



BOARD MEETING MINUTES March 25, 2022

LOCATION:

Web Ex Teleconference

Staff Present

Benjamin Bodea, Executive Officer
Fred Chan-You, Legal Counsel
Jay Herdt, Licensing Manager
Marisa Ochoa, Central Services Manager

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.

Item 1 – Call to Order, Roll Call, and Establishment of Quorum

Meeting commenced at 9:30 a.m.
Roll call taken. All members present. Quorum established.

Item 2 – President’s Remarks

President Harabedian welcomed members, staff, and the public to the meeting.

Item 3 – Approval of Minutes

Board members reviewed the minutes from the December 2021 meeting.

MOTION

Dr. Matecki motioned to approve the December meeting minutes.
Harabedian seconded it.
No public comment.

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

Motion Passes

Item Number 4 - Executive Management Report

(A) Budget Update

DCA budget analyst, Jennifer Thompkins provided the Board the budget update noting that the Board is in a good condition.

(B) Staffing Update

The Board is conducting interviews for the enforcement analyst position. Additionally, the two limited-term positions attached to the approved Business Modernization budget change proposal has expired.

(C) Facilities Update

The Board's office relocation continues to be delayed due to pending permit approvals and the need for a small redesign requiring the development of a second exit for emergency purposes. The tentative move-in date is late June or July.

(D) Business Modernization (BizMod) Update

Mr. Herdt shared that in the last quarter, the BizMod team has been able to refine a number of existing functionality, including licensing renewal processes, exam application processes, and the Licensing unit fulfilling printing issues that were impacted by when the Employment Development Department ended the contract to print the Board's licenses. The Board has begun working with the DCA to address this need and is contracting with a new print vendor.

The Board has now begun developing the continuing education module which will include the ability for CE Providers to apply for initial approval as a provider, provider renewal applications, as well course applications. Each of these processes will allow for credit card payments with a tentative go live date for May.

Following the roll out of the CE processes, BizMod staff will move on to more business processes that can be applied and paid for online, such as name change or license verifications. The next major module to develop will be the enforcement module, which has already been fully developed for another board in our cohort, and staff anticipates this will expedite its implementation at the Acupuncture Board.

(E) Licensing report Q2 FY 2021 - 2022

Mr. Herdt noted that the report now includes an additional licensing status, that of 'clear'. Clear refers to an active license - any license that can be renewed. This would figure into the total of active, inactive, and delinquent licenses because all those licenses could be renewed.

Mr. Herdt reviewed the data for Licensing, Continuing Education, Tutorial, and training programs.

Mr. Herdt reviewed the examination statistics, identifying an overall pass rate of 74%. For the language statistics of Quarter One and Quarter Two of 2021-2022 Fiscal Year, Chinese language test takers passed at 76%, English language test takers at 73%, and Korean language test takers at 74%.

(F) Enforcement Report Q2 FY 21/22

Executive Officer (EO) Bodea reviewed the Complaints/Convictions and Investigations data for the Quarter Two of 2021-2022 Fiscal Year (October 1 – December 31, 2021).

EO Bodea noted that he and staff have been working hand-in-hand with the Division of Investigation to ensure that the Board staff have adequate training to address complaints and investigations timely, effectively, and accurately.

(G) Sunset Report Update

EO Bodea shared that staff began working on the Sunset report last summer, then Senate Bill 607 passed extending the Board's Sunset date one more year. Board Staff will be continuing working on the Sunset report this year and including this last fiscal year's data for the report resulting in the Board reporting on five years since the last Sunset Review. EO Bodea also noted that the report format will be changing, however, until the new template is released, the Board will continue to address the old format, as a lot of the data will be similar

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**President Harabedian calls for recess until 10:40.**

**Meeting Resumes at 10:43.**

**Roll call vote taken, all members present, quorum established.**

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Item 5 - Legislative Report

EO Bodea reviewed the legislative calendar for 2022. He then reviewed the bills carried over from 2021 that failed to be taken up in 2022 and now considered dead, including AB 2, AB 29, AB 810, AB 885, AB 918, AB 1026, AB 1236, AB 1386, AB 1468 and SB 772.

EO Bodea then reviewed the bills of interest that have been introduced by the Legislature in the 2022 calendar year.

AB 1604, the Upward Mobility Act of 2022, boards and commissions, civil service examinations and classifications by Holden. Staff did not have a recommended position.

AB 1662, license boards, disqualification from licensure, criminal conviction by Gibson. Staff recommendation is watch.

AB 1733, state bodies, open meetings. Staff recommendation is watch in the report, but EO Bodea recommended a support position for increasing access to Board meetings for the public and Board members as well as reducing travel and accommodation costs.

MOTION

Member Matecki motioned that the Acupuncture Board take a support position on AB 1733 for the reasons discussed by members and reflected in the staff memo.

Member Chen seconded.

No Public comment received.

Vote

Yes: Harabedian, Osorio, Matecki, Chan, Kim, Li

6 - 0 Motion Passes

SB 1031, healing arts boards, inactive license fees, by Ochoa-Bogh, introduced February 15th of this year. Staff recommended an oppose position as this bill creates a significant decrease in revenue and significantly impacts the Board's fund condition without creating a decrease in the Board's workload.

