



ACUPUNCTURE BOARD
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Draft
**CALIFORNIA ACUPUNCTURE BOARD
MEETING MINUTES**

October 25, 2013, 8:30 a.m.

**HQ2 HEARING ROOM
1747 N. MARKET BLVD.
SACRAMENTO, CA 95834**

Board Members Present

Michael Shi – Chair, Licensed Member
Kitman Chan – Vice Chair, Public Member
Jeannie Kang, Licensed Member
Hildegarde Aguinaldo, Public Member
Jamie Zamora, Public Member

Board Legal Counsel

Spencer Walker

Staff Members Present

Terri Thorfinnson, Executive Officer
Tammy Graver, Board Liaison
Terry Sinkovich, Examination Coordinator
Kristine Brothers, Enforcement Coordinator
Ben Bodea, Education Coordinator
Marc Johnson, Policy Coordinator

Call to Order and Establishment of a Quorum

Michael Shi, Board Chair called the meeting to order at 8:45 a.m. and a quorum was established.

Roll Call

Tammy Graver, Board Liaison called the roll. Francisco Hsieh was absent from the meeting. All other board members were present.

Approval of Minutes:

May 23, 2013 Board Meeting Minutes

Approval of minutes for May 23, 2013 meeting was tabled.

September 13, 2013 Board Meeting Minutes.

Motion: *Kitman Chan moved that the minutes of 9/13/13 be approved, Jeannie Kang seconded motion. Motion passed 5-0*

Chair Report

Michael Shi welcomed everyone and talked about his vision for the Board. He explained that the Board and the profession have many challenging issues to resolve and he asked everyone to work together. He said the Board would be reaching out to licensees, schools and the public to work together and dialog on key issues. He acknowledged the hard work of staff, Board Counsel and EO. He wanted the Board to acknowledge the difficult decisions that the EO makes on a daily basis. He talked about the difficult position the new Board was faced with timing wise to have to approve a sunset review report that is due November 1st without the luxury of time to discuss the issues in the report.

Michael talked about the change in the committee structure to have committees with 3 or more members and have public committee meetings. Committee meetings will meet in Sacramento for logistical reasons and be as often as monthly. He announced the committee appointments:

Executive Committee: Michael Shi (Chair), Jeannie Kang, Kitman Chan, Francisco Hsieh, Jamie Zamora.

Education Committee: Michael Shi (Chair), Jeannie Kang, Kitman Chan, Francisco Hsieh, Jamie Zamora.

Enforcement Committee: Hildegard Aguinaldo (Chair), Kitman Chan, Jeannie Kang.

Exam Committee: Francisco Hsieh (Chair?), Michael Shi, Hildegard Aguinaldo.

Executive Officer's Report

Sunset Review Report

Terri explained the sunset review process and the timeline. She emphasized that the Board cannot assume that it will be automatically given an extension. The Board had deficiencies and for that reason was only given 2 years before their review. In the past 2 years, there is a new EO and new Board. The EO has had only 1 year to address deficiencies and has made some progress. This report is key and must be approved today in order to be submitted by the deadline.

CALE August 2013 results statistics

Terri highlighted that exam results continued to show that first time test takers pass at a higher rate compared to repeat test takers who continue to have a low pass rate. The combination of the large number of repeat test takers and their low pass rates negatively impact the overall pass rate which is a combined pass rate.

Exam Calendar Letter

Reference was made to the new exam calendar having been sent out to schools and posted on the website.

Budget

Terri answered questions about the budget related to its structural deficit and surplus due to under spending. Continued under spending of authorized budget will continue to generate a budget surplus. As expenditures increase, such as additional staff that will generate increased enforcement expenditures, then the impact of the structural deficit will be realized. But for now, the budget is in the black and in good shape.

Enforcement: Data Report

Kristine gave a report covering the Enforcement cases for July 1, 2013 to September 30, 2013.

Approval of Board Administrative Manual 2013

Motion: For approval (Board manual) made by Jeannie Kang, seconded by Jamie Zamora. Passed 5-0.

