



Approved
ACUPUNCTURE BOARD
MEETING MINUTES

DCA Headquarters 2, Sacramento

FULL BOARD MEETING

August 9, 2012

Members Present

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

Staff Present

Ben Bodea, Interim Executive Officer
Spencer Walker, Staff Counsel

Guest List on File

1. Call Meeting to Order and Establishment of Quorum

Quorum was established. Meeting called to order at 8:40 am.

2. Pledge of Allegiance.

3. Approval of May, 17, 2012 Meeting Minutes

Motion made, Seconded Carried (MSC) (Weisman, Brewer) Approval of the May 17, 2012 Minutes.
--

4. Chair's Report

- a. **Transcript Verification:** Chair Lee has requested verification of some transcripts and suggested the inquiry needs to go further. The schools will be asked to verify the legitimacy of the transcripts via correspondence. Interim Executive Officer Ben Bodea was asked to look into the matter.

5. Interim Executive Officer's Report

A. Staffing Update: Executive Officer Janelle Wedge retired on June 29, 2012. Christine Loftin retired on July 1, 2012. Terry Sinkovich took the Administrative Technician post on August 1, 2012.
Budget letter 12-02 the Salary Savings Act: This Salary Savings Act required that half of a position be eliminated by the Board by July 13th 2012. The elimination was spread out over the Education Coordinator position with a .2 cut and the Enforcement Coordinator position with a .3 cut. This was also done because both positions were requesting less time.

Staffing: Currently we have 5.5 of 8.5 positions filled. The Education Coordinator position and the Examination Coordinator position are currently vacant. The Enforcement Coordinator position is technically vacant because of maternity leave.

B. Enforcement Update: In the last three months we have had nine cases open for investigation with the DCA, Division of Investigation. One case was for fraud, two cases of negligence and incompetence, three cases of sanitation violation, one case of sexual misconduct and two cases of unprofessional conduct.

C. Budget: Regarding our budget we do not have final numbers right now, they are all raw figures. Final reports will be presented at the November meeting. As of May we retained a surplus and have done this for the last several years.

D. Phone System: Currently we are dealing with some phone system issues. Board member Paul Weisman made a request for the auto-response to state the person's name and title.

E. November Board Meeting: Due to Governor's direction to get rid of all non-essential travel we will be holding the November meeting in Sacramento.

F. California Acupuncture Licensing Exam: We conducted CALE exam on Tuesday, August 7, 2012: 462 people registered to take the test, 25 did not show up, 26 had special accommodations. Exam taken by language: 107 Chinese, 272 for English and 83 for Korean. It went very smoothly. Chair Lee asked about the exam results for posting. Interim Executive Officer Ben Bodea said he submitted those and they should have been posted over two weeks ago. He will check on it again because it was submitted to the internet team.

6. Status of Proposed Regulations:

A. SB 1441 Uniform Standards

B. Enforcement Regulations

C. AB 2699 – Sponsored Free Health Care Events

Interim Executive Officer Ben Bodea stated that these proposed regulations are in a holding pattern. They will be revisited in November when the permanent Executive Officer is hired.

Board Member Wedemeyer inquired about five other regulations that he believed Janelle Wedge was working on. However, neither Interim Executive Officer Ben Bodea nor Legal Counsel Spencer Walker knew of any other pending regulations. This matter will be looked into this and if there are any additional pending proposed regulations they will be transmitted to the Board.

7. Legislation Update

AB 72 (Eng) – Health Care Coverage: Acupuncture – Dead as of February 2012 in the Assembly appropriations committee.

AB 1889 (Fong) – Practical Examination: Legislation to reinstitute the practical exam as part of the licensing requirement. The Board voted to oppose the bill in the May Board meeting. It is in Assembly Appropriations but it is being held as of May 2012. Due the fiscal cost of this bill it is unlikely to move in this legislative year.

SB 1488 (Yee) – Traditional Chinese Medicine Traumatologist Certification: The Board opposed this bill at the May meeting – The second Hearing was cancelled by the request of the author on July 3, 2012. Bill will remain in committee for the rest of the legislative year.

SB 1239 (Price) – Sponsored by Price Sunrise Legislation. This bill would extend the Board's sunset date by two years. It was re-referred to Appropriations on June 26th 2012. It has not been scheduled for a hearing as of yet. There will be one more possible hearing before the legislature adjourns.

