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*Approved*  
**ACUPUNCTURE BOARD**  
**MEETING MINUTES**

DCA Headquarters, Sacramento

**FULL BOARD MEETING**  
February 19, 2013

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**Members Present**

*AnYork Lee, L.Ac., Chair*  
*Charles Kim, Public Member, Vice Chair*  
*Robert Brewer, Public Member*  
*Ted Priebe, L.Ac., DOM Licensed Member*  
*Michael Shi, L.Ac., Licensed Member*  
*George Wedemeyer, Public Member*  
*Paul Weisman, Public Member*

**Staff Present**

*Terri Thorfinnson, Executive Officer*  
*Spencer Walker, Staff Counsel*

**Guest List on File**

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**1. Call to Order roll call and Establishment of a Quorum**

**2. Pledge of Allegiance-done**

Opening Remarks (Welcome/Introductions) Chair Lee welcomed everyone to the February Board Meeting and mentioned that it was also the Chinese Lunar year, the year of the serpent. He also welcomed our newest Board Member Ted Priebe. Chair Lee reminded everyone about the Board process. Every item will go through the Committee. The Committee will get the consensus and present it to the Board for a vote. Also Committee proposals will come with some advance data to educate for informational purpose for the Board Members to make a good decision.

**3. Election of Officers:**

- a. Chair: Chair Lee said the next item is the nomination to elect the Chair and the Vice-Chair.

MSC (Wedemeyer, Weisman) To nominate Anyork Lee as Chair for the Acupuncture Board. Vote taken 7-0-0
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Chair Lee thanked everyone for their support. I will do my full diligence because this Board faces a lot of critical change in front of us. In the past few months we spent a lot of time from department to department with the stakeholders. We are continuing to, in our roles to solve the problems. I also thank Terri. During

the past months we have spent a lot of time doing the homework. So far as I know our investigation for the Exam is still ongoing. It is not complete yet. Today we will have a closed meeting with OPES so there will be no response to any inquiry or any questions related to the Exam Investigation. If you have a specific question I will direct you to Terri only. The Board will not inquire at this time, before we complete the investigation.

b. Vice Chair: Chair Lee said the second item on the agenda is the nomination of the Vice-Chair.

MSC (Weisman, Shi) To nominate Charles Kim as Vice Chair for the Acupuncture Board. Vote taken 7-0-0
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#### 4. Approval of November 15, 2012 Meeting Minutes:

The following errors were found:

- 1) Page 1 of 25, (third line from bottom) “How can we hire staff”... I think it has an additional “we”. Check for the completeness of that sentence.
- 2) Michael Shi should be listed as a Licensed Member.
- 3) Board requested minutes be shorter, more concise and not transcript format.
- 5) On page 25, line 5, in Future Agenda Items “English Only exam” change to “English-based Exam”.

Comment: There was some discussion correcting incorrect wording regarding WASC function. WASC accredits institutions, not course work. Only a Licensing Board approves course work.

MSC (Shi, Weisman) Motion made to approve the November 15, 2012 Minutes as amended. Vote taken 7-0-0
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#### 5. Chair Report:

Mr. Lee shared some conversation from his meeting with California State and Consumer Affairs Secretary Caballero. He emphasized the need for staff to write “How to Manuals” that assists new staff in learning the tasks and duties of their position and in particular the unique software training related to the various DCA databases. He indicated that he has had several conversations with the E.O. about having the staff create manuals to avoid this issue in the future. The E.O. assured Mr. Lee this is currently being done. The issue cited was when no one from DCA nor CAB knew how to work the data base software to generate exam results analysis by school and first time/ repeat test takers.

Town Hall Meetings: We are scheduling three town hall meetings regarding the proposal to change to an English-Based California Acupuncture Licensure Exam (CALE). We will have Town Hall meetings three times, one in San Francisco, one in L.A. in Korea Town and one in Alhambra to gather public input. I think this will be a democratic process in this country. When we have a major change, we give the people a chance to have their input before we change it. So because it is a Public Meeting Board Members will be

welcome but they will sit in the audience. We will have a Public Notice at least ten days before the meeting.

