



Approved June 16, 2009
**ACUPUNCTURE BOARD
MEETING MINUTES**

The Hotel Whitcomb
San Francisco, CA

**FULL BOARD MEETING
Thursday, February 19, 2009**

Members Present

*Adam Burke., L.Ac, Chair
Kenny Cherng, L.Ac., Vice Chair
Robert Brewer, Public Member
Charles Kim, Public Member
Larry Yee, Public Member*

Staff Present

*Janelle Wedge, Executive Officer
LaVonne Powell, Counsel
Erica Davalos, Administrative Coordinator
Christie Loftin, Examination Coordinator
Cathy Hardin, Education Coordinator
Kristine Brothers, Enforcement Coordinator
Benjamin Bodea, Administrative Technician
Guest List on File*

1. Call to Order – Adam Burke, Chair

Board Chair Adam Burke called the Acupuncture Board to order at 8:45 AM. Roll was taken and all members were present.

2. HEARING: Petition for Reinstatement of Revoked License

Petitioner: Jung Ho Kang (Case No. PRRL-1A-2008-71)

3. HEARING: Petition for Early Termination of Probation

Petitioner: Cheol Kim (Case No. PETP-1A-2002-28)

4. CLOSED SESSION: Pursuant to Government Code Section 11126(c)(3)

To discuss/take action on above hearings and disciplinary actions.

5. Chair Report – Adam Burke

The Institute of Medicine is having a summit on Integrative Medicine next week. This shows that the Alternative Health care professions are growing. A conference on Research in Complementary Medicine is happening in May in Minnesota. Adam thanked the staff for continuing their good work even through the furloughs.

6. Approval of the November 20, 2008 Meeting Minutes

Corrections: LaVonne Powell to be included as staff. Adam Burke quoted as saying Non-English SPEAKING exam applicants. (page 8 of 10 above Enforcement Business)

CHARLES KIM MOVED TO APPROVE THE MINUTES. ROBERT BREWER SECONDED.
VOTE: 5 – 0 – 0 MOTION PASSED

7. Administrative Business

a. Budget Report

Jeff Alameida and Michael Wells postponed the Budget presentation to the next meeting.

b. Legislative Proposals (Business and Professions Code)

Janelle reported on the bills amending the following sections:

Section 4933 – Change quorum requirements from five to four.

Section 4938 – To allow out-of-state students to qualify for exam under conditions.

Section 4939 – Require Acupuncture schools to be approved by accrediting agency recognized by the US Department of education.

Section 4940 – Elimination of the Tutorial Program

Janelle has received word that Assemblyman Huffman will introduce a bill to cover all these changes.

c. Regulatory Proposals

LaVonne reported on requested regulatory language authorizing retroactive fingerprinting requirement and disclosure of convictions on renewal forms.

ROBERT BREWER MOVED TO SUPPORT THE PROPOSAL. CHARLES KIM SECONDED. VOTE: 5 – 0 – 0. MOTION PASSED.

8. Examination Business

a. January 21, 2009 Licensing Exam

Christie Loftin reported that we had a total of 504 applicants with 299 taking the test in English, 98 in Chinese, and 107 in Korean. The overall pass rate was 53%. In English was 54%, Chinese 50% and Korean 53%. We also have the stats for first-time takers as well as re-takers with the re-takers being lower than normal. Robert asked about our ability to get more stats about the test. Janelle said that we are currently not under contract to provide that at this time and with the budget issues as well as having to have a consultant to rework our database to handle the new stats. Adam Burke brought up the question of limiting the number of times the CALE could be taken. LaVonne Powell indicated that other Boards have limited it to three times and if the failed again they would have to take remedial classes. This would best be accomplished through a legislative change. *Adam asked that this be discussed at the next Board Meeting.* Liza Goldblatt pointed out that NCCAOM limits their test to 5 times. She also supported and encouraged the Board to break the exam down further such that colleges can understand what the strengths and weaknesses are.

b. Occupational Analysis/Validation Report

Irene Wong and Bob Holmgren from the Office of Professional Examination Services answered questions from the Board regarding the Occupational Analysis.

KENNY CHERNG MOVED TO ADOPT THE OCCUPATIONAL ANALYSIS AS AN OFFICIAL STATE DOCUMENT TO DEVELOP THE CALE. CHARLES KIM SECONDED. VOTE: 5 – 0 – 0. MOTION PASSED.