Board member Wedermeyer asked if the ability of the Board to assess a continuing education course approval fee was tacked on.

Legal Counsel Spencer Walker answered that the ability to assess a CEU fee was added to the Bill. The bill would also provide the Board with ongoing authority to establish the standards. Business

and Profession Code 4939 had required the Board to establish the standards within a certain period of time. After that time they could not change the standards. This bill would remove that three year period and would allow the Board to continue to change the standards.

8. Committee Reports:

A. Education Committee –

California Acupuncture Licensing Examination:

Chair Lee reported that a lengthy discussion was held at the last board meeting regarding the CALE Exam to clarify that there are not any problems with the CALE licensing exam. He reiterated the Little Hoover Commission’s conclusion that the CALE exam “was determined to be superior” when compared to the National Exam. Chair Lee followed up with more CALE business: 1.) Reminder that it is part of the Board’s duties was to establish the system to allow the student to sit for the exam. 2.) The current length of the contract with the exam company is three years. Interim Executive Officer Ben Bodea will provide the expiration date for this contract.

Continuing Education in Ethics:

Chair Lee: Board member Paul Weisman requested this agenda item to decide upon the number of hours that should be required every two years for the Ethics component of Continuing Education. We would like the Board’s input on how many hours every two years to require for the Ethics component.

Vice Chair Kim: Ethics classes should be divided into three areas of focus – 1. Professional Ethics and Conduct so they know the base and minimum standard (2-3- hours) 2. Laws and Regulations; especially the enforcement section that if you violate your license can be revoked (2-3 hours) and 3. Clinic Management, to prevent mistakes made in filing and recording (6-9 hours every two years).

Board member Paul Weisman: Recommended six to eight hours every two years. **Board member Robert Brewer** thought that four hours total would be plenty for all of it. He questioned the premise that reinforcement is needed every two years. He thought a stronger upfront instruction while the students are attending Acupuncture College would be a better idea and also that any change in practice law should also be required.

Board member Paul Weisman said Malpractice insurance companies for lawyers will actually give you a break in price because they think it is important to have a review of the rules.

Board member George Wedemeyer suggested that it be broken down by how often and how many hours.

Vice Chair Kim adjusted his recommendation down from nine to six.

Chair Lee requested public comment:

Bill Mosca of the California State Medical Association thought four hours was reasonable since it is almost 10% of the biennial continuing education requirement. He noted that Ethics instruction takes place in acupuncture programs in California. However, for international applicants for licensure there is currently no ethics requirement whatsoever. It was his view that this is an area that the Board needs to address. There was further discussion about requiring foreign applicants to take Ethics. A request was made for this item to be put on the agenda of the next meeting.

MSC (Brewer, Wedemeyer) Require four hours of continuing education in Ethics every two years. Vote taken 4-1-0

MSC (Brewer, Wedemeyer) Request for Interim Executive Officer Ben Bodea to come back to the November Board meeting with the proposed regulatory language of the Ethics requirement. Vote taken 5-0-0.
--

Medical Anatomy Labs:

Chair Lee talked about the inconsistency in Anatomy instruction where some Acupuncture schools only use the book to teach anatomy while other schools have the anatomy lab/hands on component. For the educational standard the Education Committee believes that it is necessary for schools to establish an anatomy lab by the year 2014. He requested the Board's approval for this item.

Board member Paul Weisman asked if the Board was going to require a certain number of lab hours.

Chair Lee replied that schools would set the hours and decide how they were going to teach the student this.

Legal Counsel Spencer Walker stated that this item will need to be placed on the agenda for the November Board meeting since this was the first time it has been discussed in open forum. It will need to be properly vetted with the public.

Chair Lee invited Public comment:

Bill Mosca of the California State Oriental Medical Association made three points: 1.) He was uncertain if there was an actual need based on malpractice insurance premiums and number of consumer complaints. He urged proponents of this to report the actual data that demonstrates that there is a need. 2.) The practicality of trying to implement something like this due to a shortage of cadavers. 3.) The trend now within Medical schools away from using cadavers because of the shortages, and health concerns about using preserved cadavers (exposure to formalin). There are also technologies (3D virtual technologies) coming online now that actually do a better job of training individuals in anatomy than the cadaver. He urged the Board to exercise extreme caution in requiring this because it has the potential to have unintended side effects; primarily preventing education of licensure candidates.