Historically we have three languages – English, Chinese and Korean. Already, thirty-six years have passed since we began offering a licensing exam in multiple languages. We are using the term English-Based rather than English only Exam because there is some medical terminology in Chinese medicine that cannot be translated so we must use Pinyin. It is very difficult to translate. Like one word, from the superficial meaning of the word that means godness. That makes no sense in medical terminology. You cannot translate it with one single word. It may take a half page to translate one word as it relates to our autonomic nervous system. The Board would like to begin a process of standardizing terminology and invite the schools' input in this process.

Financial Statement: I see the Financial Statement that we are fine for the next two years. However, after two years Terri can prepare a four-year pro forma income statement. Prepare what will happen during the third and fourth year.

Reminder: I would like to remind the Board Members, regarding your committee, in the future when you present to the Board you are to have data to support your proposal. That will help the Board make a good decision. Try not to discuss something just based on opinion. We will make a judgment based on the facts. That concludes my report.

## **6. Executive Officer's Report:**

Staff Update: We are still without clerical staff. The intricacies of hiring state employment is taking longer than I anticipated. We are still in the process of hiring clerical staff and upper level staff for Education and Enforcement. We have brought on board Marc Johnson as our Regulatory and Policy staff person. I anticipate also hiring another policy person given the amount of regulations and the backlog of regulatory work that we need to do.

Budget: Regarding budget, if you look to tab X, the front page is the detailed version of our budget in terms of expenditures. However, if you look on the back there is a vague future projection. When I say at least two years is fine, at four years we will also be fine because these numbers reflect a reserve and we have additional reserves that can be used. At this point we do not spend more than we take in. In addition to what we take in to cover our annual and future budgets we also have a reserve which is a good position to be in.

Exam: August 2013 CALE schedule change: I wanted to talk about the upcoming exam in August of 2013. We have put out the calendar and I want to bring attention to the fact that we have been having some problems with deadlines and schools us transcripts in a timely manner. We get all the transcripts, which in this particular exam was about 700 sending all in the last week. So I am adding 15 days more to the 30 day time period for having schools giving us the transcripts ahead of time. That is built into this calendar but I wanted to make people, as well as both the board aware that we have had problems as well as people in the audience and schools. It is a problem that causes us not to get transcripts or have to deny students. Those

dates are meaningful and they are set because we just cannot continue to make changes after certain dates. I just wanted to make you aware of that.

Exam Results Analysis: Exam results analysis have been completed for August 2012, February 2012 and February 2011 which is broken down in terms of first-time takers and reexaminees and also by schools and available on our web-site. As you can see one of the things that the breakdown shows, at least for the August exam, the aggregate pass rate was masking the very low pass rate of the reexaminees which was different, substantially different than the first time test takers, which was among the highest.

Improved Business Practices: I have been looking at the way the Board does its business in all of its functions and I continue look at and evaluate what things we need to be doing different, particularly in our exam process. The exam calendar is an area I have identified as an area that is inefficient and that can be improved. I am exploring computerized testing, which would also require changes and in particular regulatory changes that would be presented to the exam committee in the future. I am also looking at our business systems including process, paper work and wording. I am reviewing our licensing in terms of what information we provide to licensees and what we keep in our records. I am continuing to revise how we answer phones since we receive a high volume of calls daily. We continue to work closely with DCA's call center on answering phones. Since the call center has been answering calls, the staff has increased their productivity.

Enforcement: Kristine Brothers has returned from her 1 year maternity leave. This Enforcement update covers all of last year – 2012 and up to the end of January this year. It shows how many complaints that were received and as of that point we have received 226 complaints. We have closed and referred to investigation 199. The average intake time was 155 days. The investigations that you will see, there were 195 initiated during that time, 181 are pending at this time and 83 were closed. This is broken down by the violation category. For disciplinary actions there were four requested last year, twenty-one are pending with the Attorney General's Office, five accusations and statements were filed. Fourteen decisions became effective. You can see the breakdown of those decisions. Our average overall process time is 652 days. The current probation cases that we are tracking are eighteen. I just want to give some recognition to the Division of Investigation. They have lent their enforcement support unit to us and their staff has helped tremendously last year while I was on leave. They have continued to help upon my return getting everything entered from last year into the database.

Question: How many cases that are currently under investigation are actually physical injury to patient?  
Actual malpractice cases versus criminal: It is hard to know, those are usually just incompetence and negligence. But from what I can remember seeing it is a real small sample.

