STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
CALIFORNIA ACUPUNCTURE BOARD
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Approved

ACUPUNCTURE BOARD MEETING MINUTES

California State Capitol

FULL BOARD MEETING

November 18, 2010

Members Present
Robert Brewer, Public Member, Chair
Charles Kim, Public Member
Anyork Lee, L.Ac,
George Wedemeyer, Public Member
Paul Weisman, Public Member
Nancy Carroll, L.Ac.
Frank He, L.Ac

Staff Present
Janelle Wedge, Executive Officer
Spencer Walker, Staff Counsel
Christie Loftin, Examination Coordinator
Kristine Brothers, Enforcement Coordinator
Benjamin Bodea, Education Coordinator
Benjamin Bodea, Administrative Technician

Guest List on File

1. Call to Order and Establishment of a Quorum

Quorum established. Meeting called to order at 9:36Am

2. Chairs Report

a. Introduction of New Members

Members Nancy Carroll and Frank He introduced themselves to the public as the two new licensed members.

b. Announcement of Blue Ribbon Panel

Moved to after Enforcement Business

Chair Brewer announced that the new Panel will consist of five members with Chair Brewer as the moderator. The Panel consists of Ted Priebe, Bill Mosca, Jack Miller and Elizabeth Goldblatt. This group will fall under the Public Meeting Act and he is working with the Department to host the panel through telepresence/conferencing. Member Kim asked when will the Panel have something to report to the Board. Chair Brewer anticipates meeting before the next Board Meeting where in the topics and timeline will be discussed. This can be brought to the Board at the next Board meeting. Neal Miller stated that the panel seems too small to offer a wide enough perspective or background.

3. Executive Officer's Report

a. Board Update

Executive Officer Janelle Wedge welcomed the new members and informed them of the Board member orientation. She also indicated that the current Education Coordinator, Cathy Hardin, has taken a

promotion with the Department of Education. With governor Schwarzenegger's hiring freeze is still in effect, only current department employees can apply for the position.

b. DCA Update

The Boards Retroactive Fingerprinting Regulations were approved by the Officer of Administrative Law on September 23rd and became effective on October 23, 2010.

Currently the Board is charged $1.50 sq for approximately 3100 sq. ft. at the new location at DCA Headquarters the Board will be charged approximately $2.25 a sq. ft. for approximately 3500 square feet. A significant increase for rent as well as the relocation costs.

The Board will be kept updated on the transition to the new administration.

c. Budget Update

The state now has a budget which included a reduction in personnel services for state agencies, including workforce cap plan by 5% reduction in our personal services line item, a Personal leave date for each employee once a month resulting in a 5% employee payroll reduction, state workers will contribute an additional 3% to their pension benefits and Furlough Fridays have ceased beginning November 2010. The Workforce cap will require a reduction in staff for 2011-12.

4. Directors Report

Kimberly Kirchmeyer informed of the Board of the budgetary changes in the department. She noted updates on the Consumer Protection Enforcement Initiative. Performance measurement data has been collected and will be posted on the Department's website by November. They will be posted quarterly. The department urges the Board to move forward with the regulation changes currently discussed by the Board. The Breeze system will be going online by December 2012 which will have improvements in form standardization, data conversion and reports as well as allow the licensees and the public to process transactions online. The department urges the board to webcast their Board Meetings if possible. Chair Brewer asked if exam data be a part of the upgrades to BREEZE. Kimberly Kirchmeyer affirmed.

5. Approval of the August 19, 2010 Meeting Minutes

Corrections were brought to the Board's attention and noted to be reflected before posted.

CHARLES KIM MOTIONED TO ADOPT THE AMENDED MINUTES . FRANK HE SECONDED. 5 – 0 – 0. MOTION PASSED.

6. Legislation Update

a. SB 294 (Negrete McLeod): Changes Sunset Review Dates for Boards. Signed by the governor extending our sunset date to January 2015.

b. AB 2699 (Bass) – Healing Arts: Licensure Exemption: Provides exemption until January 1, 2014 for out of state licensees for sponsored events if cleared with their respective Boards.

c. Legislative Submission Deadline - Dec 3, 2010

7. Education Business

a. Update Pending School Applications

No updates.

b. Dong-guk University, California

Dong-guk University agreed to do a teach out when Samra University closed as well as making some agreements with students that didn't fall under the teach out allowing them to finish. Letters from the students express that they do not believe they are getting the deal they were promised, especially the English speaking students. Reviewing their letters merited that their concerns should brought to the Board. Representatives from the University have been informed and are in attendance today.

