



Draft
**ACUPUNCTURE BOARD
MEETING MINUTES**

DCA – Headquarters
Sacramento, CA

**FULL BOARD MEETING
Tuesday, September 15, 2009**

Members Present

*Robert Brewer, Public Member, Chair
Charles Kim, Public Member
AnYork Lee, L.Ac.,
George Wedemeyer, Public Member
Paul Weisman, Public Member*

Staff Present

*Janelle Wedge, Executive Officer
LaVonne Powell, Staff Counsel
Erica Davalos, Administrative Coordinator
Christie Loftin, Examination Coordinator
Kristine Brothers, Enforcement Coordinator
Benjamin Bodea, Administrative Technician*

Guest List on File

1. Call to Order and Establishment of a Quorum

Chair Robert Brewer called the meeting to order at 9:25 AM. All members were present and quorum was established.

2. Introduction of New Members

Robert Brewer asked the new Board Members to introduce themselves. AnYork Lee started the introductions, sharing that he is a 25 year practitioner from Los Angeles. He has worked with schools and organizations and shares the public's concern over the development of the Acupuncture profession. Paul Weisman introduced himself, stating that he is a tax and sports attorney engaged in private practice, before which he was Senior IRS Attorney. He was appointed by the Governor. George Wedemeyer introduced himself as a public member from San Diego. He was appointed by the State Assembly. He was a senior investigator with the U.S. Department of Labor enforcing regulations. He taught Qi Gong for 10 years, creating a PBS program exploring the form. Robert congratulated Charles Kim on his reappointment to the Board.

3. Chair's Report

Robert Brewer thanked all the efforts made to research the Update of the Herb list. He deferred to Janelle for the Executive Officer's report.

4. Executive Officer's Report – Janelle Wedge

Janelle reported that there is a new director of the Dept. of Consumer Affairs, Brian Stiger. She asked the new members to take note of the New Board Member Orientation. All information was included in the Board Member's packet. She also provided the Budget Update showing the Board's expenditure report for 2008-2009. There was a large reversion due to the late approval of the budget in 2008 and many services and privileges were cut-off after March of 2009. Janelle also showed the reduction plan requested by the Governor's Office, showing a 15% reduction after taking out mission critical and fixed operating expenses. The Board has committed to revert \$106,474 in the next fiscal year. She does not expect a problem with these reductions.

Neal Miller asked if the Board's budget is generated from the professional license fees collected from Acupuncturists. Janelle confirmed that the Board is 100% special funded but that the Governor made no distinction between these General and Special funded agencies when requiring the furloughs and the budget reduction.

5. Approval of June 16, 2009 Minutes

CHARLES KIM MOTIONED TO APPROVE THE MINUTES.

GEORGE WEDEMEYER SECONDED.

VOTE: 4 – 0 – 1 MOTION PASSED

Ted Priebe commented that the minutes are not complete and requested that the forthcoming minutes be complete. LaVonne Powell responded that the minutes are not to be a transcript but a summary and record of the motions passed.

6. Legislation

Janelle gave an update on the following bills:

a. AB 48

This bill re-establishes the Bureau of Private Postsecondary Education. The bill has made it through the different committees and is currently pending in the Senate. No real opposition and only minor amendments. It is currently on its way to the Governor.

b. AB 1260

The bill has been amended and no longer is applicable to the Board.

c. AB 1310

The bill passed the Senate Committee of Business, Professions and Economic Development on July 7th and was referred to Senate Appropriations Committee. There was no action after that.

d. AB 1391

No activity on the bill after April 13, 2009.

e. SB 43

Bill was amended and no longer applicable to the Board.

f. SB 599

Bill was amended and no longer applicable to the Board.

g. SB 638

No activity on the bill after April 21, 2009.

h. SB 762

The bill has been approved by the Governor and has since been chaptered in the statutes of 2009. It makes it unlawful for a city or county to prohibit a healing arts licensee from engaging in any act or

performing any procedure that falls within the professionally recognized scope of practice of that licensee but would prohibit construing those provisions to prohibit the enforcement of a local ordinance.

i. SB 819

This was one of the Departments Omnibus Bills. This bill would add the Acupuncture Board to Sections 800 and 801 provisions which includes the requirement that malpractice suits of a certain amount be reported to the Board. In the past, no one has been required to report that. This has passed through both houses.

j. SB 821

This is also one of the Department's Omnibus bills. The portion of the bill that applies to our Board changes our quorum requirement from five to four with at least one licensed Acupuncturist. This has passed both houses and was sent on to the Governor.

k. SB 294

This bill contains some of the Senate B&P's suggestions on how to beef up our enforcement programs as well as including some changes the DCA put forward. It is a two year bill and needs some work but it is an effort by the department, the governor and the legislatures to enable the Healing Arts boards to beef up their enforcement staff and utilize non-sworn officers.

Bill Mosca of CSOMA pointed out AB 583 as a bill would require all health care practitioners in California to wear nametags indicating their highest level of education. This would help clarify for consumers a practitioner's educational background. Bill Mosca believes that this may actually prove to be confusing in the Acupuncture field and wishes the Board to address this in the future. Ms. Powell responded that she would look at it.

Charles asked to have a one or two page digest of how legislation will impact consumers and practitioners in future board packets.