Board Questions/Discussion:

Vice Chair Kim had a question about our Budget report. On the Budget Report Line 3, Personnel Services Statutory Exempt (EO) Fiscal Year 2011-12 we spent \$115,012 versus \$75,564 current budget year. Can you explain why it is almost two thirds more? The EO promised to find out the answer.

**7. Computerize California Acupuncture Licensing Exam presentation by OPES staff Sonya Merold and**

## **Nicole Woods:**

The Office of Professional Exam Services manages the computerized exam master contract for the Department of Consumer Affairs. There are 18 boards and bureaus that utilize computerized exams under this contract. Under this contract, there are 17 computer sites throughout the state and 22 locations nationwide where test takers can go to take the exam Monday through Saturday. Once test takers are approved by the Board to take the exam, they can schedule the date and location for the exam. Some of the services offered through a specialized contract include eligibility notification, candidate handbook distribution and scheduling. Part of the process is for secure sign-in are photography of all candidates and sign in of all candidates. When candidates are checked-in their photo will be taken and will remain on the computer screen so the proctors that are proctoring the exam will know that the individual sitting at the computer is the person who should be taking that exam. There is a briefing and tutorial. We have a standard tutorial however that can be customized to meet the needs of any program. We have post-test surveys that are available, again that can be customized as well.

Security - all of the sites maintain a 24-hour security and intrusion alarm for the parameter of the examination Site and all of the equipment. The exams for computer-based testing are set up when the candidates schedule their exam and they are only delivered securely to the site through the computer system if someone is scheduled. Test taker's photos and fingerprints are taken to prevent exam subversion. The contract can also provide issuance of licensure cards with or without photo and all sites have special accommodations. The contract can be customized to fit program specific needs.

Some of the Board's questions related to exam subversion. The exams are scrambled so test takers are not taking the same exam as others in the room. The waiting period for exam results and scoring varies from Board to Board and is a Board decision that would have to be addressed through regulatory changes. Another question involved whether the computer testing was set up for essay exams and the answer was no not at this time.

## **8. Committee Reports:**

### **Exam Committee Update:**

The Exam Committee meeting is mostly centered on the English-based issue. And in light of the unresolved investigation we have decided to hold off on any recommendations at this point, until the next meeting and until the investigation comes through. Because we will know about the integrity of the last test and what that may mean in terms of our test going forward. We would also be waiting for the town hall meetings. After that we will start more discussion.

### **Education Committee: Update:**

We will not submit our report until we review it and it will be available for you at the next meeting.

**Enforcement Committee:** Advertising, schools and clinics.

Paul Weisman: Thanked staff and introduced their enforcement idea related to advertising that would require all licensed acupuncturist to include their license number next to their name in all advertising. The problem this proposal is trying to solve is the unlawful use of licensure by those unlicensed, those licensees who lend their license for prostitution or other unlawful uses. Requiring advertising to list the licensee name and license number will prevent this unlawful use or unlicensed practice and hold people accountable and discourage unlicensed practice or unlawful use of licenses. This is a way to protect consumers and prevent unlawful use of acupuncture licenses for massage parlors or as a front for prostitution. We want to propose it as legislation. The enforcement report shows 12 people unlicensed, unregistered and that is just the ones we found so I think that by making people put their license next to their name, hopefully will discourage them from practicing without a license. Then there is also more accountability so if there are complaints they will know whom they can call. We discussed one simple suggestion by adding your license number and I as a patient or consumer can actually go to our CAB web-site and check the licenses to check the status of the license. It is kind of a deterring factor for licensees to be more careful when they put out advertising. They will deliver what it says on the advertising and they will be extra careful. It is one way to protect the public. Hopefully we can make a decision on that one today. There was a brief discussion about whether to pursue legislation or regulatory change. It was recommended that we seek a regulatory change.

Discussion:

There was discussion about whether the language includes the internet and recommendation to include language where it says community where the business is located on any television, we add internet and print advertising including but not limited to telephone and other directory listings business cards, newspaper and magazine advertisements. There was further discussion about how broad and whether it was all advertising or communication—so communication was proposed to be added and then removed as too broad after further discussion. Then the discussion turned to the wording of the motion.

