



Enforcement Committee Meeting Approved Minutes

**April 18, 2014
(REVISED LOCATION)**

**Department of Consumer Affairs
1747 North Market Blvd.
Old Location: Ruby Room
New Location: HQ2 Hearing Room
Sacramento, CA 95834**

**Teleconference Meeting Location:
Hildegarde Aguinaldo, Chair, Public Member
Jeannie Kang, L.Ac, Licensed Member
Junipero Sera State Building
320 West Fourth Street, 7th Floor Conference Room
Los Angeles, CA 95834**

Enforcement Committee Members

*Hildegarde Aguinaldo, Chair, Public Member
Kitman Chan, Vice Chair, Public Member
Jeannie Kang, L.Ac, Licensed Member*

Committee member attendance: Hildy Aguinaldo, Kitman Chan, Jeannie Kang
Board staff attendance: Terri Thorfinnson, Kristine Brothers, Tammy Graver
Legal Counsel: Spencer Walker

Enforcement Committee Meeting - Upon adjournment of the Exam Committee

- 1. Quorum established.**
- 2. Opening Remarks**

Welcome. The agenda has two primary purposes: 1) review and analyze acupuncture standards regarding standards of practice in Article 5; 2) Discuss the National Practitioner Data Bank contract.

- 3. Review Acupuncture Standards of Practice regulations in Article 5:**
 - **Condition of Office-** section 1399.450
 - **Treatment Procedures-** section 1399.451
 - **Treatments Outside the Office-** section 1399.452
 - **Record Keeping-** section 1399.453
 - **Single Use Needles-** section 1399.454
 - **Advertising-** section 1399.455

In reviewing the current Standards of Practice, there is a need to both update specific regulatory language and add additional standards to guide and regulate practice. The “single-use needle” is a term that needs to be included in all references of needles. There are still some outdated references to sterilized needles that should be replaced with the term “single-use needles.”

The next section 1399.451 relates to treatment procedures. The reference to sterilized needles should be replaced with the term “single-use needles.” Are there any additional practice standards related to treatment that you would recommend. What about privacy standard related to patient draping, use of gloves, changing sheets between patients, standards for good hygiene that is consistent with public health standards?

There should be some language that requires acupuncturists to maintain a clean technique and sterile field. There was some discussion about that the proposed language was legally vague and unenforceable. The word “field” was deemed legally too vague. If the Clean Needle Technique was used in the regulation, a document supporting the standard would have to be incorporated into the regulation.

Public Comment

There was a discussion about sterilized needles, the need to sterile trays that hold needles and the use of single-use needles. There was a proposed language recommendation: “The sterility of the needle will be maintained until the time of insertion” will address the issue. There was reference to using the “Clean Needle Technique” book for a standard. Discussion tabled, no action taken.

4. National Practitioner Data Bank. Should the Board contract with National Practitioner Data Bank as recommended by the Sunset Review Committee?

The National Practitioner Data Bank is a data bank that reports adverse actions, disciplinary actions of practitioners, malpractice and settlements. The Sunset Review Committee recommended that the Board consider a contract with the data bank to improve its enforcement. The options are listed in the memo that focus on two levels of access: one time or continuous access. One time access is the cost of looking up one person’s record once. Continuous access provides continuous access to reports about the licensees specified in the contract. The one time access does not provide the Board with the type of reports or information that the Board needs for enforcement. Continuous access would provide the Board with ongoing reports on specified licensees, which would be helpful to the Board’s enforcement. The next level of consideration is with respect to how many licensees to cover under continuous access. That is the focus of discussion. The least expensive option that many Boards use is to cover the entire out of state licensees only. Other Boards we checked with are satisfied with this coverage. We currently have 1,666 out-of-state licensees, so the annual cost for their coverage is \$5,414.50, a very affordable amount. If we added coverage for our entire data base, then the cost goes up to \$41,000 and increases yearly by 2, 600 of new licensees each year. The question for the committee to decide is would the out of state coverage be sufficient or does the Board want to expend the money for more coverage? The concern that the EO has is that \$41,000 is a lot of money to spend for this purpose on enforcement each year with very little potential benefit for enforcement. The Board has access to in-state police reports, so the out of state is the weakness for the Board enforcement coverage wise.

The discussion focused on the mandate to report to the data bank and why we need this contract. There was a proposal to maximize coverage while minimizing cost by contracting for one third of the licensees per year and rotate each year to a different one-third coverage, so the rotating coverage would cover the

entire database every three years for one-third the cost. How much cover does the Board need is the decision. There was concern that the decision should focus on public safety and not cost.

Public Comment

One issue was raised is that the practice history of foreign licensees is not included in the National Practitioner Data Bank and represents a gap in coverage. The gap was estimated to be as much as 10-20 percent of practitioners. There was a request for a future agenda item to be a discussion about good manufacturing regulations for herbs. The international standards organization technical committee 249 is just finishing up international standards for needles and needle manufacturing and sterilization, which the Board should consider. The discussion was tabled until a future meeting, no action taken.

5. Future Agenda Items

6. Adjournment

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

**THE AGENDA, AS WELL AS COMMITTEE MEETING MINUTES, CAN BE FOUND ON THE
ACUPUNCTURE BOARD'S WEBSITE AT
www.acupuncture.ca.gov**

Please Note: Committee meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you need additional reasonable accommodations, please make your request no later than five (5) business days before this meeting. Please direct any questions regarding this meeting to the Board Liaison, Tammy Graver at (916) 515-5204; FAX (916) 928-2204