

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 Meeting Minutes August 27, 2020**

### **LOCATION:**

Web Ex Teleconference

### **Board Members Present**

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

### **Members of the Board**

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

### **Staff Present**

Benjamin Bodea, Executive Officer  
Fred Chan-You, Legal Counsel  
Jay Herdt, Licensing Manager  
Kristine Brothers, Policy Coordinator

### **Guest List on File**

### **Full Board Meeting – Thursday, August 27, 2020**

#### **1. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki, President)**

Board President, Dr. Amy Matecki (President Matecki), called the meeting to order at 11:01 a.m.

Policy Coordinator, Kristine Brothers (Brothers), called the roll.

Members Present:



6 Present – Matecki, Chan, Harabedian, Kim, Li, and Osorio.

1 Absent - Chen

6-1 Quorum Established

*\*Note: Member Chen confirmed connection at 11:25 a.m.*

## **2. President's Remarks (Dr. Amy Matecki, President)**

President Matecki acknowledged the different emergencies that have recently occurred in California and expressed her condolences to those who lost loved ones and homes in the wildfires.

President Matecki thanked the Department of Consumer Affairs (DCA) Director, Kimberly Kirchmeyer, for her leadership and support to the Board. She also expressed gratitude to Executive Officer Ben Bodea and all Board staff for their diligence and flexibility in maintaining normal operations during this difficult time. President Matecki also acknowledged the hardships all licensees, specifically incoming licensees, and stakeholders have been faced with.

President Matecki assured that even during such challenges posed by the pandemic, the Board is upholding its highest priority of public protection.

## **3. Public Comment on Items Not on the Agenda (Dr. Amy Matecki, President)**

The following comments were made:

- First commenter requested that the topic of the education standard which limits the amount of clinical training a student can do outside the school to twenty-five percent of the training be placed on a future agenda.
- Second commenter stated there had been a change to the request of the Board regarding the formation of a TCM taskforce for COVID-19 related research, which would be brought up later in the day. It was indicated a university has expressed interest in taking on a study related to COVID-19 and TCM but would need the Board to take a position publicly to initiate the work to show its importance.
- Third commenter requested the following topics be added to the next Board meeting agenda for discussion: Asian massage, bloodletting, dry



needling, and lasers. The commenter also requested that the Board's prior Consumer's Guide to Acupuncture be presented and discussed at a future meeting.

- Fourth commenter requested the concern over the California Massage Therapy Council's enforcement of massage certification requirements for acupuncturists be added to a future Board meeting agenda.

#### **4. Review and Possible Approval of the June 26, 2020 Board Meeting Minutes (Dr. Amy Matecki, President)**

##### **MOTION**

*Member Harabedian motioned to approve the June 26, 2020 minutes.*

Member Kim seconded the motion.

##### **Vote**

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

**7-0 motion passes**

#### **5. Report from Chair Harabedian of the August 27, 2020 Education and Research Committee Meeting (John Harabedian, Education and Research Committee Chair)**

Committee Chair John Harabedian (Chair Harabedian) provided a summary of the Committee meeting and the purpose of the discussion. It was explained the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) has granted a temporary waiver to schools to enable some of the in-person clinical training to be done through technology during COVID-19. Jay Herdt, Licensing Manager, (Herdt) presented a helpful report on the subject to facilitate a recommendation to the full Board.

Chair Harabedian indicated the Committee decided to allow more time for information and comments to be submitted by stakeholders. Once additional comments are received, the Education and Research Committee will reconvene to come up with proposed language for a waiver that would adhere, potentially to the ACAOM standards. At which point it could be brought to the full Board for consideration.



## Public Comment

A commenter from Emperor's College explained that their college and other institutions are offering both limited number of in person clinic experience, as well as virtual clinics, which is working very well. The commenter urged the Board to carefully consider the ACAOM's guidelines or virtual clinic hours, and to adhere to them so that these institutions can protect the public, keeping safety a priority.

### **6. Discussion and possible action on August 27, 2020 Education and Research Committee Meeting Recommendations**

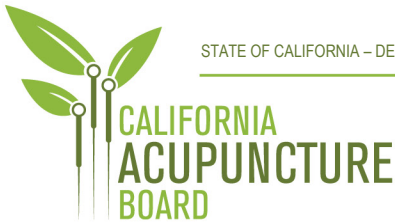
President Matecki opened up more discussion on the topic of a possible waiver for in-clinic hours among Board members.

