked to table the approval to review the financial information and come back to the next Board meeting for final review.

d. Dong-guk University, California

Janelle Wedge reported to the Board the continued efforts to resolve the transfer credit issue for students that had transferred to Dong-Guk University, California from not just Samra University but from other universities as well. Both representatives from the school and from the students experiencing this issue are present today. David Johnston, a transfer student from Samra University to Dong-Guk University, California, presented progress from the student perspective. David responded that this is a very emotional issue for all the students going through this. Details of the new curriculum was not given until last November, just prior to the last meeting. The administration has been heavy handed and hard headed. David stated that he has had constant meetings to insure that he is taking the right classes to finish his program and he has yet to receive confirmation on what he should be taking. Students are reluctant to speak up for fear of retaliation. The transfer agreement insured that certain teachers from Samra University came to Dong-Guk, California and now he feels that the University is restricting the numbers of courses they were to teach to two. David mentioned Yeiji (last name?) was a Samra dean that transferred to Dong-Guk that has been taken out of the picture once the administration changed. He continued saying that communication with the administration is incredibly fatiguing for the English students, although Mike Kim, the English Dean, speaks perfect English. The Board asked the other students to come up and give their testimony. Chair Brewer asked them to confirm and/or add

to David's report. There is concern that there are no students coming in and thus the early year students will not have the courses offered. Nathan (last name?) reported that the school removed him from the Clinic Director position without a meaningful reason. He noted that he was the Clinic Director at Samra prior to the Bankruptcy. When he was removed from the position he was offered the Director of the English program but did not stay in the position long when he saw he was not able to enact his powers in that position. Scott (last name) is a transfer student from Beijing University shared that his hours that were transferred in were far below the hours he actually took. He stated that the school was using credits as opposed to hours of education even though the credit system is different between China and the U.S. Chair Brewer asked if this was different than what the school initially offered. Scott affirmed. Shalon Akozer, Samra transfer-student, is attending on the GI Bill and when the administration came in they let go of their financial aid representative, the position remained vacant for over three weeks. Once the position was filled the individual did not know how to fill out the forms. It took the school three and a half months before they could find someone to do it and once they showed up it took them minutes to fill them out. Conner noted that he was the individual that drafted the letter of grievances. He shared that he has not been able to raise the president for meetings since the troubles have started. Hot water is not present in the clinic. There is no process for any grievances being addressed. Tuition rates were hiked up soon after the students were assured that they would stay the same. Chair Brewer thanked the students for their testimony and asked that the school administration representatives approach the Board.

Chair Brewer asked what the administration has done since the November Meeting to address the Board's Concerns. Mike Kim, English Director at Dong-Guk University, responded that there were many false statements made by the students. He stated that he is the individual who did all the transfer credit evaluations for all transfer students as well as any transfer students that came to DULA. According to the teach out agreement those students will follow Samra's requirements to graduate and all others are to follow DULA's. The first two to three weeks of his employment at DULA Mike Kim said that he worked on Transfer credit evaluations. He noted that with David Johnston's case DULA had 4 extra courses that Samra did not offer that DULA required namely pediatrics.

Chair Brewer asked about the reduction of the number of English classes offered by English instructors restricting the students access to classes. Mike Kim responded for the winter 2011 quarter the English program offered close to thirty classes with Samra offering less. The current spring quarter is offering close to forty courses in English. DULA implemented a new regulation with the winter quarter limiting all instructors to teach a maximum of four courses regardless of language. Member Weisman asked why the school has been inconsistent with the requirement criteria for the students. Mike Kim responded that some students were close to the teach-out qualifications which could lend to the confusion. There were discrepancies between Samara's and DULA's course requirements but no one lost any units in the transfer other than one case where a student took two courses at Samra that DULA offers as one, losing two units of the original five taken at Samra. Mike shared that he meets seven to eight students per day. Member Weisman stated that he wants to insure that the students know what is required of them to graduate.

Member Lee asked about the financial aid issues the students mentioned. Mike Kim responded that he does not have access to that information and would not be able to respond.