Ted Priebe commented that the analysis does not address the letter of the law or our scope of practice. Liza Goldblatt went on record as being in support of the methods the Boards is using. Steven Stumpf raised the question of fidelity of what is asked about in the analysis and what is required in the statute for primary care.

c. Discussion Regarding Allowing DAOM Graduates from Schools with Acupuncture Board Approved Training Programs to Sit for the Licensing Exam

Janelle reported on the proposal by Liza Goldblatt, and supported by other colleges, that would allow DAOM graduates from schools that have approved acupuncture training programs but we have not necessarily approved the doctorate program to sit for the licensing exam. The proposal was given to the Board in a hand out. Liza and Ron urged that the Board approve the proposal, highlighting the graduates education. Janelle indicated that with the approval of out of state accredited institutions would solve this situation. Liza agreed but raised the notion that this is a back-up. Janelle also indicated that these graduates are needing to treat patients during clinical training and that the graduate programs have not received CAB approval. Ron Zaidman responded that these students just observe the clinical portion.

Adam asked for an orientation for the new Board members on schools core curriculum.

9. Education Business

a. School Site Report on Kingston University

Cathy Hardin reviewed the report. Of note was the issue of an incomplete student file wherein the school said that the missing document in question was not in the file since it was getting translated from Japanese to English at the time. Another concern was that one of the instructors of Psychology was found to not have a Masters in Psychology. Two instructors were listed as clinic supervisors in the initial material received from the school. At the time of the application Mr. Lee did not meet the 5 year practitioner requirement for clinic supervisor and at this moment Mr. Lin does not. The school said that hiring Mr. Lin was a mistake and has been subsequently let go and Mr. Lee was allowed with the understanding that he would soon qualify. Subject matter was missing from the curriculum and some electives were offered which should have been made required. The school says that the curriculum has been updated. Cathy indicated that a student had stopped her and Janelle during their site visit and shared that students do indeed do needling. The school said no initially and later said that the students do needle each other under supervision. LaVonne stressed that everyone leave with the understanding that no needling is allowed.

Paul Allione was legal representation for Kingston University presented his organization's application history.

Robert Brewer asked about the schools funding and ensuring it's persistence for the very least the students. Mr. Allione indicated that the school has incorporated and opened a two hundred thousand dollar emergency fund. Kenny Cherg asked if Cathy felt that the second trip corrected the errors indicated in the first trip.

LARRY YEE MOVED THAT THE BOARD APPROVE THE SCHOOL OF KINGSTON UNIVERSITY WITH STAFF CARRYING OUT AN UNANNOUNCED SITE VISIT WITHIN A YEAR. KENNY CHERNG SECONDED. VOTE: 5 – 0 – 0. MOTION PASSED.

b. Application Review and Recommendation for Denial of California Union University's Application for School Approval

Cathy reviewed California Union University's Application. Concerns were false advertising to students about CALE qualification. Faculty members also concerned the staff, including Mr. Shin, had been charged

of violating the B&P code for paying a former Acupuncture Committee member for advanced receipt of the answers for the exam which he then used to pass the exam. Mr. Soo Hoon Owh was listed as an instructor, academic dean, dean of oriental medicine and the clinic supervisor. His license was cancelled in 2000. Staff recommends denial of approval.

CHARLES KIM MOVED TO DENY SCHOOL APPROVAL TO CALIFORNIA UNION UNIVERSITY. LARRY YEE SECONDED. VOTE: 5 – 0 – 0. MOTION PASSED.

Charles Kim asks that we discuss ensuring a school's quality of education at the next Board meeting.

c. Discussion Regarding Transfer Credit and Possible Action on Proposed Regulatory Amendments to Section 1399.435

Janelle discussed the changes to the accrediting language to g3 and clarified that CAB does not approve schools but their training programs. The 100% transfer credit for Exercise Therapy courses, to require all foreign education documents be sent to a credentialing evaluation service before transfer credit is awarded and to allow the transfer credit for western science courses if it was received outside of the United States.

ROBERT BREWER MOVED THAT THE BOARD ACCEPT THE PROPOSED REGULATORY AMENDMENTS TO SECTION 1399.435. CHARLES KIM SECONDED. VOTE: 5 – 0 – 0. MOTION PASSED.

d. Discussion Regarding English Language Competency Requirement and Possible Action on Proposed Regulatory Language.

Janelle reviewed the changes and their justifications. The board will be moving to Internet-based testing and has used the values for reading, writing, listening and speaking based on other states' health professions. Ron Sokolsky of Dongguk Royal discussed that health professions exist on a spectrum. He also asks that CA raise the standards slowly. Robert Brewer addressed that this is to protect not only the consumer but the practitioner as well. Ben Kavoussi asked how non-English speaking practitioners can be HIPPA compliant and how can HIPPA officers make sure they are compliant. James Kim of the Association of Korean Asian Medicine of Acupuncture of California shared that his organization felt that the TOEFL score must be over 500 points, score must be submitted with the school application and the test must be in a government controlled institute and foreign applicants must take the TOEFL to get in the program. Larry Yee says that we need to look closely at this issue and make sure that Board not set the bar too high and give this greater discussion time.