MOTION

Member Chen motioned that the Acupuncture Board take an Oppose position to AB 1031 (Ochoa-Bogh) for the reasons discussed by the Board and as reflected in the staff memo.

Member Osorio Seconded

No public comment received

Vote

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

6 – 0 Motion Passes

Item 6 - Regulations Update

EO Bodea summarized the status of the Board Regulatory packages as of the meeting date. No comments from the Board or the public were received.

Item 7 - Discussion of Proposed Acupuncture Curriculum Requirements Stakeholder Meeting

At the December 2021 meeting, the Board motioned to hold a stakeholder meeting on Acupuncture curriculum required for licensure. EO Bodea noted that this item is part of the Board's strategic plan to review its current educational curriculum requirements.

EO Bodea shared that the Board is partnering with the Department of Consumer Affairs SOLID office to conduct a stakeholder meeting on May 20th with the question of what modifications to the currently approved California acupuncture curriculum requirements would people recommend and why. Electronic notifications are being drafted to be sent to all licensees, training programs, and the stakeholder list.

EO Bodea shared that the meeting will be held over WebEx and is scheduled for May 20th. Board members aren't required to attend but can observe. The public would be able to submit documentation for their position to the Board prior to the meeting but encouraged participation at the stakeholder meeting.

Member Matecki asked if it is appropriate to discuss the tutorial curriculum requirements at this time. President Harabedian and EO Bodea agreed. EO Bodea suggested that the topics be addressed on separate days

A public comment was received from Neal Miller, representing Cal ATMA, applauding the Board for listening to the stakeholders calling for curriculum review. He noted this question has been coming up since the early 1990s when it was addressed in the Little Hoover Commission, urging the Board to review its documents from this time as it captured the discussion on curriculum. He noted that what this Board came up with in the mid-'90s hasn't changed. He highlighted the result from the 2021 occupational analysis, showing that 25% of the people who participated in the survey felt that the education was not enough to be successful in practice, or to be an integrated practitioner. He surmised that the other 75% don't know that they need more education because they haven't been exposed to the high level of education others in the profession have attained noting that new competencies should be included in the curriculum requirements for licensure.

Member Kim shared that it would be prudent to review the Little Hoover Commission reports but thirty years and the Board should consider the new information the stakeholder meeting and curriculum requirement survey provides.

Member Chen stated that the Board's mandate is to protect the consumer and the public by regulating the profession for safe and competent practice of acupuncture. Some stakeholders have discussed degree requirements. The Board's authority is over the curriculum, not the degree, and as it pertains to curriculum, it is critical for the Board to hear from the stakeholder, but when it comes to degree requirements, stakeholders would need to seek a legislative change. Thus, the Board should focus on the curriculum.

Dr. Matecki asked if the question of so many degree names for TCM/acupuncture, such as DTCM, DACM, DAOM, DAHM, could also be addressed in the stakeholder meeting.

EO Bodea replied that the Board doesn't have authority over degrees; only the curriculum requirements. He recommended the Board focus on the curriculum but that it is likely that stakeholders will provide comments during the survey or meeting. He also noted that the Accreditation Commission for Acupuncture and Herbal Medicine, ACAHM, are responsible for the degree naming convention and have spoken before the Board on this matter.

Dr. Matecki stated that with so many degree names for acupuncture education it may be confusing to the public and therefore a possible public protection issue. She requested that the Board invite ACAHM to discuss this matter further.

Mr. Herdt added that the ACAHM's degree-naming conventions, for the research doctorate that's done after licensure - that's the DAOM - that degree title is just limited to that one title. But for all of the masters' programs that are approved, and the first professional doctorates approved, it's up to the program that's applying to provide their degree name. He noted that ACAHM has been working with its stakeholders with the naming convention challenge for a good ten years and a simple standard hasn't been settled on. Ultimately it is in the accreditor's purview to limit the degrees to a certain title.

Member Matecki noted that this is something that ACAHM and the Board can work on, so that the public will know it is being looked at. For nursing, if we know your title is LVN, licensed vocational nurse, or RN, registered nurse, or NP, Nurse Practitioner, identify different levels of education.

Item Number 8 - Discussion and Possible Action Regarding the Acupuncture Board's Executive Officer Salary Increase

President Harabedian opened this item stating that this is something that has been put in motion for years now to actually address Mr. Bodea's salary and what he gets paid. He added that the intent of the Board was to do this a long time ago and that the through the years of his reviews the Board was not able to check all the boxes and do it right. Today's item has been teed up in our formal capacity to do this.

Ms. Trejo from the DCA Human Resources Office was in attendance to provide guidance.

The Board reviewed Mr. Bodea's Accomplishments document. President Harabedian noted that the record speaks for itself and that participants should note that many of the accomplishments are couched in the Board doing things but acknowledged that Mr. Bodea and staff have been instrumental in completing those goals and projects.

President Harabedian added that throughout the years when the Board reviewed Mr. Bodea the Board has recommended pay increases to the tune of a six percent increase but at this point the recommendation from DCA OHR is for a five percent increase.