MSC (Priebe, Wedemeyer) Motion was made to amend CCR section 1399.455 to add subdivision d. which reads: An Acupuncturist who advertises his or her services shall hold a current, active license issued by the California Acupuncture Board and shall include his or her license number, the name and the license number of the establishment at which he or she is employed and the name of the city or community where the business is located on any form of advertising. Vote not taken.

There is a motion made by Ted, seconded by George related to advertisement.

The motion should be: made to amend CCR section 1399.455 to add subdivision d. which reads: An Acupuncturist who advertises his or her services shall hold a current, active license issued by the California Acupuncture Board and shall include his or her license number, the name and the license number of the establishment at which he or she is employed and the name of the city or community where the business is located on any form of advertising. We can just adopt that as the motion and then second it.

Public Comment:

There was a question about the application to educational institutions. Schools regularly advertise their clinic services in newspapers, billboards, ads and in a variety of venues. If we are talking about regular advertising for clinical services across the board. This would seem to apply to schools as well. There was further discussion about the fact that licensure only applied to individual licensees, and that the Board did not have authority to issue institutional licenses. There was concern raised by the schools about having this provision apply to school clinics. Staff expressed concern about creating a loophole. After further discussion, it was decided to exempt training facilities from this provision.

MSC (Preibe, Wedemeyer) Motion was made to amend CCR section 1399.455 to add subdivision (d.) which reads: An Acupuncturist who advertises his or her services shall hold a current, active license issued by the California Acupuncture Board and shall include his or her license number, the name and the license number of the establishment at which he or she is employed and the name of the city or community where the business is located on any form of advertising. (e.) This section shall not apply to Acupuncture Training Programs approved by the Board. Vote taken 5-1-1

Spencer Walker: There needs to be a second motion directing the Executive Officer to commence the regulatory process. And to give her the authority to make all non-substantive changes.

MSC (Kim, Weisman) Motion made to direct Executive Officer Terri Thorfinnson to commence with the regulatory process with regard to amending CCR section 1399.433 and to give her authority to make all non-substantive changes. Vote taken 7-0-0

**9. Legislation Update (Discussion):**

I highlighted some bills in the packets not necessarily for the Board to take positions but to make the Board aware of Bills that are implementing the Affordable Care Act and that acupuncture is included in them. I have included in your packet three bills that have implementation language. They will probably be the bills that have all of the implementation language; all of the language that is needed for federal implementation as well as state. So acupuncture is included and the way it is included from being part of California's Essential Benefits package. That was the result of California choosing Kaiser Small Business benefits package as California's Essential Benefits package. The Essential Benefits fact sheet is in your materials as is the small business benefits package description of acupuncture so you see the scope in which it is being implemented. There will probably be more on that but it is the type of bill that sort of shows that there is activity including acupuncture. I don't know if there will be any particular policy issue that the Board would want to necessarily vote on but you should be aware of it.

**10. CLOSED SESSION:**

Pursuant to Government Code Section 11126(c)(1), the Board will meet in closed session to discuss the August 2012 California Acupuncture Licensing Examination (CALE) with the Office of Professional Exam Services (OPES) staff.

Chair Lee-In the closed session we met with CALE and OPES people so there is not announcement to the public.

**11. OPEN SESSION (Announcement Regarding Closed Session):**

**12. Executive Officer's August 2012 CALE Investigation Findings (Discussion) See Report:**

Before presenting my findings, I have a couple of introductory remarks 1) This investigation was requested by the Board last November 15th mtg. and typically the summary findings are released but not the details. But I want to make clear that the Board has made the decision to make this report fully available. In my presentation I will be going over some of the details that are in the report. 2) There was maybe concern that my findings might be biased and my mission here at the Acupuncture Board is that all policy and work that

we do conducting our business is fact based and well researched. To that end I have asked DCA to hire an independent evaluator to evaluate my findings to remove any doubt that my findings were somehow a product of my bias and that this is to create a creditable product in terms of the review and to that end I think our counsel will mention that this doesn't make this totally final. My investigation is final and that is what I am going to be covering. I didn't release this report until today. There are copies on the back table and it will be available in a couple of days on our website.

Spencer Walker: I'd like to recommend to the Board Members that you not comment on the investigation findings because it has not been evaluated yet by the independent evaluator.