President Matecki wanted to convey the importance of personal protection equipment (PPE) in the clinic setting. She wanted staff to research other Boards, like the Nursing Board, to see what kinds of waivers or recommendations they have since they have to do hands-on treatments similar to acupuncturists during clinical hours. President Matecki also wanted to see more communication between ACAOM and the Board on these kinds of matters and policies. Additionally, President Matecki brought up the issue of telehealth for acupuncturists and how that fits with the discussion. She also acknowledged the variance of acupuncturists being considered essential workers during the pandemic based on their county or city of practice.

Chair Harabedian spoke to the concerns and questions President Matecki provided on the subject highlighting the importance of waiting to make a final decision on the Board setting a waiver for in-person clinical hours.

Member Yong Ping Chen (Member Chen) also presented some other factors to consider later on in making a decision. She brought up the fact that some schools have more clinic space or supervisors to accommodate more in-person clinical training. She also suggested that schools could make more use of off-campus clinics. Member Chen agreed that more information should be collected for a future Committee meeting. She also brought up concerns about acupuncture being taught remotely when it is an art form requiring manipulation, judging depth, and ensuring safety.

Committee Vice Chair Francisco Kim (Vice Chair Kim) suggested a two-pronged



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approach: approve a waiver for now and proceed with a long-term discussion on this clinical training issue in the Committee and also later on at a Board meeting. He also recommended a stakeholder's meeting to share from subject matter experts and other professional groups on the issue.

Vice President Kitman Chan (VP Chan) expressed concern over approving a waiver for in-person clinical training based upon the unknown of how long the pandemic will continue. He wants to ensure the public is protected by having graduates complete all the necessary training when they start practicing.

Herdt assured the Board that there is no reduction in the total hours for clinical instruction and practice. Rather, there is an ACAOM approval for a portion of the hours to be completed electronically. Further, Herdt explained there needs to be a tool to allow students either an electronic participation model or to waive physically present for some part of it so that students can continue with their approved waivers that they have right now.

Executive Officer Ben Bodea (EO Bodea) addressed some earlier questions about Telehealth. The Board has put out a statement on its website on the Business and Professions codes that allow for acupuncturists to conduct Telehealth. However, it should be noted there is no specific law in the Acupuncture Licensure Act on this. EO Bodea recommended that the profession get together and provide papers to the Board and the public on what they consider as safe delivery methods of acupuncture practices via Telehealth.

EO Bodea provided more information about the waiver for ACAOM and which students it will affect. He indicated the waiver will affect students in the spring of 2020, the summer semester, as well as the winter semester, quarters, or trimesters, depending on the school systems. Basically, everything starting from March 2020 to the end of December 2020. EO Bodea summarized that any comments received related to the waiver for in-person clinic hours be sent in writing by stakeholders to the Board.

EO Bodea clarified that the Department of Public Health approved acupuncturists as essential workers. However, he reminded acupuncturists to check with local jurisdictions' health departments as allowable practices are being determined at a local level.

#### Public Comment



First commenter wanted to state that any subject matter experts the Board relies upon should be licensed acupuncturists for this particular matter. The commenter went on to explain that he is part of a coalition or task force on the matter of Telehealth. The task force is working on presenting language to the Board for the consideration of a new statute to ultimately take to the Legislature. The commenter requested that the Board publicly take a position stating acupuncturists are essential workers.

Second commenter addressed President Matecki's question about waivers for nurses. The commenter explained the waiver only reduces the requirement of clinical hours and direct patient care from seventy-five percent to fifty percent in pediatrics and mental health. Also, the percentage of simulation training using real life mannequins that nurses normally use was increased from twenty-five to fifty percent, so that they don't have to go and be with the patients directly. Nurses use high-tech talking mannequins with a heartbeat, pulses, and lung sounds. The commenter suggested that acupuncture schools look into using such mannequins.

Third commenter requested that the distinction that acupuncturists are considered essential workers be posted to the Board's website.

***Recess taken until 12:45 p.m.***

Roll call taken when session resumed.

**Members Present:**

Matecki, Chan, Harabedian, Chen, Kim, Li, and Osorio.