Approval of Acupuncture Board Strategic Plan 2013-2017

SOLID staff Terrie Meduri and Shelly Menzel facilitated the Board discussion about finalizing the Strategic Plan. SOLID staff explained the process of interviews with staff, past and present board members, stakeholder survey results and the daylong public strategic planning meeting on September 13, 2013. The Board asked about an action plan and it was explained that SOLID would work with staff in January-February to design the action plan.

Motion: To approve Acupuncture Board Strategic Plan 2013-17 (as amended) made by Hildegard Aguinaldo, seconded by Jamie Zamora. Passed 5-0.

Approval of SB 1441 and SB 1111 Regulatory package

Terri explained that upon advice of Board Legal Counsel, the combined regulatory package should be broken into individual regulatory packages. As a result, one of the proposed sections related to prostitution would need to be removed and addressed at a later date. The remaining packages were presented and discussed one by one.

SB1111 Consumer Protection Enforcement Initiative. The Board approved the proposed language in 2010, but did not vote to authorize the commencement of the regulatory process. Terri provided an overview of the CPEI and the reason it was created. It was created in response to the concern that the disciplinary process was not working as well as it should. Among the concerns is that the disciplinary timeline was too long and egregious misconduct was allowed to go on for a long period of time before final disciplinary action was taken. While the original bill was not signed into law, DCA convened Boards to develop ways to improve enforcement and streamline the process. The result was this proposed CPEI that contains new authority for EOs in enforcement cases to approve settlement agreements for revocation, surrender, or interim suspension of an acupuncture license. It provides authority to the Board to require an applicant for an acupuncture license to undergo an evaluation and/or if it appears the applicant may be unable to practice due to a mental and/or physical illness.

This proposed language is model language developed by DCA. This language was intended to improve the Board's enforcement and disciplinary process through adding authority that would streamline the disciplinary process. It was emphasized that this added enforcement authority gives the Board the tools it needs to improve its enforcement process, decrease the process time for disciplinary actions, and provides additional authority to better protect the public through evaluating potential licensees that may have mental and/or physical limitations that may pose harm to public safety. This additional authority is added to the current criminal background check authority the Board has to check potential licensees. If an applicant or licensee is a registered sex offender, this proposed language gives the Board the authority to deny or revoke a license. This is new authority that the Board does not currently have.

Motion #1: (Original Board vote to approve language taken 8/19/2010, 5-0 approved.)

Motion #2: To direct staff to commence the regulatory process and authorize the EO to make non-substantive changes made by Jeannie Kang, seconded by Kitman Chan. Passed 5-0.

SB 1441 Uniform Standards Related to Substance Abuse and Recommended Disciplinary Orders and Conditions of Probation

This proposed regulatory package was the result of a bill that was signed into law, which requires Boards to implement its provisions. The reason for this bill and regulatory change is to address the fact that many professional licensees were suffering from substance abuse but the diversion programs were not effective in providing effective oversight and disciplining them it needed. As a result, the Legislature required Department of Consumer Affairs (DCA) to form a Substance Abuse Coordination Committee (SACC) to develop uniform guidelines for substance abuse and other professional misconduct. This proposed language is model language that contains 16 uniform standards developed by SACC in April 2010 as required by SB 1441.

This proposal abolishes the Board's current disciplinary Guidelines and replaces them with the Uniform Standards that address substance abuse discipline, sexual abuse and additional unprofessional conduct not currently included in the Board's Disciplinary Guidelines last amended in 1996. These additional disciplinary standards improve and enhance the Boards enforcement authority and disciplinary process. The additional causes of action and unprofessional conduct expand the Board's enforcement authority to discipline licensees that pose a risk to public safety. This language is designed to have uniform standards and discipline, which promotes fairness in disciplinary actions across the department and Boards in related enforcement actions. This updates the Board's disciplinary guidelines and incorporates statutory changes that have occurred since 1996.