In conducting my investigation I basically took the input that I got from public comment as well as the Board and grouped by findings into three different findings. 1) The August Acupuncture licensing exam was validated by the Office of Professional Exam Services. 2) The August CALE is a reliable measure of minimal acceptable competence 3) The cut score or passing score was accurately set for August 2012 licensing exam. I'd like to just briefly, for those of you that have the report, highlight what I think are some of the pivotal details. I started this investigation with a glossary of terms because of the feedback. The comments showed such disarray, mixing of terminology and concepts. I thought it would be good for us to have them in front of us so you could constantly refer to some of the definitions of the key terms, cut score, passing rate, validity, validation, reliability coefficients and occupational analysis. I'm not going to go over those now but I think it's really important for you to review them to understand what the structure of an exam and what a licensing exam entails.

Finding One: I wanted to emphasize from the beginning that the office professional exam services is just that. It's a professional exam service. It is the professional exam developer and service for the Department of Consumer Affairs Boards, not just the Acupuncture Board. To that end they have experience with other exams, other licensing exams, other boards and a wide range of topics, and a lot of experience in terms of development of professional licensing exams. They are currently performing on 43 different projects and I want to just want to highlight on the first findings in terms of validation, the Office of Professional Exam Services Examination validation policy states: All aspects of the test development examination test use including occupational analysis evaluation development and validation should adhere to the accepted technical and professional standards to ensure that all items on the examination are psychometrically sound, job-related and legally defensible. That's the standard when I was asking what kinds of processes, standards and analyses. This is what I was asking for – what are the testing standards and what testing standards do they follow? OPES completes a detailed analysis of the entire exam and each question is part of its examination development and validation process. Adhering to the test's Industry standards and principles ensures the credibility of the CALE as a licensing exam that evaluates minimum, acceptable competency in acupuncture and protects the public's health and safety.

A validated exam also produces statistical data to demonstrate the quality of the CALE itself is valid reliable and legally defensible. As part of the validation process the number of questions in an exam should be sufficient to ensure content coverage and provide reliable measurement including the results of an occupational analysis, item analysis and exam analysis. One of the concerns was maybe the item bank and the number of questions we had were not adequate. The standard for having a sufficient number of test



questions in the item bank is: 1) At least one new form of the examination could be generated if a security breach occurred and 2) Questions are not exposed too frequently to repeated examinees. Both of these are adhered to by the Office of Professional Exam Services. The item bank has a sufficient number of questions regardless of the compromised questions that were raised in the public comment. Thus the compromise questions did not have any impact on the development of the August 2012 exam. My conclusion on that finding: August 2012 CALE was developed according to nationally recognized testing standards. The exam plan was used in developing and validating the exam. The same identical well-documented process was adhered to and has been done with past CALEs. There was no deviation in the exam development process from the process used in past CALEs. The Office of Professional Examination Services is in compliance with the testing industry standards and principles and has been fully transparent with publishing its standards, exam policies and occupational analysis. The August CALE is valid, accurate and legally defensible. The data shows the August 2012 CALE performed extremely well.

Finding Two: August 2012 CALE is a reliable measure of minimal acceptable competence. The Office of Professional Exam Services performs detailed psychometric analysis of each test question checking for whether the test accurately measures those who understand the concepts the question is supposed to test, in fact answer the question correctly. OPES analyzes each question for whether the answers vary by language reflecting some advantage or disadvantage in the question wording in each language. OPES also analyzes the questions to ensure that the answer to one question does not provide the clue to another question in the exam. In analyzing the August 2012 CALE the Office of Professional Exam Services found questions that were scored accurately measured the application of acupuncture knowledge. They also found that language was not a factor in whether someone answered the question correctly or incorrectly. Thus each language version of the exam was deemed equivalent to each other in its ability to test for the required knowledge.