Dr. Greg Sperber from Pacific College of Oriental Medicine stated that he concurred with Bill Mosca's statements regarding the difficulty of acquiring a cadaver for the Anatomy lab and medical schools moving away from hands on training via cadaver.

Ron Zaidman from the Five Branches University believes that having an anatomy lab course is important and that they have this requirement in place already at his university with the use of computer programs and videos. He stressed his view that these technologies were superior as "the cadaver is too far removed from reality".

Hugh Morrison from the National Guild stated "I think you have identified a real issue of protecting the public here." The Board's focus needs to be on protecting the public not on whether the schools can afford this. In his experience as clinic director and clinic supervisor he found that the students' knowledge of anatomy was at High School level. It is his view that the more you know about anatomy the better. We are an Allied Healthcare profession that should be comparable with other Allied Health Professions. He stated that if the testing component is not included then having this requirement will be pointless.

Chair Lee thought it was perplexing that medical schools can obtain cadavers and acupuncture colleges cannot and appreciated the input about 3D technologies to assist with anatomical knowledge.

Board member Paul Weisman said he would support this if a cadaver lab was not required and thinks the computer education is a good idea. He thought that the cadaver lab requirement would be too difficult for the small schools that rely on donations for their resources.

Board member Robert Brewer: My question is for Ron Zaidman and Greg Sperber about the progress in terms of technology. What is the "gold standard" was in terms of 3D technology now? He requested for this item added to the agenda for November.

Dr. Greg Sperber from Pacific College of Oriental Medicine. He commented that he thought what this anatomy lab requirement is really getting at was finding the approach that would work for all the learning modalities, visual, kinesthetic and auditory. When you add in things like computer work and the use of models you are able to reach the hands-one learner.

Medical Anatomy Labs (continued)

Chair Lee responded that he thought the best data they could get would be from the malpractice insurance company.

Ron Zaidman of Five Branches University responded in regards to the question of best practices there might be a difference between the state and accreditation standard being more competency based (what they are supposed to be able to do) and the schools in Asia being prescriptive (stating specifically what you are supposed to learn). I think the language has to guide the colleges to have some kind of program that has a diversity of approaches. Every college might have a different way they apply this requirement from cadaver work and/or computer applications.

Chair Lee: The point of this subject is that we want the student to really learn the anatomy. He requested that Interim Executive Office Ben Bodea place it on the next meeting agenda with clear language about anatomy competency and that the board is considering an anatomy lab as a requirement for acupuncture colleges.

Board member George Wedeman said that I think the point should be made very clearly that it should also be on the examination.

Board member Robert Brewer stated: Bill Mosca made a very good point that we do not have a report which states what the problems are specifically regarding anatomy. What are our sources of information for the voids and problems?

Chair Lee believes that we can obtain data from malpractice insurance companies.

Board member Brewer asked, “What percentage of acupuncture is covered by insurance and therefore would need to go through the malpractice system?”

Chair Lee: The percentage for acupuncture to have malpractice is very high because if you join the HMO health care plan network they request malpractice insurance. There are very few individual practitioners without joining any network.

Bill Mosca pointed out that since premiums were low that would indicate a low risk.

Hugh Morrison of the National Guild: believes the reason for the low premium is because a many acupuncturists work part-time or because they are not in an HMO network. Many people do not even know that the Acupuncture Board exists to call when they have a complaint.

Chair Lee: This item about anatomy instruction and examination is closed for this Board Meeting. He requested for Board member Robert Brewer to write a letter to the malpractice insurance companies requesting data for the number of incidents by number and for what problem.

Spencer Walker: urged Board members to obtain some data for the proposal for anatomy labs in order to meet the necessity standard. If the Board intends to change the school requirement and make regulations the proposal has to meet the necessity standard. If there is not data to support the need for a medical anatomy lab the regulation it would never be approved.