**7-0 Quorum Established**

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

*(A) Budget Update – Fund Condition*

EO Bodea provided an analysis of the Board's fund condition, pointing out that the Board will be going into year-end close out in the next couple of months. He also indicated that reserves are present in years 19/20 and 20/21, but is running out by the end of 2021. EO Bodea emphasized the importance of raising fees and indicated a more current report would be provided at the Board meeting



towards the end of the year.

*(B) Staff Update Regarding Vacancies*

EO Bodea announced that he has hired for the position of the Central Services Manager and the Manager will begin towards the end of September. Additionally, a new Management Services Technician was hired and will start in early September assisting with the administration and licensing units.

EO Bodea also announced the departure of Alex Dodge, the Board Policy Analyst, indicating that position and some other seasonal clerk positions will be advertised soon. Additional Management Services Technicians will also be hired to assist.

*(C) Business Modernization Update*

EO Bodea explained the Business Modernization project is in its last stretch for providing licensees and applicants the ability to submit applications and renew their licenses online. Board staff are anticipating an early September start date. He expressed appreciation to Jay Herdt, Licensing Manager and Beck Untalasco, Examination Analyst, for carrying out the testing, as well as excitement for the new online services that will make it easier on applicants, licensees, and staff.

**8. Enforcement Report (Ben Bodea, Executive Officer)**

*Q4, FY 19-20 Enforcement Report*

EO Bodea presented the enforcement data and statistics from quarter 4 (Q4), covering months April to June, noting no significant anomalies and also pointing out there may be less cases due to less practice of acupuncture due to COVID-19.

**9. Licensing Report – Q4, FY 19-20 (Jay Herdt, Licensing Manager)**

Herdt presented the Licensing Report for Q4 which showed the total licenses for each quarter broken down by license status, including license applications approved and denied, and license renewals. Herdt explained that there has been an increase in delinquent licenses and the Board has been frequently contacted by licensees requesting deferment of licensing fees due to the pandemic. Based on the number of requests, the Board asked the Department



of Consumer Affairs (DCA) for direction on if licensing fees can be deferred. It was explained that the Board cannot grant fee deferment mainly because the Board is funded by licensing fees.

Herdt also presented data on continuing education providers and course applications. He provided a recap of the approved continuing education providers and courses for Q4 and the year as a whole. Herdt also provided the number of denials for the Q4 and the completed 19/20 fiscal year.

For the licensing exam, Herdt noted the Board is seeing a decrease in initial exam applications received, which he attributes to the pandemic. When quarter one and quarter four are compared the change goes from 109 initial exam applications received in quarter one to 56 received in quarter four. Herdt, similarly pointed out the decrease in total exam takers, comparing 127 approved in quarter one versus 39 approved in quarter four. Herdt also attributed this decline to the pandemic brought on by COVID-19.

A recap of the Board's Acupuncture educational and training programs report indicated that some programs already Board-approved are seeking to move to a professional doctorate or to update their curriculum.

Herdt's report on the Board's approved tutorial programs for quarters one through four noted a total of 46 approved tutorial programs at the close of quarter four.

Herdt concluded his report with a recap of the California Acupuncture Licensing Examination (CALE) results, including pass rates for first time test takers and overall test takers for the period of January 1, 2020 to June 30, 2020.

## **10. Legislative Report (Kristine Brothers, Policy Coordinator)**

### **(A) Report of 2020 Legislative Calendar**

Policy Coordinator Kristine Brothers (Brothers) reviewed the Legislative calendar for the California Assembly and Senate.

### **(B) Report of 2020 Legislative Bills of Interest to the Board**

Brothers presented an update on the bills of interest that have been amended or introduced by the Legislature since the last Board meeting.

#### **(i) AB 613 (Low) Professions and vocations: regulatory fees**





The Board previously took a support position on Assembly Bill (AB) 613 (Low), which was gutted and amended on June 29, 2020 to no longer affect the Board or acupuncturists and only pertains to licensed dentists. AB 613 previously allowed the Board's within the Department of Consumer Affairs to raise fees based on rises in the Consumer Price Index. Brothers explained that staff recommends the Board take a no position on the bill given the changes.

#### **MOTION:**

*Member Harabedian motioned that the Acupuncture Board take no position on AB 613 (Low), as amended on June 29, 2020, for the reasons discussed by members and staff and as reflected in the staff memo and direct the EO to inform the Legislature and the Author's office of this position.*

Member Kim seconded the motion.