Motion #1: *To approve the proposed Uniform Standards Related to Substance Abuse made by Kitman Chan, seconded by Jeannie Kang. Passed 5-0.*

Motion #2: *To direct staff to commence the regulatory process for Uniform Standards Related to Substance Abuse and authorize the EO to make non-substantive changes made by Jeannie Kang, seconded by Kitman Chan. Passed 5-0.*

Motion #1: *To approve the proposed language to abolish current disciplinary guidelines and replace it with Recommended Disciplinary Orders and Conditions of Probation by Hildegarde Aguinaldo, seconded Jeannie Kang. Passed 5-0.*

Motion #2: *To direct staff to commence the regulatory process to abolish current disciplinary guidelines and replace it with Recommended Disciplinary Orders and Conditions of Probation made by Jeannie Kang, seconded by Hildegarde Aguinaldo. Passed 5-0.*

School Approval of Phoenix Institute of Herbal Medicine & Acupuncture (PIHMA)

PIHMA was presented to the Board for approval as a California approved school. Both the site team and Education Committee recommended approval. However, the current Board members expressed the need to see more information about the school before they could make a decision. Jonathan Lindsay addressed the Board responding to some of the questions raised about the number of students that graduate on an annual basis. He said that 40-50 students graduate per year. The approval was tabled.

Committee Appointments

Michael explained that his vision for the committees was to be public and meet on a monthly basis in Sacramento. The Board discussed whether it was possible to have conference calls for the public committee meetings. Staff was asked to research the options for conference calls. Committees may begin to meet after the first of the year.

Legislation and Regulatory Update

Terri explained that one of the sunset review committee cited deficiencies was not having a regulatory list of pending regulations and their status. A regulatory list was introduced. Prior regulatory lists were inaccurate. This list had been reconciled with past board meeting minutes and discussed with Legal Counsel to identify which regulatory packages were approved and pending and which had not been approved. This is the correct regulatory list.

The bill list was presented and SBX1 was highlighted as a bill that was amended to include acupuncture services in Medi-Cal. Bill Mosca commented that there had been no change to acupuncture services within Medi-Cal. The Board requested future clarification on the impact of the bill on acupuncture services.

Approval of 2013 Sunset Review Report

The Board reviewed the report question by question raising any concerns they had. Board members expressed concern over approving any wording that stated a position of the Board when they had not had sufficient time to discuss and formulate a position. After the review was completed and revisions made to the report, the Board voted to approve the report as amended.

Motion #1: Motion to approve the Sunset Review Report as amended by the Board made by Jeannie Kang, seconded by Hildegarde Aguinaldo. Passed 5-0

Motion #2: Motion to authorize the Executive Officer to make non substantive changes to the Sunset Review Report made by Jeannie Kang, seconded by Hildegarde Aguinaldo. Passed 5-0.

CALE Occupational Analysis OPES Presentation and Input

Heidi Lincer-Hill presented an abbreviated overview of the Occupational Analysis (OA) step-by-step process, timeline and what was the purpose of the OA. She indicated that participation from the profession's licensees was critical to its success. She indicated that they would be recruiting for subject matter experts for workshops; interviews with licensees to gather input and then a survey would be sent to identified licensees.

One of the comments was that the survey was too long and that it would be helpful if it were arranged to be done in multiple sessions if it was online. Additional input expressed that the survey questions did not appropriately address the task performed by the acupuncturists and that the survey was too academic. Many acupuncturists did not return it for that reason. It was recommended to include educators in the OA. Heidi clarified that educators if they were licensed acupuncturists could participate in the OA.

Public Comment

It was noted that minutes were abbreviated. There were comments related to the out of state school approval. There were comments about the sunset review report taking issue with the Board's wording or omissions.

Michelle Rivers, licensed acupuncturist, represents a group of community acupuncturists. She is requesting the Board to consider a proposal for statutory change. The proposal would allow for a secondary route to qualify as a tutorial supervisor with the qualification being based on 10,000 treatments.

DCA Chief Deputy Awet Kadane congratulated the Board on good work and thoughtful input related to the sunset review report.

- 1) He addressed the Board's concerns raised about BreEZe. He said that the Board was in a good position to be in the last implementation group because by then all of the problems will be worked out. The Board is not paying for the cost of BreEze during this time, which is a savings.
- 2) He commented on the Board's chosen tone as it edited the sunset review report. He warned against claiming that job functions were not getting done due to understaffing. He recommended that the tone reflect the effort to focus on re-prioritizing resources.

Future Agenda Items

Agenda item for the Education Committee would be to explore regulations on how many times students can take the CALE.

Adjournment

Michael Shi adjourned the meeting at 5:09 p.m.

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