7. Examination Business

a. August 5, 2009 Licensing Exam

Christie Loftin reported that the exam was held August 5, 2009 with a total of 538 examinees. 337 were first time test takers with a pass rate of 76%. One hundred eighty-six (186) applicants took the test in English with one hundred and thirty-eight (138) passing with a 74% pass rate. Sixty-three (63) applicants took the Chinese version with forty-two (42) passing resulting in a 67% pass rate. Eighty-eight (88) applicants took the Korean version with seventy-six (76) passing resulting in an 86% pass rate. There were a total of two-hundred and one (201) re-examinees. One hundred and eighteen (118) applicants took the English version with a 35% pass rate. Forty-one (41) applicants took the Chinese version with a 29% pass rate. Forty-two (42) applicants took the Korean version with 45% pass rate. Overall, there were a total of three hundred and four (304) applicants who took the English version with a 59% pass rate. One hundred and four (104) applicants took the Chinese version with a 52% pass rate and one hundred and thirty (130) applicants took the Korean version with a 73% pass rate. The overall pass rate was 61%.

Janelle Wedge stated that the lunch break that was initiated for the first time at this exam was successful and though there are a few small things to work out, staff recommends keeping the new arrangements.

George Wedemeyer suggested that applicants taking the exam in a language other than English should take an English Proficiency test prior to the exam. Janelle responded that the Board is currently working on a regulatory package which will require candidates for admission to a training program taught in a language other than English, to pass a TOEFL examination. She further explained that candidates requiring the TOEFL would have to take it at an internet based testing (iBT) facility and the

iBT facility can not be associated with the Acupuncture and Asian medicine training program. Steven Stumpf commented that nine schools source 80% of the students.

Christie Loftin reported that the next exam will be held February 16, 2010 in Ontario, California. This will help a lot of students, a majority of whom come from Southern California.

b. Examination Booklist

Ms. Powell introduced the booklist to the Board stating that its purpose is to have a source to point to for the exam questions. The exam should be left to the Exam Subject Matter Experts. If there are any questions or recommendations, they should be brought to Janelle's attention and she can bring them to the Subject Matter Experts. Ted Priebe commented that there is an extreme underutilization of the Acupuncture profession due to the lack of education of current evidence based medicine in schools preparing students for the professional environment. Liza Goldblatt and Greg Sperber agreed with the Board's Counsel. AnYork Lee stated that the movement of Acupuncture to evidence based medicine is the current trend and that the Acupuncturists need to speak to other medical professionals. As such, it would be best to introduce evidence-based questions into the exam. Ms. Powell says that the exam is still best left to the Subject Matter Experts since the exam is based on the Occupational Analysis. Greg Sperber agreed with AnYork Lee that the Acupuncture profession should incorporate more evidence-based medicine, however, the guidelines to qualify for evidence-based medicine are established by the Center of Evidence Based medicine. This means that there is little research out right now qualifying under these guidelines. Although PCOM does teach classes from an evidence-based perspective it may take decades to qualify under the guidelines. Liza Goldblatt pointed out that research-based classes are currently being taught at the schools. She also points out that outcome studies may be a better format to attend to as some evidence-based studies qualify under outcome studies.

John Chen addressed that within medicine the fields are under constant change. Thus there is a lot of continuing education to educate the practitioners on the new research that is coming out. The herb lists have remained relatively unchanged but are now gaining greater popularity within the research fields and will soon face the need for more continuing education. He also indicated that most students taking the Acupuncture Exam look at the Herb list as the Golden list and therefore are not exposed to other treatments available. He suggests that the Board take the lead in rectifying this and then tell the schools where they need to take their education.

Ted Priebe stated that Primary Care definition covers all primary care practitioners and therefore the booklist can, and should, be adapted to reflect this. Steve Stumpf commented that outcome studies do qualify as good evidence based studies and as such is a good path to take; however there is a new standard emerging in health research called comparative effectiveness research, which also derives from pharmaceutical trials but is now being extended in comparisons of treatments for different conditions. Neil Miller asked that there be a process for adding new books to the booklist so as to aid with the evolution of this field.

Robert Brewer stated that he was made aware that there is a lot of research that has been performed in China that is waiting to be translated and would make the request of the practitioners and the Acupuncture Associations to be a part of bringing this new research into the English dialogue. Charles Kim asked about the booklist process. The Board may create another list of recommended books for students that are not tied to the exam but this may confuse the students. Ted Priebe asked the Board to review the Occupational Analysis and review it in relation to the legal requirements of Primary Care, as well as the Educational requirements of the schools. Charles Kim asked that the selection process for Subject Matter Experts be agendized. Paul Weisman stated that it is important that students not be confused with various lists. The purpose of the current booklist is to inform the students of where their exam questions are sourced. It's important to be fair to all the applicants. If new information is to be added it can go through this process.