Chair Brewer asked what DULA is doing to bolster communication with the students and their feeling disenfranchised. Mike Kim responded that whether the students are from DULA or from Samra they are all his students. Member Kim asked how the school can maintain stability when the administration is appointed by the parent organization in Korea that is not familiar with California's standards. Mike responded that there are indeed cultural differences present and DULA is aware of that and works with that. Addressing the Chair's question he stated that he does not believe that there is a communication problem with the English program. TJ stated that there were Samra transfer students into each of the three language tracks at DULA. He noted that this morning he and Janelle Wedge agreed that DULA would use David Lee's transfer criteria for all of Samra's transfer students. Mike Kim noted that even with these criteria it does not change the students credits transferred. Member Weisman asked that the Board consider the idea of degree audits. Janelle Wedge stated that David Johnston isn't the only transfer student with transfer problem. Member He asked Mr. Johnston to speak to the issue. Student David Johnston stated that many students are afraid of coming forward. He shared that there are many changes between what was once accepted as transfer credit what ends up being accepted. The transfer evaluations are indeed negotiations. Chair He asked when the date of the graduation exam was picked. Mike Kim responded that it was chosen a long time ago. Member Wedemeyer stated that cooperation is required between both the students and the school as this issue has been going on far too long. David Johnston stated that the school needs to honor the agreement regarding the bringing of instructors from

Samra. Chair Brewer stated that DULA still has a way to go with honoring the agreement that DULA made with Samra even though this administration didn't enter into that agreement. This issue needs to be solved and the school needs address any financial responsibilities it may have to the students if there is need for redress. Education Coordinator Benjamin Bodea asked Mike Kim that he had stated that the date of the graduation exam at the beginning of the quarter. When was the beginning of the Quarter? Mike Kim responded that it was January third. Ben clarified that this was after the dates of the next Board meeting was set at the November meeting. Member He stated that was his concern. Chair Brewer stated that it will be taken as coincidental.

e. Statutory Change Setting Time Limit for Schools Reapplying for Approval.

Member Kim stated that he raised this issue since schools that are denied approval can come back at the next meeting for approval again. He suggested that schools be given a year to fix their issues before being able to come back to the board. Member Wedemeyer shared that Steve Stumpf has drafted some criteria for school approval that he can send to Janelle to review before the next meeting addressing this issue. Janelle Wedge agreed to look at it noting that the Board's authority is the training program and to look at approval of the entire school would take regulatory change but she will look at the suggestions to draft language. Steve Stumpf presented to the Board criteria he felt should be including pass rates of graduates. This would also bring conditions to currently approved maintaining their approval by requiring a minimum pass rate for a school's students. Liza Goldblatt asked that material be shared with the public. Chair Brewer stated that the item was moved as a future agenda item. Neil Miller asked that these issues be discussed in committees.

12. Examination Business

a. February 10, 2011 Examination

No further discussion

b. Book Resource List

Janelle Wedge that the book list is a resource list that is used by subject matter experts in developing examination questions. She noted that she had information from OPES that states 'the consensus is that most of the Boards and Bureaus do not post reference lists for their candidates whatsoever'. They still have reference lists but it is for internal reference only. Hugh Morrison of the National Guild of Acupuncture and Oriental Medicine shared a letter he had written with the Board that the Board consider the use of scientific texts and not include energetic systems. Elizabeth Elsy, student president at Five Branches University, stated that the book list serves an important purpose and helps determine the curriculum of the schools themselves. She suggested that a group within the Board be formed to determine the criteria w/administrators to cover the appropriate information. Chair Brewer asked if the Board can just post the reference list on the website. Janelle Wedge responded that she wanted to continue quoting OPES' recommendation that, 'we do not recommend that Boards posting reference lists. By doing so the Board gives the appearance of endorsing the books as the best in the industry which is not always the case. Books are approved strictly to support what SME's determine to be correct answer to an item. The items are supported by references and content validation by SMEs. Posting can also be harmful because it can suggest that if a candidate purchased all the references on the list and study them they would pass the exam. DCA legal has supported our position on this and has made recommendations to the Boards against publishing reference lists.' Greg Sperber of PCOM noted educators should be used as SME's as they stay abreast of the material used in the practice and that a published booklist would be a valuable asset. Hugh Morrison suggested the use of the Medical Treatment Utilization Schedule. Chair Brewer stated that the Board needs to take a look at the list and its relevance if it's to be published.