TJ and Mike Kim introduced themselves stating that they started October 1 and November 1 of this year respectively. The president of the school is also in attendance. Chair Brewer asked that the President of the school address the Board as well. Mike Kim responded that the President also started on October 1, appointed by the schools Board in South Korea. Chair Brewer asked if anyone from the original administration was left at the school that were familiar with the curriculum transfer to make sure that the curriculum was taken care of. Mike Kim replied that his report is based on his experience over the last two weeks at Dong-guk, Los Angeles (DULA), the school has honored the teach out program for the students who have 45 credit units. TJ shared that Dr. Yi Di So (?)and David Lee have been terminated and the program director Dr. Nathan Anderson resigned after three days in his position. DULA has attempted to keep staff from SAMRA with two still employed. One hundred and fifteen students came to DULA with twenty being in the teach out. David Lee, former provost of Samra, remains with DULA and is the counselor of the doctorate program and helping with the MSOM. TJ noted the contract with Samra students. If the student had 45 units left then they are teach out students and if they are over they are transfer students. TJ circulated the contract to the Board. Chair Brewer asked TJ to address why the students feel their contracts aren't being addressed. TJ noted that the former English Program Provost was demoted was because Ms. Yeiji So had been absent from DULA for two semesters. None of the transfer credit was inputted into the computer and there was a verbal agreement between the former director and the Samra transfer students but no written document. TJ believes it was beyond her authority to make promises and the new administration agreed. Chair Brewer indicated that as Program Director it seems totally within her power to engage in agreements. TJ responded that regardless of the promises the previous director made, he has been honoring all the promises that have been made. Transfer credit evaluations have been completed. Member Lee asked about the transcript discrepancies. TJ responded that this if students ask for their transcripts prior to the instructors submitting the scores then transcripts must be issued without that specific data.

Chair Brewer stated that there were many complaints and as such what process has DULA put in place with the students to make sure all their concerns, needs and complaints are met. Mike Kim responded that he is holding an open forum next week with these students. Chair Brewer asked that the board be informed on how these needs are being addressed and how DULA continues integrating these students into the DULA student body, especially in the English Program. Mike Kim addressed that more than 40% of the English Program instructors will have English as their primary language. Chair Brewer requested that DULA come back to the Board's next meeting. He also asked that DULA submit a report by the end of January that addresses all the issues brought before the Board today. Member Weisman stressed that the issue of transcript discrepancies need to be a priority. Member Wedemeyer asked that after this issue is resolved that the Board engage a review of the school. Member Lee asked that the Board look into DULA's documentation of their records after the school has resolved this issue. Member Kim stated that contracts need to be honored and that the clinic director needs to be able to communicate with the English Speaking students. Chair Brewer agreed that a review of the DULA program after this issue is resolved would be beneficial. Member He asked that DULA have a clear hiring policy for instructors/staff. Member Wedemeyer asked if DULA has heard from ACCAOM anything about this. TJ responded no.

Yeiji So, former Provost at DULA, introduced herself and stated that she had not been dismissed but is currently on official leave of absence as advisor to the president, indicating that there does seem to be a miscommunication issue with the new administration at DULA. She originally brokered the deal with the Samra students and offered to answer the Board's questions. Chair Brewer asked why she no longer has that position. Ms. So was not able to respond but stated that the Board will receive a written response and in the meantime she will see that the students issues will be resolved. She noted that she doesn't currently have much academic input. Member Kim asked what the academic differences were between Samra and