c. Herb / Herb Formula List

Janelle Wedge stated that like the booklist, the herb list and the herb formula list is put together by the Subject Matter Experts. AnYork Lee suggested that when publishing the formula names, the Board should include the Latin and English name of the Herbs next to the Pinyin terms. Charles Kim asked that if the Board provides the additional language terms that all colleges use the same terms so as to not confuse the students. Neil Miller asked that a drug-herb interactions taskforce be formed to discuss better public availability of both drugs and herbs within the medical environment. LaVonne Powell stated that this would be only an exercise since the Herb Formula list is derived from the Occupational Analysis. Neil responded that there still needs to be a process to update the list if the FDA declares that a certain drug has certain negative consequences. Dr. John Chen agreed that there should be some way to update or modify the list since the list of herbal formulas is also growing. He went on to volunteer his time to help with this process. Ron Zaidman from Five Branches stated that the list shows sixty-three formulas whereas Five Branches teaches one hundred and eighty-two. This should be the minimum required of schools such that the practitioners they graduate can have a minimum level of safety. Janelle Wedge noted that the list presented to the Board was recommended by Subject Matter Experts wanting to update what we currently have. LaVonne recommended that we agendize the Office of Examination Resources for the next meeting to explain the process to the Board. Bill Mosca noted that these lists are not up for discussion but a publication of what the Subject Matter Experts have already agreed upon and are now sharing with us.

d. Limitation on Number of Times an Individual Can Sit for the Licensing Exam

Robert Brewer shared that he asked staff to research the number of times applicants are allowed to take the exam at the other Healing Arts Boards, as well as the number of times applicants have tested within our Licensees. Staff was also asked to bring statistics showing the percentage of people passing after one test, two tests, and onward. Janelle reported that these numbers aren't exact since we've only been able to get data for the last eight or so administrations. Charles asked what the purpose of this was. Robert responded that there is a concern that certain applicants are taking the test to memorize the questions. LaVonne Powell suggested that after five attempts the Board require that the individual obtain remedial education before taking the exam again. AnYork Lee asked how the Board can ensure that the individual has taken the remedial education. Ms. Powell responded that it would be taken at an approved school.

**CHARLES MOTIONED TO LIMIT THE NUMBER OF ATTEMPTS BE PUT AT FIVE OPPORTUNITIES AND IF A SIXTH ATTEMPT IS MADE THAT THE APPLICANT MUST ENROLL AND FINISH A BOARD APPROVED REMEDIAL PROGRAM TO TAKE THE EXAM AGAIN. IF THE SIXTH ATTEMPT IS FAILED THEN THEY MAY NOT TEST AGAIN. PAUL WEISMAN SECONDED.
VOTE: 5 – 0 – 0 MOTION PASSED**

Bill Mosca recommended that a maximum limit be placed on the number of attempts allowed. Liza Goldblatt pointed out that the National Exam allows only a maximum five attempts and that remediation is required after the fourth failed attempt. She also noted that as opposed to 50 hours of remediation the Board consider six months of courses. LaVonne Powell pointed out that if the Board wants to go through with this now they can amend the proposal when Janelle has found an author.

e. Qualifying for Licensing Exam – Cyrie Barnes and Dolores Heeb

Janelle stated that these individuals had applied for the tutorial program and during that process it was determined that their education was too far back to be applicable (regulations stipulate a ten year limit). In looking at the process they did attend an approved school in the UK in the 1980s. They did provide their transcripts but they did not include documentation that showed they completed all the

required courses. LaVonne Powell added that the Board does not have in its law any provision that would allow you to waive this particular requirement so they've asked to be agendized to present to the Board why they should be allowed to take the Licensing Exam.

Riley Hurd, legal representative of Cyrie Barnes and Dolores Heeb presented the petition. He stated that they are not asking for a license but the possibility to take the Licensing exam. They feel their thirty plus years of experience in Acupuncture as well as their practices outside of this state. Cyrie Barnes has been selected to help write the questions for the California exam and Dolores Heeb has drafted questions for the National Exam. In the late nineties, both Ms. Heeb and Ms. Barnes decided to move to California and as such contacted the Board. At the time Mary Sung stated they simply need to complete an additional sixty-eight hours of Herbology and they can sit for the exam. After having received this, Ms. Barnes studied Herbology and in 2000 contacted the Board with her completed coursework. At this point they were told that the rules and regulations had changed and many more hours are required. Faced with this the petitioners attempted to take the tutorial program route. They were denied due to their schooling having been completed so long ago.

Ms. Barnes and Ms. Heeb attempted to appeal and had not heard anything about their submittal. Upon contacting the office they were told that there is no appeal process. The petitioners felt that section 1399.414 provides a clear process for appeal to this board which is why we are here today. The petitioners feel they have submitted all the transcripts and certificates establishing their professional capacity. The petitioners are requesting that their experience and education be considered for admittance to the exam.

Cyrie Barnes presented that when they went to school there were no schools in the US so she and Dolores went to study in the UK. Some of the students there came directly to CA whereas she and Dolores went to the east coast. The same students they graduated with that came to California were allowed to sit for the exam but because she and Dolores went to the east coast they did not know that these other students had asked the school in the UK to draft the transcript for California's requirements. Since they did not know, their school did not draft their transcripts in that fashion.

LaVonne Powell stressed that the Board needs to make a decision on whether or not they think these two applicants are qualified to take the exam and if they feel safe that their education experience will not endanger California consumers. AnYork Lee stated that all approval processes should be consistent. Janelle stated that there were several required courses that the Board had no record of completion by Ms. Heeb and Ms. Barnes whereas the students that came straight to California had documentation of completion. Mr. Hurd stated that this discrepancy is due to the fact that the other students requested their transcripts be tailored to the California application process. Cyrie Barnes indicated that these transcripts also were drafted pre-computer records. Robert Brewer indicated that according to the records the petitioners have submitted he does not feel that they should be barred from taking the exam to be licensed. LaVonne Powell stated that she has not seen evidence of anatomy, physiology. Ms. Barnes responded that these had to be submitted when applying for the tutorial program. Charles Kim stated that the dilemma is that we need to make sure to not establish a precedent such that these exceptions are easily allowed in the future. Mr. Hurd responded that the Board's Counsel has said that it is within the purview of the Board to allow the petitioners to take the exam and that it's a tragedy that the records are not present since they were submitted with the tutorial application.