c. Educators as Subject Matter Experts

Chair Brewer noted that there is currently a prohibition on educators being Subject Matter Experts. Ted Priebe asked what are the criteria for SME selection. Janelle noted that there the Board first screens the applicants for disciplinary and license status and then OPES takes over. Jacque Mora Marco stated that the selection process for SME's should take from western medicine for those portions the exam. Liza Goldblatt noted that other public health fields do not have a prohibition on educators being SMEs. Steve Stumpf noted that SMEs should be optimally qualified not minimally qualified. . Paul (?) Demonet, Academic Dean at PCOM, stated that faculty were prohibited due to security issues with the exam in the past and the public and

profession should no longer have to suffer for one individual's act of selling answers to segments of the community. This security issue will continue to be possible but there are ways to compensate for that. Schools are responsible for entry level competence not expertise. James Kim shared that the Board is always looking for new SMEs and that practitioners should take advantage of that. Greg Sperber asked that the Board agendize allowing educators as Subject Matter Experts.

13. Enforcement Business

a. Enforcement Case reports

Enforcement Coordinator Kristine Brothers presented the report to the Board. She noted that the update is from July 1, 2010 to January 31, 2011. She also presented the CPEI and the performance measures the department has regarding enforcement.

b. Enforcement Committee Formation

Chair Brewer stated that an Enforcement Committee will be formed that will talk with the department and other Boards' Enforcement Committees and report to the Board. Paul Wiesman, Robert Brewer and Frank He have agreed to be on the committee. They will report to the board at the next meeting.

c. Possible Statutory Changes Concerning Scope of Practice for Acupuncturists

To be discussed by the Blue Ribbon Panel and brought to next meeting (?)

d. Dry Needling

Ted Priebe shared that there is no difference between dry needling and acupuncture with the exact same physiological mechanisms. There is no evidence to show that it is any different. Chair Brewer then asked if the Board is being asked to include this as a part of the definition of Acupuncture. Ted Priebe affirmed. Ben Kavoussi stated that he contact the Board of Physician Assistants and confirmed that they are allowed to use needles as long as it is within their scope of practice. Neil Miller asked the Board to make the consumer aware that this is within the scope of practice of Acupuncturists. Member Lee stated that the Board needs to attend to the differing definitions since this issue keeps coming up. He also noted that the term TCM no longer refers to just the twelve meridians it's just it's the most recognized term. Bill Mosca noted that Dry needling is not a legal term in the state of California.

e. Cupping and Moxibustion by Unlicensed Practitioners

Deferred to the Enforcement Committee.

f. Disability Evaluations in Workers Compensation System

Ted Priebe stated that in CA under the Work Comp system is determined by a Judge. Acupuncturists determine impairment. He noted that impairment is still a grey area. Neal Miller brought this up because there is a shortcoming in an Acupuncturist's education that prepares them to treat our injured workforce and it's been part of the labor code of California and it is a shortcomings. He pointed out that several bills have attempted statutorily to remove this problem. He would like to see the Board specifically address issues of participating at the level practitioners are allowed to for the purpose of work comp.

14. Future Agenda Items

Member Wedemeyer wants to address the primary care issue at the next meeting. Member Lee would like progress report from the Blue Ribbon Panel. Member Kim wanted to see all the decision that were made in 2009 and 2010 and the status of those decisions. He also wants to discuss a pilot program of integrative care he's involved in. Ted Priebe asked to discuss the exam issue in relation to pass rates obtained from the Guild. A DULA student asked that DULA progress report be provided at the next meeting. Ben Kavoussi asked to agendize bear bile procured from captive bears that are being farmed for their bile. Elizabeth Goldblatt asked to re-agendize educators as SMEs. Hugh Morrison asked to agendize the board to publishing workforce data.

15. Public Comment

Neal Miller shared that he has begun to put together archives of past decisions of the Board. He has asked for help from the public in this endeavor to fill in the blanks. Steve Stumpf stated that legal opinions have no authority and that the Board regulates licensees and schools. Next meeting will be May 18th.

16. Adjournment

Chair Brewer adjourns the meeting at 5:45pm.

DRAFT