#### **Vote:**

**Yes - Matecki ; Chan; Chen; Harabedian; Kim; Li; Osorio.**

**7 – 0, motion passes.**

#### **(ii) AB 778 (Low) Acupuncture: Continuing education**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

#### **(iii) AB 888 (Low) Opioid prescriptions: Information: Nonpharmacological treatment for pain**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

#### **(iv) AB 1263 (Low) Contracts: Consumer services: Consumer complaints**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.



### **(v) AB 1616 (Low) Department of Consumer Affairs: Boards: Expunged Convictions**

Brothers provided an update on AB 1616, indicating the bill was amended on July 7, 2020. Previously, the bill only required boards to update or remove information on their website within six months of the board receiving an expungement order related to a revoked license when it was revoked due to a conviction.

Brothers explained the new amendments would now require programs under the Department to post information on their website about a revoked license due to a criminal conviction, and post notification of an expungement within ninety days of the Board receiving the order related to the conviction for those who reapply for licensure or are relicensed. The amendments also require boards upon receiving a licensee's expungement order, shall remove the initial posting on its website that the person's license was revoked, and any information regarding arrest charges and convictions if the person is not currently licensed and does not reapply for licensure.

Based on the fact that the recent amendments were not significant in nature, the Board did not update their position and kept its watch position per staff's recommendation.

### **(vi) AB 1665 (Bonta) Athletic trainers**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

### **(vii) AB 1850 (Gonzalez) Worker classification: employees and independent contractors**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

### **(viii) AB 1909 (Gonzalez) Healing arts licensees: Virginity examinations or tests**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest



provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(ix) AB 2028 (Aguiar-Curry) State agencies: Meetings**

Brothers explained AB 2028 had been amended three separate times since the last Board meeting, with most recent amendments on August 20, 2020. She noted that the most recent amendments struck through the majority of the proposed language last brought to the Board. The only changes that remain is the bill would allow the public the right to comment on any agenda item listed for a meeting, regardless of whether it had been previously discussed.

Based upon the amendments only removing changes from previous bill versions and not applying any new proposed law, the Board followed staff's recommendation to not update their current watch position.

**(x) AB 2113 (Low) Refugees, asylees, and special immigrant visa holders: professional licensing: initial licensure process.**

Brothers provided a quick summary of AB 2113 and pointed out some minor amendments that took place on August 4, 2020.

This bill would require programs within the Department to expedite and assist the initial licensure process for an applicant who's applied satisfactory evidence that they are a refugee, have been granted asylum, or have a special immigrant visa as specified. This bill would authorize programs to adopt regulations necessary to administer these provisions.

Brothers explained the most recent amendments made changes to the title of the bill, specifically the term 'immigrants' was changed to 'special immigrant visa holders.' Professional license was clarified further by indicating that the law applies to the initial licensure process. The other amendment to the language of the bill was the removal of the word "political" from those who have been granted asylum, instead of using the more exclusive term 'political asylum.'

Since the amendments were minor, the Board did not update its watch position per staff's recommendation.

**(xi) AB 2185 (Patterson) Professions and vocations: Applicants licensed in other states: reciprocity**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest



provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xii) AB 2214 (Carrillo) Administrative Procedure Act: notice of proposed action**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xiii) AB 2411 (Nazarian) Healing arts licensees: Remuneration: Drug or device companies: disclosure**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xiv) AB 2631 (Cunningham) License fees: Military partners and spouses**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xv) AB 2704 (Ting) Healing arts: Licensees: Data collection**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xvi) AB 2978 (Ting) Department of Justice: arrest and conviction records: review**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.



**(xvii) AB 3045 (Gray) Department of Consumer Affairs: Boards: Veterans: military spouses: Licenses**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xviii) AB 3298 (Brough) Frauds of medical credentials: penalty**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xix) SB 878 (Jones) Department of Consumer Affairs Licensing: Applications: wait times**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xx) SB 937 (Hill) State agencies: Web accessibility**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xxi) SB 1097 (Durazo) Medical services: Credit or loan**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.

**(xxii) SB 1432 (Glazer) Clinical laboratories**

Staff's memorandum titled 2019-2020 Pending California Legislation of Interest provided a summary of this bill and indicated no amendments were made since the last Board meeting held June 26, 2020. Therefore, there was no discussion on this bill.