Paul Weisman said that the Board needs to ensure that the standards are observed. As such he doesn't feel comfortable allowing this to happen. Mr. Hurd responded that numerous others that graduated from the UK school were allowed to sit for the California exam. LaVonne Powell suggested that there was precedence established by the previous students who've applied, therefore, if the petitioners can present records showing that they completed the same coursework as those students, they would meet the Board's requirements.

CHARLES KIM MOTIONED TO DELEGATE TO THE EXECUTIVE OFFICER TO REVIEW THE EXISTING TRANSCRIPTS AND MAKE DETERMINATIONS IF

**THERE ARE ANY DEFICIENCIES TO NOTIFY THE APPLICANTS' ATTORNEY AND IF THEY IN FACT MEET THE EDUCATION REQUIREMENTS THAT THE OTHER CANDIDATES FROM THE SCHOOL HAVE THAT THEY BE ALLOWED TO TAKE THE EXAM. GEORGE WEDEMEYER SECONDED.
VOTE: 5 – 0 – 0 MOTION PASSED**

Ted Priebe feels that this establishes a bad precedent. These requirements are based on current needs. Courses taken thirty years ago are different than today. Cyrie Barnes replied that they've kept current with their continuing education. Liza Goldblatt suggested that if other graduates were allowed to take the exam and these two individuals show the same then they should be allowed to take the exam. Liza also stated that there are superb and internationally renowned practitioners that would not qualify to sit for the exam. Paul asked that the motion be more specific so as to not open a Pandora's Box. Janelle said that their transcripts do not show the required classes. They say those classes were listed in their tutorial application which is not here today. If it is listed there, there is no problem granting them approval to take the exam. LaVonne added that if it is an approved school from the 80s and we only required around 1300 hours back then. Christie Loftin noted that an applicant may have 4000 hours of education but if they are missing two of the required courses they can be denied.

8. Education Business

a. Update Pending School Applications

Janelle presented a timeline Cathy Hardin had prepared indicating pending school applications. Cathy included a report on the Institute of Clinical Acupuncture and Oriental Medicine in Honolulu, Hawaii. The application appears to be complete pending a site review. Presently staff is not allowed to engage in out-of-State travel on official State business. The school is accredited and they have been open for some time. In the past, as long as a school was accredited and they had been in business for some time (and provided they met the rest of the Board's requirements) obviated the need for a site visit. They have been open since 1996. LaVonne Powell inquired if Janelle Wedge had asked the Hawaii Health department about the school and if there were any complaints. Janelle responded that she had and that the school was fine. Robert asked if there were any other schools the Board had approved without a visit. Janelle responded that a school in Florida had the same situation and they were approved. George Wedemeyer asked why the Board is hearing about a school outside of California. Janelle responded that CA law allows for it and that California does not have reciprocity with licenses in other states. Paul Weisman asked if he could visit the campus in an unofficial capacity if he were to be in Hawaii. LaVonne responded that it could be problematic because we would still need Governor's Office approval for out-of-state travel and if he saw something that was wrong he would not be able to do anything. She further stated that legislation was proposed to allow the Board to accept applicants whose education was received from an institution that was nationally accredited and it was defeated. We are now back to this process of approving out of state schools. Paul Weisman asked if we could get the school to send us a video of their school. Charles raised the concern with approving out-of-state schools without a site visit. He stated that it was unfair to schools within California and as a matter of principle the Board should not approve without the governor granting approval to visit the school in Hawaii.

Steven Stumpf asked why the Board is looking to approve more schools when certain figures indicate that a majority of Acupuncturists are underemployed. LaVonne responded that it is in the law (4939) that out-of-state schools can apply for approval and that CA has a duty and good faith to review their applications. Dr. Sperber offered a compromise that the schools provide the Board a copy of the ACAOM site visit report. Dr. Goldblatt noted that the legislation that recently failed would have opened up the recognition of the national accreditation while still having to meet the California standards.

LaVonne pointed out that the Board must ensure consumer protection and engage in good faith efforts but cannot control the marketplace by limiting which schools/individuals are eligible for approval. Paul asked if the CA Board should be doing follow-up site visits. Greg Sperber stated that CA does not perform follow-up site visits. Ted Priebe stated that the only difference between CA practitioners and those of other states is that CA considers Acupuncturists as Primary Care Providers and, as such, CA needs to protect its educational requirements. To protect the public, he urges the CA Board to increase CA's Educational requirements. Paul asked how LaVonne feels about the fact that the Board approved the Florida school without the site-visit. LaVonne responded that the public's protection is the Board's primary mandate.