DULA. Janelle Wedge noted that there were very few differences with only three courses have any notable differences. Janelle asked when Ms. So is expected to return. She replied that she will be leaving for Asia the following week but will return in February. Chair Brewer asked what DULA needs to do to ensure these changes are carried out. She responded that a detailed discussion with the president about curriculum will need to take place and she'll assist the president in this matter. Dr. Goldblatt noted that teach outs can be complicated but there will always be agreements and that the students should have received a copy and that ACCAOM should have been sent copies of this as well. Ms. So stated that the written teach out agreement is available on the ACCAOM website. Janelle Wedge responded that it wasn't the students from the teach out that were an issue but those students who didn't fall under that teach out agreement. Chair Brewer asked if DULA had this agreement on them. Ms. So replied no. Chair Brewer asked that the Board be provided a copy of that agreement. He stated that ACCAOM will be contacted and the Board may need to meet with the new administration prior to the next Board Meeting

c. Continuing Education Classes

Hugh Morrison of the National Guild approached the Board to discuss the approval of content matter of Continuing Education consistent with B&P code 4926 and 4927. He shared a list of some of the most outrageous titles, including Reiki, hypnotherapy, medical astrology, herbal medicines. He contends that the Board has not used its power to critically review this content matter which threatens the profession. Mr. Morrison urges the Board to protect the public by re-examine the methodology by which it determines compliance with Category one guidelines and further clarify what category one guidelines are. Mr. Morrison brought the example of bloodletting to the Board's attention. Chair Brewer asked if this was a CE Course. Mr. Morrison responded yes. Chair Brewer asked if there is a historical precedent for bloodletting with the practice of Acupuncture. Board Counsel Spencer Walker noted that bloodletting was not within an Acupuncturist's scope of practice. Chair Brewer stated that the topic is then about the content matter of CE courses and how it informs the practice. Member Wedemeyer shared that he spent time with Janelle Wedge looking at some of these courses. Janelle Wedge stated that she is working closely with Spencer Walker to establish proper guidelines and will do so with the future Education Coordinator. Chair Brewer noted that CEUs are under the direct purview of the Blue Ribbon Panel and will be discussed there. Ted Priebe shared criteria content that the Work Comp committee and other organizations use to approve courses in their field. Member Kim asked if this discussion will be held in the Blue Ribbon panel if the matter can be tabled for the future. Neal Miller noted that there are courses out there that would benefit the profession but that the organizations are not applying for approval. Bill Mosca agreed that though there are some problems with some of the courses approved it's not as large as presented and there is nothing saying that CE content has to stay within the scope of practice and using that as the standard is far too restrictive. Liza Goldblatt stressed that the Board should be careful about swinging too far into a restrictive position and that there are historical precedents that should not be forgotten.

8. Examination Business

a. August 10, 2010 Exmination Statistics

Christie Loftin, Examination Coordinator, presented the Board with the statistics. She was made aware that the school statistics have some corrections needed and the Board will be updated on that. Member Kim asked if the Board can start on legislation limiting the number of times one can take the Licensing Exam. Janelle Wedge responded that she will contact the Legislative office. Hugh Morrison asked if the Board if it was still considering pursuing review of schools whose students have low pass rates. Janelle Wedge replied that the Board does look at that but the schools fluctuate in terms of their pass rates and when taking just first time takers into account the numbers are above 50%. She added that school statistics can be problematic as a marker since some schools will only have 3 students taking the exam. This can be misleading. Liza Goldblatt recommended a statutory change that if a student fails five times,

they would be required to take more classes or engage in the tutorial program for six months before testing again.

b. February 10, 2011 Examination

The exam will be held in Ontario, CA. Letters have been sent out to the examinees.

c. Herb/Formula List

Janelle Wedge brought the list back to the Board with the Korean translation Member Kim had asked be included on the list. Once the SME's had reviewed, some concerns were raised about the new list. Dr. Chen is here to address the Board's questions. Member Kim noted a mistranslation of an herb into Korean. Janelle Wedge stated that two Korean SME practitioners reviewed the translations. Dr. Chen noted that most of the glaring errors have been corrected. The Board is left with finding the most commonly used name. Practitioners will recognize the name despite its specific translation. Janelle Wedge shared that it's too late for the new list to be incorporated into the August 2011 exam. A student shared that the new herb list is being published on the website for the study guide for the February 2011 exam. Chair Brewer stated that the Board will look into the matter and make the necessary changes. Janelle Wedge asked the Board if they would like to adopt the new list. Chair Brewer asked Dr. Chen about the SMEs concerns. Dr. Chen replied that the PPRC (Pharmacopeia of the People's Republic of China) is the standard used for the naming of herbs but the SMEs are requesting to change the names to their more traditional names. Dr. Chen has been made aware of the concerns the SMEs had and endorsed the use of PPRC standard and stands by the changes to the list. Mr. Mora Marco stated that schools need a transition time to adapt to the new changes to the list into their courses. Member Lee replied that this list is not new but including small changes. Bill Mosca addressed that there seems to be a disconnect between academics and SMEs and that the Board take a careful look at the exam process and get input from educators/academics with out compromising the exam.