**(xxiii) AB 3330 (Calderon) Department of Consumer Affairs: boards:  
licensees: regulatory fees**

Brothers introduced AB 3330, noting it was the Board's fee bill and provided a summary of the proposed law. She reminded the Board that the fee language had already been brought to the Board for approval previously. The fee language is based upon staff's recommendation as a result of the Board's independent third-party fee study. Brothers explained that the only new language the Board had not reviewed was regarding a continuing education course fee. She provided the language indicating the bill would require the fee for continuing education course applications to be assessed to the continuing education provider at a floor of \$10 per hour of continuing education requested to offer, and a cap of \$20 per hour of continuing education requested to offer, allowing up to a maximum of fifty hours to be approved per course application. The bill also added an approved course may be offered for a period of one year from the date of the board course approval.

Brothers also noted the remainder of the bill related to the Controlled Substance Utilization Review and Evaluation System fee (CURES) for licensees at the time of renewal. The bill also would change fees for the Podiatric Medical Board and the Board of Behavioral Sciences.

EO Bodea provided additional details regarding the reasons for the fee changes related to approved continuing education courses. EO Bodea explained the new fee attributes the cost of entering and approving courses directly to the provider and directly to the course itself. The per hours continuing education course fee more appropriately charges for work the Board conducts when reviewing course approval applications. Additionally, the changes to the continuing education course fee relates to the Board's strategic plan item to more appropriately assess the cost of fees and to the actual functions themselves.

**MOTION:**

*VP Chan motioned that the Acupuncture Board take a support position on AB 3330 (Calderon), as amended on August 12, 2020, for the reasons discussed by members and staff and as reflected in the staff memo.*

Member Kim seconded the motion.

**Vote:**



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

**7 – 0 motion passes.**

### Public Comment

A commenter urged the Board and the Education and Research Committee to review AB 2288, which does not pertain to acupuncture. The commenter explained the bill relates to what nursing schools can do to provide direct patient care and clinical practice training to students during a pandemic situation or other future state emergencies. This would benefit the Board in making a determination about developing proposed language for a waiver of in-person clinical education requirements for acupuncture schools.

### **11. Review and possible update of the Board Administrative Manual (Bodea)**

EO Bodea presented the Board Administrative Manual, which is the Board's guiding document on policies that are not covered in statute or regulation. Bodea explained the Manual should be brought to the Board once a year to update. President Matecki indicated it might be best to bring the Manual to the Board every two years.

EO Bodea went over the recommended changes. The Board updated the following:

- Governor's name on the cover
- List of Board members on page 2
- Mission Statement on page 5
- Add DCA to the State of California Acronyms on page 6
- Change the header, "Tape Recording" to "Audio Recording" and remove the term tape when referring to members of the public may tape record or videotape. Instead, use the term "audio" in place of "tape record" and use "video record" in place of "videotape" on page 10.
- Public comment on page 11 may be limited as determined by Board President instead of limiting public comment to five minutes.
- The Election of Officers on page 14 was amended to read, "Elections of the officer shall occur annually at the second meeting of each calendar



year or the first meeting after a sunset hearing, if during a sunset hearing year.” EO Bodea explained this change is necessary for continuity of Board business to allow the current Board President to go before the Legislature during its Sunset hearing.

- Sexual Harassment Training changed to Sexual Harassment Prevention Training on page 21.
- Remove gender pronouns throughout the Manual.

EO Bodea also received authority to update non-substantive and technical edits to the Board Administrative Manual.

EO Bodea read over the Ex Parte Communication portion of the Manual to review with Board members. Legal Counsel, Fred Yu (Counsel Yu) also provided additional advice on matters involving ex parte communication amongst Board members. He cautioned Board members to be aware of the quorum requirement when discussing policy matters that normally would be discussed in Board meetings. Any type of communication on a Board matter with the public, discussed with enough board members to constitute a quorum, could potentially violate the Open Meeting Act.

EO Bodea clarified, for purposes of stakeholder’s understanding, that Board members receive 8-hour training, which includes guidance on appropriate communications with stakeholders, within a year of their appointment.

