



1747 N. Market Blvd., Suite 180  
Sacramento, CA 95834  
P 916.515.5200 F 916.928.2204  
[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



**BOARD MEETING**  
**Approved Meeting Minutes**  
**December 9-10, 2021**

**LOCATION:**

Web Ex Teleconference

**Board Members Present**

Dr. Amy Matecki  
John Harabedian  
Dr. Yong Ping Chen, Ph.D.  
Hyun “Francisco” Kim  
Shu Dong Li, Ph.D.  
Ruben Osorio

**Members of the Board**

**John Harabedian**, Esq. President  
**Ruben Osorio**, Vice President  
**Dr. Yong Ping Chen**, Ph.D., L.Ac.  
**Hyun “Francisco” Kim**, M.S., L.Ac.  
**Shu Dong Li**, Ph.D.  
**Dr. Amy Matecki**, M.D., L.Ac.

**Staff Present**

Benjamin Bodea, Executive Officer  
Fred Chan-You, Legal Counsel  
Heather Hoganson, DCA Legal  
Jay Herdt, Licensing Manager  
Marisa Ochoa, Central Services Manager  
Kristine Brothers, Policy Coordinator  
David Bruggeman, Policy Analyst

**Full Board Meeting – Thursday, December 9**

**1. Call to Order, Roll Call, and Establishment of Quorum (John Harabedian, President)**

Board President, John Harabedian (President Harabedian), called the meeting to order at 12:30 p.m.

Policy Analyst, David Bruggeman (Bruggeman), called the roll.

**Members Present**

6 Present – Harabedian, Osorio, Chen, Kim, Li, Matecki



6-0 Quorum Established

## **2. President's Remarks (President Harabedian)**

President Harabedian noted that item 14 on the agenda will not be discussed at this meeting, but he expected it will be addressed at the next Board meeting.

There was no Board member or Public Comment on the President's remarks.

## **3. Review and Possible Approval of the August 2021 Board Meeting Minutes (Harabedian)**

Dr. Matecki noted that the minutes for the August 2021 meeting had an error. In the section on the approval of the minutes for the June 2021 meeting, the minutes read March 2021 rather than June 2021.

There was no public comment.

### **MOTION**

*Member Matecki motioned to approve the August 2021 Board meeting minutes, amended to reflect that the minutes approved during that meeting were for the June 2021 meeting.*

Member Kim seconded the motion.

### **Vote**

**Yes:** Harabedian; Osorio; Chen; Kim; Li; Matecki

**6-0 motion passes**

## **4. Executive Officer's Report (Ben Bodea, Executive Officer)**

(A) Budget Update

Renee Milano from the Department of Consumer Affairs reviewed the Board's Fund Condition Statement and Expenditure Report. She noted that the Board faces a negative months in reserve balance in the 2025 timeframe, but Budgets did not currently consider it a problem, assuming that past reversions hold true moving forward.

(B) Staffing Update

Executive Officer Bodea noted that the Enforcement Coordinator left to take a position with another Board, and the position will be advertised soon. Additionally, the



half-time Special Investigator position may be advertised dependent on how Board funding looks.

#### (C) Facilities Update

The Board move is proceeding, with construction underway at the new location. The current move date is scheduled for January 11.

#### (D) Business Modernization Update

Sean O'Conner of the Office of Information Services presented on the progress to-date of the business modernization process. There have been three major software phases, and the following functions have been implemented: Initial, renewal, re-examination, and wall license applications; change of address; handling deficiencies in applications; and a visual indication of application status. The final phase is focused on implementing continuing education functions and adding functionality to what has already been implemented. Once everything has been implemented, the focus will shift to training staff to handle maintenance and other functions, in addition to ensuring the system can handle future changes to laws, regulations and policies.

#### (E) Licensing Report

Herdt reviewed the licensing statistics for the first quarter of the 2021-22 fiscal year (July 1-September 30, 2021). He noted that there has been a small decline in licensing numbers over the last few years. Additionally, there has been an increase in out-of-state students signing up for tutorials. The wall license is being implemented in phases, depending on when licensees renew.

Herdt next reviewed the examination statistics for the first half of calendar year 2021.

Member Matecki asked for more historical comparisons in the reports made available. President Harabedian asked how the pass rates for the exam and the number of test takers compared to previous years. Bodea noted a decline in test taker numbers, likely due to the pandemic. The pass rates were within the typical range – 65-75 percent. Herdt added that while the number of test takers is down, those who take the test are more likely to be ready for it.