d. Clinical Exam

Member Lee stated that the Clinical Exam was stopped in 1999 but some in the profession has raised the concern of no longer offering it. He noted that the Board did discuss in the past the issues and that a list of ways to improve it has been made. Liza Goldblatt suggested that this topic be relegated to the Blue Ribbon Panel since in the past the trouble with the exam is that it's highly subjective and legally challenging to uphold. Greg Sperber noted that the clinical exam can stand as a barrier to entry into the profession. Neil Miller noted that most schools will claim that the clinical portions are best tested by the schools. He then stressed that there should be a standard that the Board uses to insure consumer safety. It's not necessarily a barrier to entry if it helps protect the public. Bill Mosca asked for data to support the use of a practical exam.

9. Enforcement Business

a. Enforcement Case Report

Enforcement Coordinator Kristine Brothers presented the report to the Board. She also presented the Board with the monthly report that is reported for the CPIE. Member Kim asked about the high number of citations awarded for the CE Audits. Janelle Wedge replied that it's sometimes the fault of the providers incorrectly advertising that the course was approved. Member Kim replied that roughly one in four is still a high number. Chair Brewer noted that licensees are becoming aware that we are keeping watch. Member He noted that he is a provider and that the Board communicates the requirements. Bill Mosca shared that he feels the problem lies largely with the providers and their compliance with the specific requirements for advertisements are really low and something that the Board should address. Chair Brewer asked if the Board requests a copy of the advertisement. Janelle Wedge responded yes. Bill Mosca suggested that providers send us a copy of all their communications they put out or the statements that will be used. Chair Brewer encouraged the public and practitioners to submit any problematic advertisements

to the Board. Member He suggested that a panel staff and licensees be setup to review CE courses with at least three members to review the questionable courses.

b. Possible Statutory Changes Concerning Scope of Practice for Acupuncturists

Chair Brewer stated that this will be dealt with under the Blue Ribbon Panel.

10. Set 2011 Acupuncture Board Meeting Dates

February 24, 2011 will be held in San Diego. May 18, 2011 will be held in Orange County or Los Angeles. August 25, 2011 and November 17, 2011 will be held in Sacramento.

11. Future Agenda Items

Neal Miller brought up discrimination in L.Ac's carrying out disability evaluations in the Work Comp system. Greg Sperber asked to discuss educators being SMEs. Jacque Mora Marco asked for a review of the new Booklist. James Kim asked to talk about dry needle technique and how other professions are trying to take the needling modality. James Kim also asked for more data on matriculation to graduation to practice. Benjamin Deerhoff asked to expand the reference book list and also not making that list public. Philip Yang asked that the Board bring Nine Star University's application be brought before the next Board Meeting. Member Kim asked that the school application process be reviewed especially how soon a school can reapply if fails. Sunny Kim asked that Golden State University Application be considered. She also asked for cupping and moxibustion used outside of the Acupuncture profession to be placed on the Agenda. Kyung Hee Lee('s license status?) asked to be placed on the agenda.

12. Public Comment Period

Neal Miller reiterated the Board reconsiders the size of the Blue Ribbon Panel, as well as including a member of the Asian community. Liza Goldblatt that the timeline that the Blue Ribbon Panel decides on may take a little longer to develop once the group gets together. She also mentioned some changes to the health law that would prohibit discrimination of the use of the different healthcare practitioners. Hugh Morrison stressed the importance of practitioners be able to communicate with the rest of the health care professions.

CLOSED SESSION

13. Pursuant to Government Code Section 11126(c)(3) the board will convene in closed session to deliberate and take action on disciplinary matters.

OPEN SESSION

14. Announcement from Closed Session and Adjournment

Chair Brewer stated that the Board came to a decision during closed session and with no further business the Board meeting is adjourned at 5:00.