#### **MOTION:**

*Member Harbedian motioned that the Acupuncture Board approve the changes to the Board Administrative Manual discussed during the meeting and authorize the Executive Officer to make any non-substantive technical or grammatical changes to the Board Administrative Manual.*

Member Chen seconded the motion.

#### **Vote:**

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

**7 – 0 motion passes**

***Recess taken until 2:15 p.m.***





Roll call taken when session resumed.

### **Members Present**

Matecki, Chan, Harabedian, Chen, Kim, Li, and Osorio.

*7-0 Quorum Established*

## **12. Consumer and Professional Associations Reports**

First association noted that California Acupuncture and Traditional Medicine Association (CalATMA) would like to unify the acupuncture community. CalATMA provided an update on its membership and indicated its second annual meeting is scheduled for October 4, 2020.

A speaker from California State Oriental Medicine Association (CSOMA) indicated they would be holding their annual membership meeting September 13, 2020. The speaker stated they would go over CSOMA's legislative agenda and discuss scope issues in collaboration with other acupuncture colleagues. It was announced that David Quackenbush has joined the association and will be helping CSOMA with their lobbying efforts. The speaker noted CSOMA is in the process of printing the most recent issue of their Journal of Acupuncture & Integrative Medicine. Additionally, CSOMA recently revamped corporate sponsorship opportunities and membership benefits to meet the current needs of its members.

A speaker from the California Acupuncturist United Association (CAUA) provided an introduction to its membership. The speaker stated CAUA will continue offering four hours of continuing education through Zoom, which was started at the onset of the pandemic.

## **13. Discussion on the Request to Create COVID-19 Herbal Research Taskforce (Bodea)**

EO Bodea provided that the discussion on the creation of a COVID-19 Herbal Research Taskforce is a result of a public comment received at the June Board meeting. At that time, it was requested that the Board create a taskforce to research all the COVID-19 herbal research conducted coming out of Asia. EO Bodea explained how he and President Matecki brought the matter to Legal Counsel Chan-You for guidance.

Counsel Chan-You explained the primary mission of the Board is consumer



protection and the Acupuncture Licensure Act was crafted with that in mind. Counsel Chan-You indicated he conducted a thorough review of the Board's laws and regulations and did not find any provision that would allow the Board to engage in any type of research activities concerning herbal medicinal products. He also did not find any provisions that would allow the Board to engage in any type of peer review of articles concerning these products as well. Counsel Chan-You further advised that the Board could put itself in a difficult position and raise legal issues by acting in excess of its jurisdiction.

EO Bodea further elaborated that the Board is not the subject matter expert on research and efficacy of treatments. The Board is here to protect the public as it pertains to the practice of acupuncture. However, to conduct research into the profession's practice and determine the most efficacious treatments, that lies solely with the profession, the researchers, and the academics of acupuncture.

VP Chan asked Counsel Chan-You if the Board can make a motion to encourage the profession to form an herbal research task force in treatment of COVID-19. To which Counsel Chan-You stated that it would be problematic for the Board to request or require a specific institution or association to conduct research. He didn't see a problem with the Board making a general statement that it supports institutions conducting research, however.

Counsel Chan-You also specified that a member of the public or any type of institution could request an item be placed on the Board's board meeting agenda to come in and report their findings of research conducted to the Board. However, because the Board does not have the authority to engage in any type of research which examines such things, the Board cannot take any action on those findings. The Board may only listen and ask questions.

Member Francisco Kim (Member Kim) suggested the Board could have discussion on determining how much clinical training is necessary to become competent in dealing with COVID-19. Further, Member Kim suggested the Board could have a stakeholder's meeting and discuss how the acupuncture profession can be included as part of the medical system and help those who are infected and suffering with COVID-19.

Member Chen showed support of the idea of the Board providing general encouragement for the profession to conduct research related to herbal treatment of COVID-19. Counsel Chan-You added that in all of the research



conducted, he did not see anything that required the profession to get approval from the Board to conduct research.

Shu Dong Li (Member Li) wanted to see the Board provide guidance to the profession in initiating research. President Matecki deferred to Counsel Chan-You for guidance on how the Board can support or encourage institutions to conduct research. Counsel Chan-You reminded the Board about how the topic was agendized, explaining the Board was limited to only having a discussion on the request to create COVID-19 herbal research taskforce. He advised that placing a broader subject on the topic on a future Board meeting agenda may allow the Board to make a position of encouraging research on this topic.