Paul Weisman stressed the Board's decision must be consistent. LaVonne Powell replied that due to the budgetary restrictions it is very unlikely to receive permission from the Governor's Office to travel outside of state, especially Hawaii. Janelle Wedge has tried to obtain permission. Dr. Goldblatt recommends that the Board table this issue until the next Board meeting. Neil Miller commented that practitioners have argued for 4000 hours requirement but compromises between the schools, organizations, practitioners and legislators arrived at 3000 hours. He also noted that the national accrediting organization is a private organization not public or non-profit. Neil Miller also supports tabling this issue till the next meeting. Charles asked if a Conditional Approval can be granted pending a site visit. LaVonne replied that it wouldn't be conditional if you're waiting for a site visit.

CHARLES KIM MOTIONED TO DIRECT THE EXECUTIVE OFFICER TO SEEK OUT-OF-STATE TRAVEL APPROVAL. IF SHE IS SUCCESSFUL, THE BOARD IS TO CARRY OUT A SITE VISIT, IF NOT APPROVED THE BOARD IS TO NOTIFY THE SCHOOL THAT THE BOARD CANNOT COMPLETE THE APPLICATION PROCESS. PAUL WEISMAN SECONDED. VOTE: 5 – 0 – 0 MOTION PASSED

b. Education Standards

Steven Stumpf shared that at the February meeting a statement was made comparing the CAB required educational hours to ACAOM's. Dr. Stumpf presented a table comparing the two. He stated that if California has awarded Primary Care status to Acupuncturist's then it should be reflected in the education. Steven Stumpf stated that there is a shortage of primary care practitioners in community clinics offering access to the un- and under-insured. He would like to see more mainstream medicine, anatomy and physiology and the various disciplines primary care includes. George Wedemeyer stated that it is important that if the profession is able to order and use blood tests and x-rays then they need to be able to understand other medical professionals when discussing a patients results. Mr. Wedemeyer asked Steven Stumpf if he would recommend a gradual transition to greater focus on Primary Care. Mr. Stumpf responded that he would hold on making a recommendation but would point out that the law points to the need for providing Primary Care.

Ted Priebe said that the Board must look at the entire scope; the scope of licensure and the scope of practice. Ron Zaidman commented that, at present, a third of the educational program is devoted to Western Medicine. California's graduates are working within the Western Medical Setting at hospitals like Kaiser. Dr. Goldblatt commented that the acupuncturist's strength that is being added to western medicine is the tremendous specialization as primary practitioners in acupuncture and Asian Medicine. California is indeed training their acupuncture students in integrative medicine but if a consumer wants a western medical practitioner there are MDs, NDs, DOs, DCs, Nurse Practitioners, etc. She also presented on the various definitions of Primary Care, notably the notion of a consumer's Primary Medical Contact. This further indicates that it isn't necessary that an MD need be the first point of contact. She firmly believes that California has good strong curriculum that is training good strong

entry level practitioners and the test that screens for that. She pointed out that the Board may constantly hear from a few individuals at the meeting that California doesn't have this but she believes otherwise.

Robert Brewer asked Steven Stumpf what Acupuncturists should know that he doesn't feel they know. Ron Sokolsky stated that the issue is the delivery system of the education, it isn't necessarily the student. The question is what we, as institutions, do. Ted Priebe read the definition of Primary Care Provider as, 'a licensed health care provider that provides initial health care services to a patient'. He goes on to say that there are other requirements that, 'included in their scope of their license, is responsible for initial diagnosis and treatment'. It doesn't specify western diagnosis or eastern diagnosis, there is only one type of diagnosis, and to say otherwise is nonsense. He continued quoting California Code, 'healthcare supervision and preventative health care services'. If a practitioner does not know pathology, anatomy and physiology, how could they make the determination if they don't know how? If one doesn't recognize the disease process, how will they competently refer that patient? They can't. He continued that there must be requirement in relation to what the law says, and standards written for a profession have to cover all of the scope of licensure and practice. He also noted there is a difference between required hours and competency. Mr. Priebe continued, stating that he doesn't know how the schools are meeting the state requirements when there are no books required, no standards written and no one has oversight of it.

Ron Zaidman, president of Five Branches, commented that if you open up any Chinese medicine text on medicine and you get to the diagnosis section you will always see it start with a Western diagnoses. As such, he does not understand where Mr. Priebe's comments are coming from. His idea that acupuncturists only talk in TCM is a false idea and the textbooks show that.

Neil Miller responded to Robert Brewer's question of what's missing in Primary Care for acupuncturists. He stated that the requirements are different because the environment in which acupuncturist's practice have changed. Twenty-five years ago, none of his referrals came from MD's; today it's over 50%. Before, he was the last medical professional that a patient saw since they had tried everything else. Today, he's the primary practitioner for 60% of his patients. Neil Miller stressed that In light of continuing integration of the medicines, both sides presenting have valid points.

Bill Mosca brought up the Little Hoover's Commission discussion of primary care, notably that there is no universal definition of the term. He went on to address that though there may be un- or underemployment in the profession it is just an assumption since the proper questions were not asked in the tools so far utilized. He stressed that the Board needs to identify the count of involuntarily un- or underemployed practitioners.