Member Chen noted that tutorial test takers appeared to be doing well, even with concerns raised (during the Licensing Committee meeting) about entry requirements for tutorial students. Herdt noted that the tutorial does require more instruction hours, but the education and training programs have become more refined. Bodea noted that while the tutorial requirements may not include an associate's degree requirement, it doesn't mean the applicants lack for education. Member Kim asked



for details on the rise in out-of-state students registering for tutorials. Herdt confirmed that the Board does not approve out-of-state tutorials, and any tutorial supervisor must be an experienced California-licensed acupuncturist.

*(F) Enforcement Report*

EO Bodea reviewed the Complaints/Convictions and Investigations data for the first quarter of the 2021-22 fiscal year (July 1-September 30, 2021). Factors that influenced the numbers for this quarter include training of new staff, becoming familiar with new laws, a number of old cases and a decrease in the number of conviction and requests.

*(G) Strategic Plan*

EO Bodea noted that Board staff is proceeding with regulatory package development and with a curriculum review (the focus of the Licensing Committee meeting held earlier on December 9). In reviewing the social media requirements for outreach, Bodea noted that a requirement from Facebook would have staff disclose personal information, which is not an option. Staff will continue work with mailing lists, which will become more important as more license activity moves online.

*(H) Sunset Report Update*

The legislature passed SB 607, which included in part provisions delaying the Sunset Review of the Acupuncture Board one year.

There was no public comment on this item.

**5. Legislative Report and Update of 2021 Legislative Bills of Interest to the Board (Kristine Brothers, Policy Coordinator)**

Brothers reviewed the legislative calendar for 2022, noting that any two-year bills would need to move forward in January if they were going to become law. Any bills that are introduced in 2022 must be introduced by February 18.

Brothers then covered the bills that were passed into law that affect the Board and/or acupuncture licensees. These bills were: AB 107; AB 133; AB 361; AB 1273 and SB 607.

There were no Board Member questions or public comment on this item.

The Board recessed from 1:53 to 2:08

Roll Call taken at 2:09



### Members Present

6 Present: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 Quorum

### **6. Regulations Update (David Bruggeman, Policy Analyst)**

Bruggeman provided an update on the Board's active regulatory packages. The major changes since the last meeting were:

- Approval of the package implementing regulations for AB 2138 (disciplining an applicant or licensee based on a criminal conviction or the underlying acts must be based on a substantial relationship with the qualifications, duties or functions of the profession). Those regulations went into effect on September 2, 2021.
- Addition to the calendar of a regulatory package cleaning up Board regulations. This package would proceed through the Section 100 process.
- Addition to the calendar of a regulatory package updating hand hygiene requirements for licensees.

Board members had no questions.

### **7. Public Comments for Items Not on the Agenda (Harabedian)**

The sole commenter offered their congratulations to the current and past President, and, expressed concern that there were no means to address errors with applications and/or payments for continuing education courses.

### **8. Adjournment of Day One**

Meeting Adjourned at 2:32 p.m., PST

### **Day Two, Full Board Meeting, December 10, 2021**

### **9. Call to Order, Roll Call and Establishment of a Quorum for Day Two (John Harabedian, President)**

The meeting was called to order at 9:34 a.m. PST.

Members Present

6 Present: Harabedian, Osorio, Chen, Kim, Li, Matecki





6-0 Quorum

#### **10. President's Remarks (Harabedian)**

President Harabedian expressed his thanks to the Board Members and members of the public for their contributions on the first day of the meeting.

No public comment was offered on this item.

#### **11. Occupational Analysis Report (OPES Staff)**

Sanja Durman-Perez presented material to the Board from the recent Occupational Analysis (OA) performed by the Office of Professional and Examination Services (OPES). The full report is available at the Acupuncture Board's website. Durman-Perez described what OPES does, the purpose of licensure examinations, and the methodology and results of the research OA. Such reports are required by state law every five to seven years, and they rely on subject matter experts to ensure that the examination reflects current practice and what is expected of entry-level licensees.

The Board recessed from 11:04 to 11:20

Roll Call taken at 11:21

#### Members Present

6 Present: Harabedian, Osorio, Chen, Kim, Li, Matecki

6-0 Quorum

#### **12. Report from Licensing Committee on December 9, 2021 Meeting and Any Possible Action on Recommendations (Dr. Matecki, Committee Chair)**

Licensing Committee Chair Matecki reviewed the Committee meeting that occurred the morning of December 9th. The focus was on a curriculum review of herbs and exercise therapy. The committee recommended that the full Board discuss the issue and call for a stakeholder meeting.