A quote from the Counsel of Licensure and Regulation states reliability is an index of the stability of test scores. Reliability indices range from zero to one, with high numbers being associated with a greater level of score stability. Reliability indices above .9 are considered very acceptable for most purposes while indices less than .7 usually indicate an unacceptable level of stability. The Cronbach's alpha reliability coefficient is one of the analysis that OPES uses and it is a measure of internal consistency reliability of an examination. The reliability coefficient for the 175 scored exams in the August CALE was .914, this value is above the standard of .9, (noted above). Another analysis they do is a Standard Error of Measurement Statistic, which is an estimate of the degree of accuracy of any particular score of a test. The smaller the value of a standard error measurement, the more accurate is a particular score on the exam. Standard error of measurement for the 2012 CALE is 5.556 raw score points. This is typically a small standard of error of measurement for OPES Examinations. A third evaluation analysis they do is the Point Biserial Correlation Coefficient, an Rpb. It's a mathematically simplified calculation of a Pearson Product Moment Correlation coefficient between the proportion of candidates who get an individual test question correct and their respective test scores on that test. The correlation, which ranges from a -1.00 through zero to +1.00, indicates how closely the performance on an individual test question is related to overall performance on the test. For the August 2012 CALE there were no negative Rpb values. All scored items had Rpb values in the desired range for statistical significance and correlation value. My conclusion for finding two, the psychometric analysis performed by OPES on the August 2012 CALE determined the CALE was reliable in its predictability in determining minimum acceptable competency. This reliability in turn, contributed to the

exam's validity and credibility as an exam based on sound testing industry standard psychometric analysis and evaluation. The August 2012 CALE was developed in the same manner as previous exams using the same processes.

Finding Three: The passing score (cut score) was accurately set for the August 2012 CALE. The concern that led to the evaluation focused on the cut score and the low pass rates. There have been significant confusions about the cut score and passing rates. Both terms have been incorrectly used interchangeably. By definition the cut score is determined by extensive psychometric analysis of individual exam questions in workshops facilitated by OPES' Examination Development Specialists with Subject Matter Experts that were recommended by the Board. The pass rate is simply the percentage of candidates that achieve a passing score. OPES employs a criterion referenced passing score methodology called the "Modified Angoff Technique" for determining licensure examination passing scores. The criterion applied is "minimal acceptable competence" to practice in the profession. A criterion referenced passing score maximizes the likelihood that candidates who pass the licensure exam have sufficient knowledge and experience to practice safely and competently.

The criterion reference passing score development methodology is independent of the performance of other candidates who take the examination at the same time. The passing score is not based on performance with respect to the group. Rather, the passing score is based on minimum acceptable competence as it relates to the difficulty of a particular set of items within the examination form. The passing score standards for licensure must: 1) Follow a process that adheres to accepted technical and professional standards. 2) Adhere to a criterion referenced passing score methodology that uses minimum competence at the entry level of the profession which OPES adheres to as test standards in setting the passing score.

I wanted to address that there were misconceptions that the passing score should have been a fixed rate. The CALE and other exams that are developed by OPES are developed with national industry testing standards. The extensive analysis indicate all of the CALEs are in fact accurate and can be backed up statistical data demonstrating its accuracy and reliability. There's a misconception that the passing score should be a fixed score but in fact the passing score is set solely on whether the cut score reflects minimally acceptable competence to practice acupuncture not a fixed score. The goal of the exam is test minimal acceptable competency to protect the public and safety of consumers. The argument that an arbitrary passing fixed score percentage such as 70% does not represent minimal acceptable competence. Arbitrary passing score are not legally defensible. Claims that the August 2012 CALE examination results are problematic due to fluctuating scores from exams to exam and the fact that the passing scores are not fixed are not accurate and do not reflect industry testing standards where the Angoff method is utilized. The CALE must adhere to testing standards and principles and not be changed to accommodate requests for score alterations.

Another incorrect conclusion made through public comment was that the low pass rate is a reflection of the poor quality of the exam itself. The validity and the reliability of the exam in evaluating minimum competency are based on detailed exam evaluation standards. Whether or not an exam is valid includes an evaluation on whether it adheres to the exam plan that is guided by an occupational analysis. Validation also includes psychometric evaluation analysis of each question and whether the answers to the questions predict the reliably whether those that answer the questions correctly actually understand and can apply the content

knowledge. Conclusions regarding the quality of the exam are based on this validation process and standards not on the pass rates of candidates. The pass rate is a function of candidates taking the exam, not the exam itself. Since the exam is the measure of how many candidates possess minimal acceptable competency. The pass rate is the measure of how many took the exam that possess minimal acceptable competency. A low pass rate reflects percentage of candidates who did not have minimal acceptable competence. It is important to understand the licensure exam is developed to test for minimal acceptable competency based on what acupuncture practitioners need to know to practice so they do not harm the public's health and safety. This clinical knowledge of practice is determined by the occupational analysis.