B. Examination Committee

Update on English-Only Exam

Chair Lee spoke about how having an English-Only California Acupuncture Licensing Exam. It is a historic issue that has been discussed by the Board in the past. The Examination Committee’s conclusion is that it is our goal to have the English exam. However, there are concerns about the transitional period. Board members tell me that in order to get into the mainstream we do need the English only exam, but it should be a modified English exam. The questions would be in English but Chinese and Korean would be added next to the English terminology for a modified English exam.

Board member Robert Brewer: It is not the Board’s job to advance the profession into the mainstream or to take an advocacy position on that. It is the Board’s job to protect the public and to ensure that those who are licensed in California are fully capable of practicing and communicating safely. He questioned whether this would be accomplished by having the Exam in English or by requiring a high level of competency in English proven by passing an English competency exam.

B. Examination Committee

Update on English-Only Exam (Continued)

There is very real concern that there could be significant content lost in translation in terms of conceptual things that are promulgated from one language and may not translate well into another. How can we do it in such a way that “does not toss the baby out with the bath water”? The focus is to do what is best for the public in the long run migrating to an English only exam would be perhaps the strongest move in that direction.

Board Member George Wedeman stated that it would take a year and a half to implement the exam in English only so schools would have plenty of time to address the English language issue. He expressed concern that California law, article 3 section 6C explicitly states the English is the official language of the state of California. The Board must come into compliance with California state constitution. The California acupuncture board is the only healthcare professional board that tests in three languages, English, Chinese and Korean. We must take action that would increase patient safety by ensuring that all graduates taking the CALE are prepared to communicate with all other healthcare professions. The CALE should be in English only. Examinees must be proficient in English to communicate with other health care providers and English speaking patients. Foreign students are already required by training programs to take the TOEFL test that demonstrates the student’s ability to speak and read English. Testing in three languages in many cases restricts acupuncturists to only practice in their own Chinese or Korean community with possibly reduced earnings and more importantly being unable to communicate with other healthcare professions. When the CALE originated, testing in three languages was supposed to grandfather in those practicing at that particular time and was to sunset after the first couple of CALE tests were given. However, this did not happen. The Examination Committee will be viewing this information and all other information that was submitted to the CAB during the next three months to make recommendations to the Board on whether to review California code and regulations. Please submit your information to the Board and it will be forwarded to the committee.

Chair Lee: I know that it is a historical issue. I want to add the following. There is a law that if more than 5% of the candidate pool speaks another language. This is what delayed implementing this. For example, for the California driver’s license exams we do offer language exams. If there is a need or safety issue, to ensure the driver knows the rules and regulations and fully understands them in their own language. As Robert just mentioned, we don’t want to throw the baby out with the bathwater. The Board needs to fully discuss this issue.

Board member Paul Weisman: I just want to be clear about something that Board member Wedemeyer said. He is giving his opinion to the board. The test we are giving now is not violating the law in any way. We are allowed to give the test this way. I just want to be clear as a board member that there is a basis in the law for the way we are giving it now. We may want to change it English only but what we do now is appropriate and is allowed.

Spencer Walker: That is correct because of a legislative act of statute that allows the board to give the exam in other languages.

Vice Chair Kim: stated that he strongly believed that is about time that we move forward with an English only exam as we discussed. Since the time when we first introduced acupuncture twenty-three years ago to this country more and more non-Asian people are utilizing the services of acupuncture. Acupuncture is not just limited to Korean town or China town. We are producing so many Korean speaking and Chinese speaking acupuncturists that Korean town and China town are over-saturated. They cannot find a job. They cannot open their clinic unless we make some changes and help them to provide these good quality services to the English speaking public. As the other board members mentioned the biggest concern is communication. More and more English speaking patients come for their services. How can you provide quality services if you cannot communicate with your patient? Other certification agencies are looking into the same thing by requiring the

C. Examination Committee
Update on English-Only Exam (*Continued*)

TOEFL. We are not doing anything in the state of California. They (foreign students) just come and take the test without any supplemental education or knowing the rules and regulations of the state. So it is very important to protect the public. I don't want to call it English-only test just English. English-only has kind of a negative tone. We need more English speaking acupuncturists, not only in California but in this country. This would provide a way for foreign language acupuncturists to communicate with English speaking patients and help them make contact with a wider patient pool. It is about time that we move forward.