Member Matecki shared that she really respected how hard Ben worked to address the Board's issues with patience, support, and no complaints, even when Board members could only speak late at night or early in the morning. Member Matecki apologized for not successfully addressing this in the past and shared her appreciation of President Harabedian's effort to move this.

Vice President Osorio agreed with President Harabedian and Dr. Matecki's comments regarding EO Bodea's performance, his professionalism, and his conduct with the staff.

Member Kim shared that this is way overdue considering all the accomplishments since 2016. He wished this could have happened sooner but is glad to see it finally happening.

Member Li shared that he's relied heavily on EO Bodea's support and feels he's doing a wonderful job.

Member Chen shared that she agrees with all the members' comments and personally feels that EO Bodea has done an excellent job for the Board demonstrating phenomenal leadership and hard work.

EO Bodea shared that he is humbled receiving such praise from each member underlining that all of the accomplishments could not have been done without the support of Board staff and has been grateful that he and Board staff have been able to pivot and change together to address the Board's needs.

President Harabedian then asked who would be reviewing the salary increase request. Ms. Trejo replied that the salary increase request goes to the Executive Office here at the Department of Consumer Affairs. It'll go to our agency, the Business, Consumer Services and Housing Agency. A copy will be sent to the Governor's office, and, ultimately, the California Department of Human Resources will be the final determiner.

President Harabedian then asked if the Board is able to make the salary increase retroactive to apply to the beginning of the pay year. Could it be retroactive to the start of the current fiscal year?

Ms. Trejo replied that the Board can submit the request with a retroactive effective date. But what the DCA usually sees an effective date thirty days out from when the package is submitted to the executive office and agency.

President Harabedian recommended a five percent salary increase, but also to go retroactive to the beginning of the pay fiscal year, given that retroactivity may not be approved.

Legal Counsel Chan-You clarified that the Board would need to make two motions; the first to approve the five percent, and then the second one would be the retroactive application of that five percent.

MOTION #1

President Harabedian motioned to have the Acupuncture Board award a five percent pay increase for EO Bodea.

Vice-President Osorio seconded.

Public Comment on the Motion

Neil Miller commented that he's observed EO Bodea's performance grow since he started working at the Board to today and has seen this Board turn into a respected organization running efficiently. That this is a great reflection on him and his staff, that there are other associations that feel this way, and that his association will be writing a letter to the governor to communicate this as well.

Deborah Matos, lobbyist for the Southern California University of Health Sciences agreed with Mr. Miller's assessment of Ben's performance, noting that the Board has

gone through some challenging times and EO Bodea and his staff have done an amazing job.

VOTE

AYE: Harabedian, Osorio, Matecki, Chen, Kim, Li

MOTION PASSES 6-0

MOTION #2

Member Matecki motioned that EO Bodea's 5% salary increase be retroactively granted from January 1st, 2022.

Member Chen seconded.

Public Comment on the Motion:

Neal Miller of CalATMA stated that our association stands in support of the motion and there are others in the public supporting this.

VOTE

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

6 – 0

MOTION PASSES

President Harabedian wanted the record to reflect that the Board again had tried and thought that it had instituted a pay increase almost two years ago now, and the request for retroactive raise was made considering that. He hopes that DCA, and specifically Cal HR and the Governor's office, notes that this was something that the Board failed to do earlier even though it had intended to and thought it did.

Item 9 – Public Comment for Items not on the Agenda

Neal Miller of CalATMA, shared his challenge with only three minutes provided for public commentors as it makes it difficult to share with the Board any item significant comment that can have an impact from a practitioner's standpoint, or even a consumer, or a public person. He then shared that stakeholders need more than association and school representation if there are 10,000 practitioners that are not associated with schools and don't belong to an association. He then shared that it is critical for the Board to receive thorough feedback and hopes the Board is prepared to receive comments on the curriculum. He also noted that there are various academic titles that serve the schools, but not necessarily the consumer. He noted that his students, that will be graduating next year, will be calling themselves doctor, and those people like myself and the people who have been practicing for decades - got licensed before there was a master's or doctoral program. Mr. Miller added the need to focus on curriculum competent education. He further noted that the idea of the various titles and the degrees has to do with the schools and the accreditation commission, who are in favor of what works nationally, whereas the Board addresses what's best for California. Mr.

Miller welcomed President Harabedian to the Presidency and thanked Dr. Matecki for her service as president these last few years.

Item 10 - Future Agenda Items

President Harabedian asked Board Members for items.

Member Matecki requested that the Board discuss the degree naming convention and the various degrees within the profession of acupuncture.

Member Chen would like to agendaize the analysis of the Curriculum Stakeholder Meeting submissions.

President Harabedian opened it up to the public for future agenda items.

Neal Miller of CalATMA requested that the Board agendaize the issue of terminology for bleeding and Asian massage. Mr. Miller requested a more in-depth analysis or a task force that addresses the occupational analysis. Mr. Miller requested agendaizing discussion of possible role of acupuncture assistants.

Item 10 – Adjournment

President Harabedian Adjourned the meeting at 12:50 PM.