



NOTICE OF ACUPUNCTURE BOARD MEETING
Approved Meeting Minutes for

February 26, 2016

**1747 NORTH MARKET BOULEVARD, FIRST FLOOR HEARING ROOM
SACRAMENTO, CA 95834**

The Board plans to webcast this meeting on its website at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

<https://thedcapage.wordpress.com/webcasts/>

Board Members Present

Michael Shi, L.Ac, Licensed Member
Hildegarde Aguinaldo, President, Public Member
Jamie Zamora, Vice President, Public Member
Kitman Chan, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Dr. Michael Corradino, DAOM, Licensed Member

Legal Counsel

Tamara Colson

Staff Present

Terri Thorfinnson, Executive Officer
Van Martini, Office Technician

FULL BOARD MEETING - 9:00 a.m.

1. Call to Order and Establishment of a Quorum

2. Opening Remarks

President Shi welcomed everyone to the first Board meeting of the year.

3. President's Report

President Shi reported that he had been very busy focusing on his clinical work. It had been three years since he came on board, and he noted a vast improvement of work that the office

Acupuncture Board Members

Michael Shi, L.Ac, President, Licensed Member
Hildegarde Aguinaldo, Vice President, Public Member
Kitman Chan, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Jamie Zamora, Public Member
Dr. Michael Corradino, DAOM, Licensed

and the staff had accomplished. He added that there was still a lot more work to be done and improve to make this Board even stronger than the past three years. He thanked the Board

Members and the public for their continued service to the Board. However, due to his commitment to the clinic, he resigned from his post as the President of the Board and from the full Board effective immediately.

5. Election of Officers:

President Shi moved to have the Election of Officers agenda before the Executive Officer's Report schedule. Member Kang seconded the motion.

• President

Member Zamora nominated member Aguinaldo as the President. Member Kang seconded the nomination. Member Chan appointed President Shi to be the President again, and Member Hsieh seconded the nomination. President Shi declined the nomination.

- Members Chan and Hsieh voted No, Members Zamora, Aguinaldo, Kang, and Dr. Corradino voted Yes. President Shi abstained. Total Vote: 4 Yes, 2 No, 1 Abstain.
- Member Aguinaldo accepted the nomination to be the new President of the Board.
- Member Zamora thanked the outgoing President Shi for his hard work for the Board in the past three years even though the Board was not fully staffed at times. Elected President Aguinaldo acknowledged that outgoing President Shi "*left a very big shoe to fill*". She is very excited to be following his enormous role and responsibilities as the President of the Board.

• Vice President

Dr. Corradino nominated Member Kang to be the Vice President of the Board. Member Zamora nominated himself to be the Vice President. Former President Michael seconded Member Zamora's self-nomination. Member Hsieh nominated Member Chan to be the Vice President.

- First vote for Member Zamora as Vice President: Members Shi, Chan and Zamora voted yes. President Aguinaldo abstained. Members Hsieh, Kang and Dr. Corradino voted no. Total Vote: 3 Yes, 3 No, 1 Abstain.
- First vote for Member Kang as Vice President: Members Shi, Chan, Zamora and Hsieh voted no. President Aguinaldo abstained. Members Kang and Dr. Corradino voted yes. Total Vote: 2 Yes, 4 No, 1 Abstain.
- First vote for Member Chan as Vice President: Members Shi, Zamora and Kang voted no. Members Chan and Hsieh voted yes. President Aguinaldo and Dr. Corradino abstained. Total Vote: 2 Yes, 3 No, 2 Abstain.

There was no majority vote, and this election was by a majority, so a candidate needed four votes for Yes to become Vice President. The election repeated until one candidate has a majority vote. There was no candidate volunteering to drop out of the Vice President election. A second roll call proceeded.