Board members were supportive of a stakeholder meeting. Member Kim noted an increased representation for herbs in the Occupational Analysis, and Member Chen noted that stakeholders have expressed interest in the topic over the last few meetings. Chen considers herbs an important option in the ongoing treatment of COVID.

Public Comment – Both commenters were in favor, and one expressed an interest in



having more opportunity for interaction than a Board meeting.

### **MOTION**

Member Matecki moved that the Board hold a stakeholder meeting and solicit input on curriculum requirements for herbs and exercise therapy.

Member Li seconded

### **Vote**

**Yes:** Harabedian, Osorio, Chen, Kim, Li, Matecki

**6-0 motion passes**

### **13. Presentation on Informed Consent Practices in Other Healing Arts Boards (Bruggeman)**

Bruggeman presented on research that he and Policy Coordinator Brothers did capturing the legal and regulatory requirements for several healing arts boards on informed consent for medical treatment.

President Harabedian noted that he would like to hear from associations and other stakeholders on this topic, though it doesn't have to be at this meeting. He considered it appropriate for them to take the lead on this issue.

Bodea noted that unlike other Boards, acupuncture licensure does not have medical malpractice requirements nor a high percentage of licensees involved with professional associations.

Member Chen noted that it was unclear how acupuncturist issues with informed consent compared to other licensee populations. Approaching this through continuing education may be a reasonable approach.

### **14. Regulatory Packages Requiring Board Review and Possible Approval or Other Actions (Brothers)**

#### **(A) Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Amend Section 1399.469 in Title 16 of the California Code of Regulations: Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees**

As noted earlier in the meeting, this item was tabled and will be considered at a future Board meeting.



### **15. Establish 2022 Meeting Calendar (Harabedian)**

The Board discussed meeting dates for 2022. Specific dates discussed were: March 24-25, June 16-17, September 15-16 and December 8-9.

It was noted that barring action by the Legislature or the Governor that these meetings would be in-person meetings.

The sole public commenter requested that the city for these Board meetings be identified as early as possible.

### **16. Public Comment on Items Not on the Agenda (Harabedian)**

Sole public commenter asked about opportunities for associations to report on their activities, something which has been an agenda item in past meetings. EO Bodea noted this particular agenda item would be a good place for such reports.

### **17. Future Agenda Items (Harabedian)**

Member Kim raised the topic of the stakeholder meeting and how the Board would prepare for it. President Harabedian noted it would likely be on the agenda for the next meeting or a subsequent meeting. EO Bodea noted that the stakeholder meeting would be separate from a regular Board meeting and that Board member attendance would be encouraged, but not required. Board member input would be sought for scheduling, though a specific commitment is unlikely before the state's public meeting processes stabilize following the pandemic. Member Chen asked how the activities of the stakeholder meeting would be reported, and asked about the status of the Board's requirements for ethics .

Public Comment – First commenter noted that many past suggestions for agenda items have not made it on the agenda, going back to the recommendations of the Little Hoover Commission. These items include changes to the scope of practice. Wanted to see doctoral education requirement as an agenda item.

Second and third commenters echoed the desire to have the doctoral degree be on the agenda. Expressed belief that requiring the degree would allow licensees to treat more patients and to have the same level of professionalism and respect as other healing arts disciplines.

President Harabedian asked about some of the agenda item requests made by the first commenter, while he also noted that many of those items require legislation.





Without a bill to respond to, the Board is limited in what it can do. It is also not obligated to place every requested item on the agenda.

Harabedian expressed uncertainty about how the Board could address requiring a doctoral degree for licensure. EO Bodea agreed, and wondered what the threat or harm would be that required the Board to demand action from the legislature. The profession is welcome to establish standards and work through curriculum authority to achieve that goal. The legislature had expressed little interest in raising barriers to entry. Current instruction hour requirements are significant. At present Board would only consider doctoral degrees in enforcement cases where there are charges of misrepresentation.

#### **18. CLOSED SESSION**

**Pursuant to Government Code Section 11126 (a) (1), the Board met in Closed Session to conduct the Annual Evaluation of the Executive Officer**

Closed Session started at 1:22 p.m.

#### **19. Return to Open Session (Harabedian)**

The Open Session resumed at 2:22 p.m. for Adjournment

#### **20. Adjournment of Day Two (Harabedian)**

President Harabedian adjourned the meeting at 2:26 p.m. PST.