Chair Lee: reiterated the goal: Do we continue to allow the exam as it is today or do we want to modify it? Do we use English exam but provide terminology in Korean and Chinese. That is the Board's decision. It will be placed on next agenda.

George Wedemeyer requested inviting CALE committee at the next board meeting to discuss this.

Chair Lee invited Public comment:

Bill Mosca of California State Oriental Medical Association: CSOMA does support a modified exam with some language preserved in the original form. We believe that it is absolutely imperative that some of the technical terminology not be translated into English but be preserved in the original form. There are not universally accepted translations for many of our technical terms. In the current version of the English language exam technical terms are translated into English but the untranslated original Chinese characters and Pinyin Romanization as well for those technical terms appear on the current English language exam. The other point I would like to raise is the issue of a TOEFL exam as a possible substitute for the English only licensing exam. In my view it is a poor substitute in that none of the bio-medical terminology is subjected to testing under a TOEFL type exam. The licensing exam would also be testing bio-medical terminology in the English language. I think an English modified exam would be essentially what the English exam looks like right now including the English characters, Chinese characters and Pinyin Romanization with the addition of Korean characters. So it would be a slight modification of the current English exam.

Hugh Morrison of the National Guild: In the background paper they make the point that this board spends more money on examination than in enforcement. I would suggest that the English only test is an easy fix for this and for the board to show evidence that it is addressing problems outlined in the background paper. If you are no longer paying for translation services for forms of the test, presumably that saves money that could go to Enforcement.

Phillip from Nine Star University In terms of the English test we have a student. She is qualified to take the licensing exam but she did not pass the TOEFL test. The other three students who took the exam they had very good English. I think the TOEFL test requirement encourages students to strengthen their English. Once you meet this requirement your communication skills should be okay. So the tests that are in Chinese and Korean most of them (test-takers) have very good English.

Chair Lee: I want this item to be placed on the next agenda. I just don't want this issue to continue to go on and on and would like it concluded.

Jacques Moramarco of Empress College supported Bill Mosca's idea, that it is a very valid idea when he was talking about the technical terms. I also think that the exam really needs to be examined in terms of valid primary sources and definitely they should have the western scientific approach and the neuroanatomy all there. It is taught in oriental medical colleges. Those are very good questions. The key thing is the mis-translation to the English language of the Chinese and the Korean terms. Biomedical knowledge is really important for them to have the ability to determine the red flags and I think that was Georges Wedemeyer's concern about consumer safety. The biomedical knowledge is really a key component in terms of red flags and I think the schools do a pretty good job. I hope that my Chinese and Korean colleagues that are limited in language skill can determine those red flags

C. Examination Committee

Update on English-Only Exam (Continued)

because that is the most important part on consumer protection. They need to have that biomedical language.

Ron Zaidman from Five Branches University: I just want to reiterate a point that I think all board members should be aware of in Chinese Medicine and Korean medicine there are many standard texts. Now in English there are many standard texts. But there are also some very popular texts that touch on the standard information but add their personal views. If a book is using personal views is in our exam it is doing a huge disfavor to our whole profession.

9. Board Oversight of Schools:

A. Schools Approval Process

B. Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates:

A. School Approvals Process:

Chair Lee: The Board has a current standard but I am requesting input from the public. Some students who graduate from Acupuncture schools want to transfer credits to other health related professions. However, the classes from their Acupuncture school are not WASC (Western Association of Schools and Colleges) approved and the classes at the other school are WASC approved so they cannot transfer their credits even though the class has the same title. It is big loss of educational resource. The Board members shared their concern with me and they want to make sure that approved schools have a better standard than what we do now by introducing the common certification in the education industry like WASC as part of the requirement. I would like to initiate the pre-approval of this item and would like the Board's discussion on this first.

Board member Robert Brewer asked Spencer if the WASC portion was on the agenda.

Spencer Walker expressed concern is that it is only agendized to discuss the school approval process but it is not agendized to discuss students who attend Board approved schools that are not WASC accredited.