- Second vote for Member Kang as Vice President: Members Shi, Chan, Zamora and Hsieh voted no. President Aguinaldo abstained. Members Kang and Dr. Corradino voted yes. Total Vote: 2 Yes, 4 No, 1 Abstain.
- Second vote for Member Zamora as Vice President: Members Shi, Chan, Zamora and Hsieh voted yes. Member Kang voted no. President Aguinaldo and Dr. Corradino abstained. Total Vote: 4 Yes, 1 No, 2 Abstain.
- Second vote for Member Chan as Vice President: President Aguinaldo, Members Shi, Hsieh and Dr. Corradino abstained. Members Kang, Chan and Zamora voted no.

Total Vote: 0 Yes, 3 No, 4 Abstain.

Member Zamora received the majority of the votes and elected Vice-President of the Board.

4. Executive Officer's Report

- **Staff Update**

EO Thorfinnson informed that the office was staffed with all the authorized positions. She had no plans on filling the vacant seasonal clerk position due to the budget constraint.

- **Budget Update**

EO Thorfinnson reviewed and addressed the significant costs that drove the final numbers of the Budget Report closer to a margin than the projected budget. She reminded the Board of the one-time occurrence of the Occupational Analysis and the NCCAOM Exam Audit expenditures. She also reported that the Enforcement Fund is rapidly rising due to the Attorney General cost, and the increase of DOI activities. The budget was calculated based on the total trend usage of the previous two years for future budget projection. Hence, it is harder to manage in real time. DCA Budget Officers gave an overview of how the budget proposal process work. A concept paper is sent out in the spring asking the agency about their planned workload and projected cost. The Budget Officers will work closely with the staff on the Budget Change Proposal to meet the July deadline. This Budget Report remained confidential until it reached to the Governor's desk, and will be released in January timeframe. The Budget Officers confirmed the Board's concern regarding the CAB fund reserve to be in safe standing between 3 to 24 months. President Aguinaldo requested EO Thorfinnson to include a projected calendar of meetings with stakeholders, hearings, or significant events that the EO attended in the next report for the Board members to gauge her attendance and involvement in the community. Also, the Board members can maintain their calendar as well as having expectations of what come up every year.

- **Exam Update: Audit of NCCAOM exam, March Exam 2016**

EO Thorfinnson informed the Board that the Audit of NCCAOM was completed, and there would be presentation on that for Agenda Item 7. The next scheduled California Licensing Examination was March 16, 2016, in Ontario, CA.

- **Enforcement: Data Report**

EO Thorfinnson reviewed the Budget data and charts to clarify the results of complaints received versus closed. Concern was raised regarding a quarterly report versus annual report update. The Executive Officer pointed out that the quarterly report would not reflect the actual number of cases closed when these cases were carried over from other previous reports. The fiscal year update showed a better picture of the caseload that the staff worked on. She highlighted a big public safety issue regarding the significant invisible caseload for the Board, which was the number of unlicensed or unregistered licensees who practiced without their licenses. Since the Board does not have jurisdiction over unlicensed acupuncturists, the staff can only give out citations instead of the formal disciplinary actions route. Concerns were raised over the 1,142 days of average processing time for formal discipline trends; EO Thorfinnson reminded the

Board that these cases only applied to cases that go to hearing or stipulated settlement for final board decision; the report does not measure cases that do not go to final discipline which are the vast majority of the cases. Additionally, these cases were more complex and required more investigation time. Also, the higher number of days is attributed to time the cases spent at the Attorney General's Office waiting for a hearing. Therefore, not every case takes over 1000 days to process, only the complex or backlogged cases. A question was raised regarding the relation of the original convictions versus complaints, EO Thorfinnson explained that most of the convictions reports came from fingerprints results, and the complaints were randomly reported when the public would take the time to file for it via the Board's website. There were no known statistics of how many cases were convictions versus complaints unless the staff takes inventory of the locked up confidential files.

- **Regulatory Update**

Uniform Standards Related to Substance Abuse (SB 1441) was completed and submitted with Legal Counsel for approval. Standards for the Approval of Education Training (SB 1246) would be completed pending the approval of the November 17, 2015 meeting minutes on the later agenda. Sponsored Free and Health-Care Events (AB 2699), and Display of Licensure (BPC 138) packages were pending final approval by DCA and Agency. Prostitution enforcement, Advertising guidelines, and Continuing education ethics requirement packages were pending in terms of drafting by staff.