My conclusion is there are no anomalies in the exam scoring process for August 2012 CALE. The exam plan was utilized in scoring and validating the exam the same identical well-documented process was adhered to as it had been done in past CALEs. There was not deviation for the exam scoring process from the processes used in past CALEs. OPES is in compliance with testing industry standards and has been fully transparent with publishing its standards, exam policies and occupational analysis on its internal website. The August CALE is accurate and legally defensible. Extensive analysis indicates that the quality of the August 2012 CALE is excellent as evidenced by the data cited within this report.

This is as I said my analysis. I was looking for anomalies, things that would answer the question, why is the pass score low? What I came up with is that there is nothing wrong with the exam. The next step would be potentially, to look at the performance of the students and what caused the people who took the exam to not pass the exam. But my conclusion is there is nothing wrong with the exam and it did not contribute to the low pass score.

#### Public Comment

- Several members of the public expressed their concern about the loss pass rates and the validity of the test and the board's response.
- I have prepared a very brief position paper dated February 14, 2013 is interpreting CALE results, 2000 to 2012 Implications for AOM training reform. (See attached paper).
- 2 written statements by Nico Bishop and Mindy Sole (see attached)

#### **13. Informational Issues (Discussion):**

- a. Exploring National Exam: Mr. Brewer invited Dr. KoryWard-Cook, CEO for the National Certification Commission for Acupuncture and Oriental Medicine to talk about the national certification exam. The exam has four separate modules rather than one comprehensive exam. The exam is offered to 43 states. Each state can select from those four exams which ones they are going to use for licensure or certification depending on the state's laws governing acupuncture. States vary in what scope of practice they allow—some don't allow Herbology while other states don't use the biomedical exam. There was a Board question about whether the same exam is given to all states even though their licensure or certification requirements widely differ and the answer is "yes", it is the same exam for all states. The cost of the exam is \$495 for application fee plus \$300 per exam module. There were several concerns expressed about the fact that all states vary in their licensure, education requirements and the quality of one exam to fit all states would not adequately meet California's requirements and that California's education requirements and licensure requirements benefit the public and protect public safety.

There was clarification made by the Board that accreditation reviews the institution not the curriculum, only the Board approves curriculum requirements and compliance for licensure that is set by statute, the state and by the Board. There was a comment from a licensee and former NCCAOM subject matter expert criticizing NCCAOM exam construction standards, reference materials and overall lower standards than California's exam. There was expressed support for the California Acupuncture Licensure Exam (CALE) because it has a higher standard and wanted the Board to keep the higher standard that California has.

b. ACAOM Oversight of Schools in CA: Mr. Brewer talked about a past bill that failed and asked a representative of ACAOM to explain what ACAOM does. ACAOM accredits schools which if approved received the ability to offer their students federal financial aid for school. The accreditation process involves a review of all aspects of the institution. That includes governance, administration, compliance with State and federal law, the review of the curriculum, the library, the facility; really all aspects of the institution are reviewed. We in fact do not specify curriculum. That is left up to the institution and the institution. There was a Board concern raised about ACAOM not having any standards or measure of competencies. The ACAOM representative claimed that the standards and competencies were not defined by the accreditation organization but rather the school faculty defines the learning objectives. The Board then pointed out that it is the role of the Board not the accreditation organizations to set competencies and licensure standards.

#### **14. Public Comment on Items not on the Agenda:**

- There was request for CAB to consider putting on the agenda for future meetings to consider eliminating the CALE with the National Examinations.

#### **15. Future Agenda Items:**

The Chair asked Board members for future agenda items. He asked Board members to email him and cc. Terri 20 days before the meeting so that there is enough time to meet the 10-day posting of meetings requirement. There was a request for a Report on which schools have turned in their annual reports and what they say.

#### **16. Establishment of 2013 Meeting Dates as follows:**

May 23<sup>rd</sup> - San Francisco  
August 22<sup>nd</sup> - Los Angeles  
November 14<sup>th</sup> - San Diego

#### **17. Adjournment:**

Chair Lee Thanked everyone for joining the meeting and providing input; the way of democratic process. Meeting adjourned at 4:37pm.