ROBERT BREWER MOVED TO MOVE FORWARD WITH LANGUAGE FOR THE PROPOSED REGULATORY AMENDMENTS TO SECTION 1399.435 FOR FILING NOTICE. CHARLES KIM SECONDED. VOTE: 4 – 1 – 0. MOTION PASSED.

e. Discussion Regarding Allowing Acupuncture Board Approved Training Programs to Award 100% Transfer Credit for Courses Completed at an Accredited Institution.

Liza Goldblatt pointed out that this proposition is in case the proposed bill does not go through. Adam Burke suggested that we should wait a year and see how the bill fares. Liza Goldblatt and Megan Haungs agree.

10. Enforcement Business

a. Enforcement Case Report

Kristine Brothers reported on the enforcement cases she's covered since the last Board meeting. During the period July 1, 2008 to February 11 2009 there were 101 complaints received. Twenty-two of those were unprofessional conduct, forty-two unlicensed/unregistered, twenty-one criminal charges/convictions, four sexual misconduct, five frauds, three non-jurisdictional and four cases of incompetence/negligence and as of February 11, 2009 there are twenty six in-house complaint cases, thirty-seven formal investigations with DOI, nineteen disciplinary cases and fifteen open probation cases. Kenny Cherng asked about the status of raising the penalty status for practicing without a license. Janelle responded that it was not carried at the moment due to the overcrowding of the prisons. Fines cannot necessarily be followed through on/enforced. Janelle said she would continue attempting to bring the issue up.

b. Review of Disciplinary Guidelines and Possible Action on Proposed Regulatory Amendments to Section 1399.469.

Kristine Brothers has put together new guidelines for the disciplinary process. LaVonne Powell has said it is a thorough document with just some language changes. The redraft will be brought to the next Board Meeting.

c. Discussion and Possible Action on Recognizing the National Board of Acupuncture Orthopedics (NBAO) and the National Board of Chinese Medicine Orthopedics (NBCMO) as specialty boards.

There have been changes in the regulations for the recognition of specialty boards for the purpose of QMEs in Workers Comp cases. This is only the beginning of the regulation drafting process and more language will be discussed at the next meeting. These are for acupuncturist QME's. Acupuncturists cannot take a worker off of work or allow them to work with work restrictions. Therefore Acupuncturists then have to have a separate QME examination without being able to work off of that – limited QME status. The public was in support of discussion for approval of specialty boards.

d. Discussion and Possible Action Regarding Myofascial Release/Manual Therapy

Neil Miller proposed that the Acupuncture board accept Myofascial Release/Manual Therapy as within the scope of practice of Acupuncture and falling under the category of Asian Massage. LaVonne asked Neil to draft some language for her and include all the new terms that would fall under Asian Massage.

11. Petitions Pursuant to B & P Code Section 4967(b)

a. Linda Adams (License cancelled 11/1/05)

Linda Adams was not present. The Board reviewed the information that staff and Linda Adams had submitted.

ROBERT BREWER MOVED THAT THE BOARD GRANT LINDA ADAMS HER PETITION TO APPLY FOR A NEW LICENSE WITHOUT HAVING TO TAKE THE CALIFORNIA ACUPUNCTURE LICENSING EXAM. LARRY YEE SECONDED. VOTE: 4 – 0 – 1 (ADAM BURKE ABSTAINS). MOTION PASSED.

b. Bing Huang (License cancelled 12/1/05)

Bing Huang stood before the Board to address their questions. She currently works in China most of the time and has applied for an inactive license status but would like to keep her license in the hopes that she will begin practice again at a future time. If she gets another license she would keep it on inactive so as to not be responsible for CEUs while she is abroad.

ROBERT BREWER MOVED TO DENY BING HUANG'S PETITION TO APPLY FOR A NEW LICENSE WITHOUT HAVING TO TAKE THE CALIFORNIA ACUPUNCTURE LICENSING EXAM. CHARLES KIM SECONDED. VOTE: 4 – 0 – 1. LARRY YEE ABSTAINS. MOTION PASSED.

12. Election of 2009 Acupuncture Board Officers

ADAM BURKE NOMINATES ROBERT BREWER AS THE NEW CHAIR OF THE ACUPUNCTURE BOARD AND KENNY CHERNG AS THE NEW VICE-CHAIR OF THE ACUPUNCTURE BOARD. CHARLES KIM SECONDED. VOTE: 5 – 0 – 0. MOTION PASSED

13. Ethical Decision Making Course (LaVonne Powell)

Tabled to the next meeting.

14. Public Comment Period

A UC Berkeley Grad student Colin Elbasani asked if the Acupuncture Board would like to help lay out the history of Acupuncture in California for his thesis.

Cyrie Barnes and Dolores Heeb are attempting to receive their license in CA. She and Delores Heeb would like to clarify their cases so as to qualify.

15. Adjournment

ADAM BURKE MOVED TO ADJOURN THE MEETING. KENNY CHERNG SECONDED MEETING ADJOURNED AT 3:45.