- **Legislative Update**

EO Thorfinnson informed the Board that since the new bills do not come out until June 2016, she included the list of current bills so the members can see which bills passed or did not passed.

6. Approval of Board Meeting Minutes for:

- **November 17, 2015**

Vice President Zamora identified a few typos on page 3 of the minutes. Legal Counsel Colson changed the wording "*convene*" to "*commence*" in paragraph 9. She also added "*The Board considered the Education Committee recommendation that the same curriculum standards should be utilized for all licensees regardless of where their education and training was received.*" to paragraph 10. First bullet point in paragraph 12 sentence "*Business and Profession Code*" was changed to "*California Code of Regulations, Title 16*". Vice President Zamora made the first motion to approve and withdrew.

- Vice President Zamora moved to approve the Board Meeting minutes 11/17/15 with the revision discussed at the meeting.
- Dr. Corradino seconded the motion. President Aguinaldo, Vice President Zamora, Members Chan, Shi, Hsieh, Kang and Dr. Corradino voted yes. Motion passed 7-0.

7. Consideration and Possible Action Related to Results of the Audit of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) exam

Legal Counsel reminded the public that the redacted sections in some of the audit report were necessary to protect information that the National Exam deemed confidential and typically not

made available to the public. Raul Villanueva, M.A. presented the review of the National Certification Commission for Acupuncture and Oriental Medicine Examinations (NCCAOM) report. He gave an overview of the result of the report, highlighting the differences between the NCCAOM and the 2015 California Acupuncture Occupational Analysis report. Various concerns were raised regarding itemized areas not covered in the NCCAOM Exam listed on page 34 of the report. It was noted that these were only a sample of questions given to the auditing Team and not a representation of the complete exam. It was also suggested that other Boards who use the National Exam included a California Supplement Exam that was tailored specifically to California Laws and Ethics. The focus on an Adaptive Model (CALE) versus a Linear Model (NCCAOM) of exams was also heavily discussed emphasizing on “recall versus application” model.

Various public comments in support of the NCCAOM Exam included:

- NCCAOM offers flexibility and financial stability where candidates can minimize the wait time for the biannual CALE.
- The modular model gives accessibility for students to have the option of taking the exam before graduation. This option shortens licensing time and increase earnings stability.
- The modular design gives the student the best focus to do the best care they can.
- Chinese Herbal Medicine area of CALE is inadequate and creates a public safety concern.
- Adopting NCCAOM with the California Supplement Exam (Option #4 of the audit report).
- Addressing the frequencies and expenses of taking the CALE.
- NCCAOM exam offers flexibility and opportunities for licensees to practice out of California.

A few comments encouraged the Board to keep the focus on CALE where California laws and ethics were designed to protect the public. One public comment suggested adopting the CALE as the National Standard to save California from having to offer the exam, thus minimizing personnel costs and would raise the National standard to California standard.

The Board met in Closed Session to hear and discuss the confidential content of the NCCAOM examination audit with staff of the Office of Professional Examination Services.

- President Aguinaldo moved to direct staff to work with OPES to discuss with NCCAOM to get more information on the Occupational Analysis Exam Development passing scores and exam scoring, and obtain more information for our next board meeting.
- Vice President Zamora seconded the motion. President Aguinaldo, Members Chan, Hsieh, Kang, Zamora and Dr. Corradino voted yes. Member Shi abstained.
Motion passed 6-1.

8. Consideration and Possible Action Related to:

- **Implementation of SB 1246**
- **Impacts of the Changes to Business and Professions Code sections 4927.5 (regarding approved education and training program), 4939 (regarding standards for educational training and clinical experience received outside of the United States), 4938 (requirements for licensure), and 4944 (investigation and evaluation of applicant and school) Effective January 1, 2017**
- **Proposed Legislation Related to Adding a Provision to Business and Professions Code section 4927.5 Regarding Status of Approved Education and Training Programs Approved by the Board Prior to 2017**

EO Thorfinnson explained the technical issues with implementing SB 1246 where there would not be “Board Approved Schools” hence jeopardizing the schools or curriculums eligibility status of applicants. This proposed language will give the provisions for a smooth transition to fully implementing SB 1246. There were no public comments.