EO Bodea summarized the issue in that the Board received a request to create a task force, however, since the time this item was agendized the request has changed. He repeated Counsel Chan-You's advice, stating it's been established that the Board does not have authority to officially involve themselves or to make motions to support institutions, let alone unknown institutions. It is not the role of the Board to set research standards; that is the role of the profession. He also noted his belief that there may be more consumer confidence if the profession chose to initiate a taskforce on their own. EO Bodea, as well as the Board, are sensitive to the request made from the profession and the cause related to the pandemic. However, he reiterated there is no authority and therefore no purpose for the Board to be involved in the creation of the taskforce or the research. Member Harabedian agreed with EO Bodea and Counsel Chan-You's advice that getting involved in research or the formation of such a taskforce is outside the Board's purview.

Member Osorio raised concern about licensees misrepresenting the treatment of COVID-19 with herbs or misuse of herbs in their clinics. Herdt explained such an issue could be brought to the Board as a complaint for the Board's Enforcement staff to investigate.

Member Chen provided an overview of the three stages of how herbs are used in the treatment of COVID-19 and its symptoms. She indicated that herbal medicine has long been developed based on the epidemic. Member Chen asked if the Board should provide information on the herbal medicine used to treat illnesses in a handbook.

The discussion ended with the Board leaving it to stakeholders to submit comments and other materials for the Board to review and determine how to



proceed later on; whether it be placing the item on a future agenda item or leaving it to the profession and schools to take on themselves.

### Public Comment

First commenter showed support of the creation of the COVID-19 herbal research taskforce. The commenter has firsthand success with the effectiveness of herbs and believes they could be applied to the treatment of COVID-19.

Second commenter pointed out Business and Professions section 8674, which is a law that authorizes the Pest Control Board to form a research panel designated by the Board and request different research activities. The commenter recommended the Board look at establishing such authority similar to the Pest Control Board if interested.

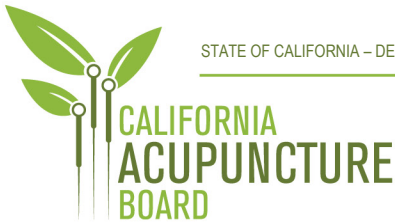
Third commenter wondered if the Board could make any kind of recommendation or suggest a strategy as to how private individuals or institutions could use resources to try to advocate for a greater recognition and inclusion to treat individuals with acupuncture and herbal medicine who are afflicted with COVID.

Fourth commenter cautioned that recent research in COVID-19 coming out of Asia is concerning and misleading and could actually harm the acupuncture profession. The commenter encouraged the group who originally brought the request of the task force take it to the Council of Colleges for them to form a task force.

Fifth commenter brought to the Board's attention that she is a clinical specialist at UCLA, and coinvestigator on an herbal trial in process. It is a study with three participating universities. It is a double-blind controlled trial on herbal medicine. The commenter indicated they are also studying a group of mushrooms. The commenter also stated she felt it was the Board's responsibility for the protection of the public to provide general guidelines for acupuncturists to follow in prescribing herbs to patients and patients self-prescribing with herbs during the pandemic.

Sixth commenter expressed support for the formation of a task force in the efficacy of herbal medicine in the treatment of COVID-19. The commenter also wanted to see the Board issue some guidelines on the kinds of treatment acupuncturists can provide for COVID-19.

Seventh commenter spoke about the need to have a special committee



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)



formed of experts to make a guideline for how to safely and effectively use Chinese Herbs, but have the universities do clinical studies.

Eighth commenter supports the notion that it should be the academic leaders of the colleges who should be establishing the best practices for research in the field and agree to a standard model for acupuncture and herbal research.

#### **14. Future Agenda Items (Dr. Amy Matecki, President)**

Member Kim requested the Education and Research Committee item concerning the waiver for in-person clinical training be placed on a future agenda after the Board receives stakeholder comments.

President Matecki requested that the Telehealth topic be placed on the agenda for the next Board meeting.

EO Bodea stated staff will have some regulatory items to bring to the next Board meeting.

A commenter requested that the issue of California licensed acupuncturists applying for National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) certification via the California route be placed as a future discussion item.

#### **15. Adjournment (Dr. Amy Matecki, President)**

Meeting Adjourned at 4:05 p.m. PST.