Steven Stumpf proposed that 600 to 700 hours of the required clinic hours should be taken out of the acupuncture clinic and be required to be taken at Primary Care clerkships in community clinics. Robert Brewer thanked and acknowledged the varying viewpoints of the presenters. The Board took no action on this item.

c. Proposal for School Approval Requirements

The proposal for school approval requirements was tabled until the next meeting; however, the Board did review the "Approved Program Annual Report", which is a current requirement. Charles Kim asked what the Board can do when the school does not report to the Board by the deadline. Janelle Wedge responded that Cathy Hardin, whom is not present today, may still be working on some of the entries you see without a report date. LaVonne Powell answered that the Board could issue a letter to the school warning them that the violation endangers their approval status and once that is disregarded the Board can move to withdraw approval. Robert Brewer also pointed out that the fiscal year of the business institution may be different from the official fiscal year. This can pose some problems (delays in getting information) for some of the businesses but may offer the Board a better snapshot of what is happening at the schools.

d. Limitation on Transfer Credit

Dr. Goldblatt brought the issue of the 50% transfer limit affecting schools and students to the Board's attention. She requests that schools be able to transfer in all credits from accredited colleges that our colleges assure meet our standards. Ron Zaidman added that perhaps the concern at the time the regulation was drafted was to not allow someone to come in for just one year and get their diploma here. So as a school we still retain control for how long a student must be in school but the way it is currently written someone could have so many hours of acupuncture and very little herbs and they now must repeat their acupuncture even though they've already satisfied those requirements. LaVonne noted that the concern was that the students would come here and only spend one day. Also, if it is a year and they've completed 99% of their requirements, what are those students doing in that year? Dr. Goldblatt responded that all colleges have to have requirements of what a student needs to do for their one year residency. They first must take challenge exams so as to note deficiencies and require more coursework if necessary. They also must complete most of their internship (a year) at our college as well.

Ron Sokolsky noted that ACAOM does require that students who transfer from one accredited program to another must spend a minimum of one year in the new program. He also added that by denying students the education they have already received places a tremendous financial burden on them. Allowing students to transfer in, whilst maintaining California standards, is a good idea.

Robert Brewer asked if this is the fourth iteration of this proposal. Dr. Goldblatt confirmed. Paul Weisman asked for clarification between transfer of units and challenge exams. Dr. Goldblatt responded that at the schools she works with, when we see they have passed certain classes, they must pass the challenge exam to receive the transfer credits. AnYork Lee asked when the current transfer regulation numbers get drafted. Liza Goldblatt responded that they're from the 1980s.

**ANYORK LEE MOTIONED TO ADOPT THE LANGUAGE AS WRITTEN [SEE ATTACHMENT 1] AND TO DIRECT THE EXECUTIVE OFFICE TO NOTICE THE LANGUAGE FOR REGULATION. PAUL WEISMAN SECONDED.
VOTE: 5 – 0 – 0 MOTION PASSED**

e. CLEP EXAMS

Liza Goldblatt stated that Megan Haungs is not present today and that she would like to table this item until the next meeting. The Board acknowledged.

f. Independent Study Proposed Regulatory Language

Janelle reported that at the last meeting the Board asked she make one minor adjustment to the recommendation for independent study regulations. The language is, "a maximum of three independent study classes, the equivalent of eight semester units or twelve quarter units, may be taken to complete courses that qualify for the California Licensure." That was the only change that was made at the June Board Meeting.

**CHARLES KIM MOTIONED TO ACCEPT THE PROPOSED CHANGE TO THE INDEPENDENT STUDY REGULATORY LANGUAGE. ANYORK LEE SECONDED.
VOTE: 5 – 0 – 0 MOTION PASSED**

g. Clinical Training

Greg Sperber from Pacific College presented changes to the clinical training hours. Currently, 75% of clinical training must take place in a clinic owned and operated by that school. He suggested that if they can get into hospitals and other clinics, why should they limit that to just 25%. The change to the proposed language from last time is taking Bill Mosca's suggestion where instead of listing our scope of practice that we actually refer to the regulation or law that defined it.

Steven Stumpf commented that the reason the percentage is set so high is to prevent the clinical students from practicing in private practitioners' offices and thus becoming free labor. Greg Sperber responded that at his school, it would be practically impossible and that this speaks to getting students into more western focused settings. His proposal changed the 75% location limitation to a modality limitation. That is that 75% of the places the students spend during clinic time must satisfy the entire scope of practice.

Steven Stumpf asked if Dr. Sperber was then against students practicing in a private practitioners office. Mr. Sperber responded that it would have to have academic oversight by the university if were to be allowed and that would be difficult for a private practice to satisfy. Dr. Goldblatt noted that this language refers to off-campus clinics and that perhaps at another meeting we could provide a percentage limit on time spent with a private practitioner. Greg proposed that this be approved and that the private practice limitation be brought to its Regulatory Hearing.

Robert Brewer asked to clarify if the students are still supervised. Greg Sperber confirmed. AnYork Lee asked which hospitals are involved. Liza Goldblatt responded that currently they are at California Pacific Medical Center and she is currently in dialogue with UCSF Center of Integrative Medicine, SF General, Haight-Ashbury Free Clinic, Jewish Home for the Aged and several more. Greg Sperber responded that Pacific College currently has relations with San Diego's Children Hospital, San Diego Hospice, and UCSD Remax(sp?)- Center for Sports Medicine. AnYork Lee asked if he could be made aware of the process of how the schools partner with the hospitals. Ted Priebe stated that there needs to be set standards for a student's clinical periods that are offsite, especially in private practice. George Wedemeyer asked what the ratio of students to supervisor is. Dr. Sperber responded one supervisor per four students and they are allowed to go one to five but that is very rare. George stated that he saw more at a rehab place in San Diego. Greg Sperber answered that at a place of rehab the supervisor is harder to spot since they are running everywhere.