Vice Chair Charles Kim interjected and expressed concern and his belief that maintaining the quality of the schools after they have been approved is a very serious issue. He is most concerned about those who do not send even one student to take the CALE and schools that have very low graduation rates. If we cannot control the school (due to inability to visit sites because of staffing and budgetary restraints) we should have a third party monitor them and designate a minimum standard. I used to serve as a board chair at one of the private schools and every three years we had the WASC accreditation. They come and in three days thoroughly discuss they review the program, curriculum and everything, finance and if you pass the WASC we can say you have a minimum standard you have met and I feel comfortable. Not only WASC there are many accreditation agencies. How can we use those as a minimum standard that we can guarantee for our schools? I think that is the reason we are discussing the school approval issue.

Spencer Walker inquired so this is about maintaining the education quality of the schools approved by the Board?

Vice Chair Kim: Absolutely.

Board members expressed concerns that there are problems and we have not been able to address because of travel restrictions; budgetary restrictions, as well as not being able to hire more staff.

Board Member George Wedemeyer commented that he had never heard that we had the authority to go out and start investigating schools and do a cursory check,

Spencer Walker responded that it is in the regulations. We have authority to check on schools.

9. Board Oversight of Schools:

A. Schools Approval Process (continued)

Board member Robert Brewer stated that we have no means to follow-up to the depth that we need to. Several years ago, we had a bill before the assembly that gave the board the ability to work with a third party accreditation organization, specifically ACAOM at that point. There were a number of objections raised from other organizations and that bill was defeated with a lot of last minute input, some of which was accurate, some of which was not. The need for that has never gone away.

George Wedemeyer: If we have it on the books that we can do a cursory investigation then that is where we should be looking, at putting someone and making sure it is funded.

Vice Chair Kim: The problem is that the state is not allowing us to travel outside the city.

Public Comment:

Dr. Greg Sperber from Pacific College of Oriental Medicine explained how long and some of the steps it has taken to be WASC accredited. It was a 10 year multimillion dollar process. Once you are WASC accredited you are in the same club as the UC schools and the state schools. I think it is out of the realm of most schools. In our field I think there are three regionally accredited schools. We will be the first that is WASC accredited, which is by far the most difficult to achieve. We did not have any options because we are in the state of California so we are the Western Association.

Wedemeyer inquired if it implied that ACAOM is not as good?

Dr. Greg Sperber: No it is not that it is not as good. It just has different criteria; ACAOM is looking at the acupuncture and oriental medicine program and making sure that we are following ACAOM standards. The idea with WASC is that we set up systems and we set up procedures; what they are really about is educational effectiveness and are we constantly improving educational effectiveness. These accreditors are approved by the U.S. Department of Education to make sure their procedures are getting better and they are holding school accountable in a better way. My point is at the CAB level this is all hard-coated into legislation and regulation. And there isn't the expertise that is constant in the educational world to keep improving this approval process like there would be in an accreditor. One of the things working with WASC, they do not care what we are teaching or how we are teaching or what we are teaching as long as we are constantly improving. ACAOM does care what we teach but they are moving towards competencies as opposed to our prescription.

CAB regulations are about our prescription. You will teach this much of this. You will teach this much of that. And ACAOM is moving to competencies, they are not quite there, this is what you need to know. As opposed to talking about ACAOM versus WASC what I would recommend if we go down this route we need to talk to the U.S. Dept of Education approved accreditation agencies so it is broad and if someone else comes in other than ACAOM or WASC.

Hugh Morrison of the National Guild: I would differ with your statement that you are without a mechanism to really assess where you schools are at. You have the CALE results. They are on your web-site. Some schools pass with 40%. Some schools pass with 80%. Now this information has not been acted upon by the Board. It is a very simple tool.

Chair Lee: recommend putting School Approval on the November agenda.

Spencer Walker specified that Post School approval on-site visitations is the way it can be agendized and I can come back with some proposed language to amend this section.

Public Comment: One of the schools noted that the exam results have not been posted for the last year and a half and that it was very important that we see these results. For some reason last February's results were not posted. And the results for the prior exam were not posted as well and as an institution we really need to see what the results are. Obviously we know what our first time test takers are doing. Because we know who they are and what their score is. But, if there are any repeat test takers we have no knowledge of their performance. These stats are really crucial for our school to assess if we need to do some adjustments and some calibration.