- President Aguinaldo made a motion to approve the proposed amendment regarding Business and Professions Code Section 4927.5 with the word “it” change to “its” and direct staff to work with the legislature regarding the proposed legislation.
- Member Chan seconded the motion. President Aguinaldo, Members Chan, Hsieh, Kang, Zamora and Dr. Corradino voted yes. Motion passed 6-0.

9. Consideration and Possible Action Related to Proposed Legislation Related to Approval of Foreign Credential Evaluators

EO Thorfinnson stated that this proposed language would give the Board the authority to promulgate regulations related to how the Board would develop the curriculum and the approval process to evaluate what standards the Foreign Credential Evaluators have in place for verifying foreign equivalency training programs. A public comment questioned how the Board plans to choose the Agency. Legal Counsel verified that the Board does not choose any particular agency, but the Board has the ability to require the applicant to submit documentation to a credential services approved by the Board. And there would be criteria for the Board approval for credential accreditation services.

- Member Chan made a motion to have the Board approve the proposed statutory language and direct staff to work with the legislature regarding the proposed legislation.
- Dr. Corradino seconded the motion. President Aguinaldo, Members Chan, Hsieh, Kang, Zamora and Dr. Corradino voted yes. Motion passed 6-0.

10. Consideration and Possible Action Related to Legislature’s Sunset Review of Board

EO Thorfinnson informed that the Board has a schedule for the Sunset hearing on Mar 14, 2016. The Board will be receiving the background papers to make the corrections before the meeting. Legal Counsel verified that the Board president can decide who attends the meeting as a public member. There were no public comments.

11. Public Comment for items not on Agenda

Various requests for items not on the agenda included:

- A trend of “Transitional DAOM” degrees surfaced where the public needs to be aware that these degrees lack the traditional credentials required for a postgraduate Doctor of Acupuncture of Oriental Medicine.
- The Board needs to enforce the licensees to disclose their degrees accurately and ethically.
- A request to explain the process and definition the Board uses to define a substantive change to the curriculum for previously approved school to warrant submitting a new school application.

12. Future Agenda Items.

- Dr. Corradino requested to have Doctor credentialing, the disclosure of licensees Degrees and Transitional degrees on Future Agenda Items.
- Dr. Corradino suggested having Dry Needling topic addressed.
- EO Thorfinnson suggested a presentation on a North Carolina case that affected public Boards.
- Member Kang requested to do The Executive Officer evaluation.

Public comments on Future Agenda Meetings included:

- The unethical practice of commerce and education offered by CEU providers in exchange for certain products like herbs.
- State Licensure titles that were not academic titles were being used in California. This practice was deceiving to consumers.
- The teaching of Buddhism and Acupuncture claiming to be able to eliminate family karma based on pulse readings and needling acupuncture points. What is the Board process for approving CEU providers?
- Renewal of CPR certificate when renewing licenses.

CLOSED SESSION

- 13. Pursuant to Government Code section 11126(c) (1), the Board will meet in closed session to discuss the results of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination audit with staff of the Office of Professional Examination Services.**

The Board met in Closed Session to hear and discuss the confidential content of the NCCAOM examination audit with staff of the Office of Professional Examination Services.

- 14. The Board will meet in closed session to hear and discuss the contents of two investigation reports concerning complaints or charges filed against a board employee pursuant to Government Code section 11126(a) (1) and (a) (2).**

OPEN SESSION

- 15. Adjournment – 5:00 p.m.**

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

**THE AGENDA, AS WELL AS BOARD MEETING MINUTES, CAN BE FOUND ON THE
ACUPUNCTURE BOARD'S WEBSITE AT**

www.acupuncture.ca.gov

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