Steven Stumpf raised a concern that ACTCM and PCOM together represent 20% of the graduates for the exam. They speak for two colleges of thirty though accounting for 20% of the testers, so there is a presumption that what the Board approves for ACTCM and PCOM generalizes this to the rest of the schools. Mr. Stumpf is concerned with the Board passing resolutions that have a generalizing effect where the quality of the school may fall off precipitously unlike these two schools. Greg Sperber asked Mr. Stumpf to specifically address his concerns.

Ron Sokolsky noted that the accreditation commission also has oversight on what the schools in California do as far as their externship program to make sure that the assessments and the outcomes are consistent with what an on-campus clinical internship looks like. This is not something that we just send interns out into without proper supervision or proper assessments of the educational outcomes that occur in the off-campus settings. He also noted the preceptorship program, which is something that the chiropractic students use, that enables the students to place themselves into, observe and participate within an approved private practice. This is a tremendous benefit educationally for these students.

Jacques MoraMarco with Emperor's College shared that his school has an externship at the UCLA center under the guidance of their clinical supervisor which happens to be an MD. Robert asked about the ratio restriction. Jacque Marco responded that it is a four to one ratio and that this allows for a greater integrative education. Dr. Goldblatt stated that the language is fundamentally saying that the quality of clinical education received off-campus must be substantially similar to on-campus clinical education.

AnYork Lee stated that the Boards' primary concern is that the students are receiving a quality education off-campus. Paul Weisman noted that the language is not clear and should be made clearer with relation to establishing a ratio of students to supervisor so all schools have this base level.

Ron Zaidman shared that he does site-visits for the ACAOM and when they site-visit a clinic, we see the on-campus clinic and all of the externship clinics as well as part of the site-visit. The ratio's that apply to the university's clinic applies to the externships as well. The idea of the university owning 75% clinic is totally outdated. Our students training in Chinese hospitals are limited by that 25%. As Drs. Stumpf and Priebe mentioned, more training must occur in these western settings and as Dr. Goldblatt

mentioned, to do practice in a private practice has advantages too. The control of what happens in those clinics is done by accreditation.

LaVonne Powell noted that we do have a lot of schools that do not have affiliations with higher education institutions. She recommended adding that for every twenty hours of clinical experience an evaluation of the clinical experience shall take place and put a ratio of one supervisor to five students. From here we can have the Board accept the proposed language and let it get to a Regulatory Hearing.

**PAUL WEISMAN MOTIONED TO ACCEPT THE
PROPOSED LANGUAGE WITH LAVONNE POWELL'S
RECOMMENDATIONS. CHARLES KIM SECONDED.
VOTE: 5 – 0 – 0 MOTION PASSED**

h. Increased Curriculum Hours in Asian Massage

Neil Miller summarized that if one looks at the list of approved books there is not one dealing with Asian Massage. The level of training from one school to the next is more diverse than any other subject that an Acupuncturist studies. This is just for discussion and is not asking for a motion but wanted to address to the new members that there needs to be a minimal level of training. Neil Miller stated that it is a disservice to the profession and the consumer. The consumer does not have any standardization to expect from a practitioner. There are also no exam questions on the subject. This could help eliminate some of the enforcement problems.

The catalog still refers to this as Oriental Massage as opposed to Asian. The Consumer Guide has evolved. Neil Miller noted that he worked closely on the first one but the profession was not consulted for the 2nd and 3rd editions. The word manipulation is part of the scope of practice yet it is missing. This is a huge issue that he will address further when he gets to the agenda item on manual therapy.

AnYork shared that when the manual therapies were developed and up until recently, the name for the therapy was derived from the motions of that practice. As such, the Board does need to know how the school trains those students. Neil Miller agreed and also recommended that the Education & Curriculum Competency Taskforce be convened to look at the parameters and report to the Board. In the past there was a Scope of Practice Committee, an Education Committee, and a Curriculum Competencies Committee, none of which have met in the last ten to fifteen years. Robert Brewer noted that there was an Educational Committee meeting a year and a half ago.

Ted Priebe stated that Worker's Comp has dealt with this issue and that it is within the acupuncturist's scope to practice the various modalities, and that the Guild has proposed standards and a curriculum which is part of the orthopedics program for the Work Comp. Division. Robert Brewer asked if Ted Priebe can forward that to the Board. Dr. Priebe confirmed.

i. Continuing Education Courses

Janelle brought before the Board a list of the continuing education courses which were denied. Charles Kim stated that he feels that there is gross abuse of continuing education classes. Janelle Wedge responded that it has been reported that associations have been known to abuse this but licensees are unwilling to give names. LaVonne Powell noted that some practitioners do not report this since they may fear that they will lose the CE credits. If staff receives a complaint, they are empowered to cite and fine or revoke their provider status.

Charles Kim asked how the Board can prevent this type of abuse. LaVonne Powell shared that some of her other Healing Arts Boards hire subject matter experts as undercover agents and send them to the CE courses. Robert Brewer asked if we are currently doing that. Janelle responded that with budgetary cuts, staff is currently not doing this. Charles Kim stressed that even though there are budgetary concerns, we must allocate enough resources to insure these classes are not abused.