9. Board Oversight of Schools:

A. Schools Approval Process (continued)

Bill Mosca CSOMA said the exam results are one area that we have clear data that demonstrates that there is problem. We can look at the pass rates and we do see there are schools that are problematic. In his view, with all due respect to the Board and to the staff that this Board and it's staff does not have the depth of educational expertise to do a rigorous job of checking to see that educational quality exists in these institutions. He suggested going through Dept of Education with a recognized accreditor. ACAOM spends days in the order of a week onsite with four or so site visitors

poring through records, interviewing students, faculty, and staff. They would perform a very rigorous job by comparison to the school approval process that the Board has put in place. I think the Board tried to solve this problem a few years ago when it put forward a potential regulation that would have required not ACAOM but a US Dept recognized programmatic accreditor. That language might be modified to accommodate WASC because WASC is strictly an institutional accreditor. I want to point out that there is no need to contract with ACAOM. When ACAOM comes to do an accreditation part of that accreditation process it makes sure the program is in compliance with all state law in the state in which it resides.

Chair Lee asked Spencer Walker to prepare the language to make sure we are not limited to one agency.

B. Discussion Regarding the Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates:

Chair Lee: I think at the last Board meeting we had some discussion regarding if the school pass rate was 10% below the average pass rate it would be put on probation. One Board member requested 70% pass rate but I think that is too high because our pass rate right now is 66%. So I put this on the agenda for board discussion and public input and how to improve in this area.

Board Member Wedemeyer stated that the mission of the Acupuncture Board is to benefit education, protect the public through regulation of licensure, development of education standards, provision of consumer information, and enforcement of the Acupuncture licensure act. One of the most important job functions is to approve Acupuncture Training Programs so that their graduates are permitted to sit for the California Acupuncture Licensing Exam. The CAB has approved approximately 36 schools, 20 located in California. There are at least seven schools with less than half of their graduates able to pass the CALE. Four of these schools have rates below 40%. CALE pass rates matter because the rate at which graduates of a training program pass the licensing exam is the first and foremost indicator of the quality of their training. Most health care professions including physical therapists, nurses, physician assistants and physicians have pass rates above 85%. Even Licensed Vocational nurses pass at a rate higher than 70%. The average pass rate based on CAB data for acupuncturists on CALE across a decade from 2001 to 2010 was 61%. There is one more issue, the number of graduates from a school that actually sit for the CALE. The CAB should require that that each school on its approved list annually reports the total number of graduates and the number of graduates that took the CALE each year. The threshold of graduates that take the exam should be 85%. Any school with fewer than 85% of graduates who register and take the CALE should be placed on one year probation to achieve the standard. The school may reapply after five years and significant reorganization.

Board Member Weisman: I understand your point. I only have one problem with that. I think that a passage rate of 61% is good because it shows that our test is not that easy. It is a tough test. I think we should be looking at the schools with 40% scores.

Chair Lee suggested that we do it more gradually.

Chair Kim: If we take a look at the list of the schools and how many actually apply to take the test there are many that only send one or two. I am more concerned about these schools and how many students are graduating each year. We usually have school annual reports, status reports, which

9. Board Oversight of Schools:

B. Discussion Regarding the Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates: (Continued)

school is delinquent and which school is on time. I would like to ask for some survey information for the schools in the last three years. How many students graduated and how many of them took the CALE? Let's see if one school had ten graduates and only one of them took the CALE. What are the reasons? He suggested we start with a more reasonable rate and eventually we can move up.

Not to just make dramatic changes but a gradual change with a transitional period and how can we help the schools do a better job at teaching their students?

Chair Lee: At the last board meeting 10 % below the average was proposed as a gradual standard to push up the pass rate. Regarding the graduation; as far as requiring a certain percentage to come here and take the exam. I think we have to consider some students just want to get the US diploma and go to other countries to practice acupuncture. Whether or not they take the exam is up to them.

Board member Brewer: In the August exam last year we had 28 schools that were participating and sending candidates. Of those 28 schools two-thirds of the candidates came from 8 schools. Of those eight schools, those schools had a 75% average pass rate. And those eight schools happen to be the eight schools that frequently show up at these meetings. It is significant that the schools that do show up and do participate in the process have an average pass rate of 75%.

Spencer Walker: I crafted some language this is based on the discussion that was held at the last meeting. He added that as to the distinction between suspend versus probation it will be probation.

Public Input

Bill Mosca California State Oriental Medical Association stated his view this is exactly the same agenda item as we wrapped up earlier. Pass rates should be the data driver of what should be the school approval process. If you find that accredited schools are doing fairly well on the average and non accredited schools are not doing very well on the average. There is your answer, require accreditation as part of this in some fashion. To me the setting of a percentage is worthwhile but is secondary to that issue of accreditation. I would exercise some caution around a moving average. Because as we start to remedy this situation we may find that the pass rates are climbing.

Jacques Moramarco of Emperor College commented on the idea for requiring a certain percentage of graduates to take the CALE. We at Emperor have quite a number of out of state and out of country coming to California. Many people come here because California has the highest standards in the nation. Some of them end up going back to their own state to take the exam so it is very difficult to put a standard on a certain percentage that have to take the CALE. Ten to twenty percent of the students go back to their relative states.

Hugh Morrison of National Guild: The Board's concern is the California licensure act and to help protect the consumers of California. The quality of education has already been determined; the test is valid and reliable. He requested that results for last February's exam be posted. He recommended that the school would not be able to negotiate out of the probation sanction. If it is a trigger that is fine but if the school could beg their way out of it for a couple years it is pointless.

Spencer Walker: I also want to add that there are two other Boards within the Dept of Consumer Affairs that have similar language. The twenty other schools had 66 candidates and of those only 36 passed for a 54% pass rate.

Chair Lee stated that we have had lengthy discussion on this item. Spencer I would like you to work on the language for the next meeting.

Spencer Walker said he would work on the language with some direction as to what the Board wants. First it needs to focus on what it wants to do. Does it want the ability to suspend or place on

probation an approval that falls below the yearly average pass rate during a specific period of time? Or do you want to include a percentage in there?

Bill Mosca suggested one standard deviation below the average.

9. Board Oversight of Schools:

B. Discussion Regarding the Placement of Acupuncture Training Program Approvals on Probation for Poor Pass Rates: (Continued)

Spencer Walker asked Bill Mosca to submit a proposal.

Chair Lee I think our first discussion indicated that if it is 10% below the average that we put the school on probation.

Board Member Brewer I would like the Board to consider taking the pass rate of the schools that we consider to be our gold standard schools. I would not want it to go on for three years; I think two exams in one year is gracious plenty. I think we can hold this as sort of our standard those schools who are achieving a 75% pass rate. That seems like a reasonable standard to me because the folks that are working hard are not going to have an issue. The folks who aren't fall in this 54% pass rate. We are going to have 16 schools on probation and that is probably a good thing. A hard-coated 65% might be a way to get around that. But I would still be worried about something that was hard-coated like that when there might be a difference in mechanism of tests. So the eight schools had a 75% pass rate so we would say 10% below that for 65%. So anyone who stays below that for two examination periods would be placed on probation.

Chair Lee referred this item to the Education Committee with all the input from the public and today's Board Discussion. He suggested the language be brought to the next Board meeting. The Education Committee will have a discussion and look into this item and present their findings then bring it back for a vote.

10. Development of Action Plan to Resolve Sunset Review Issues **Chair Lee** believes that the major role of this Board to clean up within our term the Sunset Review Issues. At the last Board Meeting I requested each of the committees to look at the issues in the Sunset Review Background paper and have a Board Discussion and present plans to the Board to clean up those issues. If I do not hear back from the committees soon the Executive Committee will work with the Executive Officer and go back to each committee regarding each item to be addressed. I want your input as soon as possible.

11. Public Comment on Items not on the Agenda: Bob Naylor of KAOMA: Two bills SB 951 and AB 1453 that are pending will designate Kaiser as the small group benchmark plan for California. What that means is starting in 2014 all the benefits covered by that plan have to be offered by all individual and small group health policies in California. Acupuncture is included in the Kaiser small group plan for pain and nausea. So in effect, because the national health care plan was upheld by the U.S. Supreme Court and because California must designate essential health benefits we have an acupuncture mandate going into effect in 2014 in California.

12. Future Agenda Items: Chair Lee requested for Board members to e-mail them to him and Ben.

13. Closed Session to Deliberate and Take Action on Disciplinary Matters.

14. Closed Session to interview candidates for the Executive Officer position and selection and appointment of the new Executive Officer.

15. Meeting Adjourned