Ted Priebe stated that the standard should follow the Scope of Practice. Robert Brewer stated that the standard is not being discussed at the moment but the method of enforcement. Janelle Wedge

stated she will come back to the Board at the next meeting with the cost of hiring SME's to audit courses.

AnYork Lee asked how many providers presently and how would they be audited. Janelle Wedge responded that there are over four hundred providers and they would be randomly audited unless there was a specific complaint brought up.

Bill Mosca also noted that if the Board notifies the providers that there will be random audits, there will be a response. He also raised the concern that some of these courses may be rejected on content inappropriately. LaVonne Powell shared that there is a fine line as well to take note of when approaching a topic not within a practitioner's scope of practice.

9. Enforcement Business

a. Enforcement Case Report

Kristine Brothers reported on the complaints received from July 1, 2009 to September 9, 2009. There were eleven (11) unprofessional conduct, nine (9) unlicensed/unregistered, eight (8) criminal charges/convictions, one (1) sexual misconduct, no (0) fraud, two (2) non-jurisdictional, three (3) incompetence or negligence, two (2) unsafe/unsanitary conditions and one (1) other with a total of thirty-seven (37) complaints. As of September 9th, there are fifty-seven (57) pending complaint cases in house, thirty-nine (39) pending cases with Division of Investigation, fifteen (15) disciplinary cases and seventeen (17) open probation cases. Since July 1st, there have been four (4) accusations filed and four (4) effective decisions. Of those four decisions, one license was revoked, one was voluntarily surrendered, and two were revoked and placed on probation.

b. Proposed DCA Enforcement Model for Healing Arts Boards

Janelle Wedge reported that the DCA is currently working with all the Healing Arts Boards to establish reforms to the enforcement process. The enforcement programs have been plagued with legal and procedural impediments, drastically delaying our abilities to protect the consumers and the integrity of our licensees. When we put a case out for investigation we, as well as other Boards, submit it to the Department's Division of Investigation (DOI). The DOI has a very heavy workload presently and as such the timeframe to get our cases through can vary between six months to two years. Some cases take precedence due to their immediate harm to the public while others are placed on the back burner. The Department is now proposing this model to give us the proper tools to handle our cases more expediently. Tools such as additional enforcement staff, hire non-sworn investigators and to delegate subpoena authority. Janelle noted that she would update the Board as these changes are instituted. It is the Department's goal that all cases be handled within a six to eighteen month time frame. Charles Kim asked if the effective decisions can be included in the report so as to inform and act as a further deterrent. Janelle acknowledged the request.

c. Manual Therapy

Neil Miller presented a brief background on his item for the new Board Members. His petition deals with being denied payment by an insurance company for an action within his scope of practice, notably Oriental Massage (now Asian Massage). Once one insurance company denied others started following suit. Neil Miller has introduced several different bills during several different administrations. He is petitioning to include three words - Myofascial release, Manual Therapy and Tui Na – into 4937b after it says, "Asian Massage, Acupressure, also known as Tui Na or in modern terminology, Manual Therapy and Myofascial Release. Robert Brewer asked then if the Board just needs to approve the addition of these words. Neil Miller confirmed. Ted Priebe supported Neil Miller's petition and shared his difficulties working this through the Worker's Compensation Codes. Bill Mosca of CSOMA encourages the Board to at least initiate regulatory process and the language updates can be submitted at a later date.

CHARLES KIM MOTIONED TO ADOPT THE PROPOSED LANGUAGE TO CLARIFY THE TYPES OF ASIAN MASSAGE AS INCLUDING TUI NA, MANUAL THERAPY AND MYOFASCIAL RELEASE. ANYORK LEE SECONDED.

VOTE: 5 – 0 – 0. MOTION PASSED

d. Recognition of Specialty Boards

Neil Miller asked LaVonne Powell about her work with Specialty Boards for her other Healing Arts Boards. She responded that she was naïve to think it would be simple for this board so she's come up with a proposal, which the board reviewed, regarding the national accrediting body that accredits those specialty boards. The proposal was shot down. Neil Miller stated that though he doesn't expect to answer this today, he is hopeful this will further the discussion. As the profession has evolved, specialties have sprung up, notably one in our profession for orthopedics. He will re-submit to the Board the history of that particular specialty. Neil Miller stated that the consumer would benefit from such specialties. Dr. Goldblatt noted that eight national organizations are meeting September 21st in San Francisco and one item on the docket is National Specialty Boards and she can give the Board a report at the next meeting. Ted Priebe shared that he will bring his notes from his organizations work on Specialty Boards.

10. Public Comment

Neil Miller asked that the notice of the meeting/agenda be sent out earlier than 10 days before. He also requests that the Board be allowed to move the meetings to other cities besides Sacramento. Robert Brewer responded that it was his decision to limit the meetings to Sacramento due to the budgetary expenditures of moving the entire staff and reserving a meeting hall. John Chen noted that on the recommended herb list there was spelling error, the last word of the herb was spelled 'shan' and is properly 'san'. Along those lines, the spelling is crucial, since if you misspell an herb it could actually refer to another herb entirely. He also stated that the herb list be updated to be current with the FDA and Endangered Species List restrictions. He also stressed the Board look again at the process of updating this list. Bill Mosca asked the Board if more info can be released by email to the Board Participants ahead of the meeting.

Meeting Adjourned at 4:46 pm.