



CALIFORNIA ACUPUNCTURE BOARD
1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

**California Acupuncture Board
Full Public Board Meeting
Approved Meeting Minutes
Friday, June 10, 2016**

Junipero Serra State Building
Carmel Room, First Floor
320 West Fourth Street
Los Angeles, Ca 90013

Board Members Present

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

Legal Counsel Present

Kelsey Pruden

Staff Present

Ben Bodea, Acting Executive Officer
Kristine Brothers, Enforcement Coordinator
Jay Herdt, Education Coordinator
Marc Johnson, Policy Coordinator

Acupuncture Board Members

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

FULL BOARD MEETING - 9:00 AM

Agenda Item #1 – Call to Order, Roll Call and Establishment of a Quorum

Hildegarde Aguinaldo (Aguinaldo), Board President, called the meeting to order at 9:00am. Marc Johnson (Johnson) called the roll. Aguinaldo – present; Zamora – present; Chan – present; Corradino – present; Hsieh- present; Kang – present.
Quorum established.

Agenda Item #2 – Reports

a. Executive Officer's Report (Bodea)

Acting Executive Officer Ben Bodea (AEO Bodea) gave his report to the Board.

i) Sunset Review Hearing: Update

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AEO Bodea summarized the Board's Sunset Review hearing, which was held at the State Capitol on March 14, 2016. He noted the presentation was well received by the Sunset Review Committee, and also noted Senator Bates had requested a progress report from the Board, due in March 2017.

ii) ACAOM update

AEO Bodea reported on the ongoing work with ACAOM. He noted Board staff and ACAOM staff has had regular communications since March and also participated in reciprocal site visits in May. He further noted the Board and ACAOM will continue to cooperate to ensure quality acupuncture training and education.

iii) BPPE update

AEO Bodea gave an update on the Board's work with the California Bureau of Private Postsecondary Education (BPPE). He noted that Board staff met with BPPE staff on April 7, 2016, and that communication between the two organizations continues.

iv) Budget Update

AEO Bodea reviewed the Board's Budget. He noted that the Board is projected to be within its budget for this fiscal year, and that Board staff has been regularly meeting with DCA's budget office to properly assess Board needs. Board Member Kitman Chan (Chan) commented that the Board should emphasize more ways to generate revenue. Vice President Jaime Zamora (Zamora) asked why the Board is in the red for the current year; AEO Bodea replied that the audit for the NCCAOM exam and ongoing costs of the CALE were driving costs higher.

President Aguinaldo assigned the Executive committee to make a further investigation as to the areas in which the expenditures and revenues could be improved upon, with the recommendations come back to the full Board.

v) March 16, 2016 Exam Statistics

AEO Bodea reviewed the statistics for the March 16, 2016 California Acupuncture Licensing Exam (CALE). He noted the first time test-taker pass rate was 71%, and the repeat test-taker pass rate was 56%, and that a complete breakdown of the results was available on the Board's website.

vi) Sale of Needles – Regulated by Board of Pharmacy

AEO Bodea noted there has been a number of letters and emails to the Board from schools regarding the sale of needles to students. He noted the sale of needles is regulated by the California Pharmacy Board, and the Pharmacy Boards considers schools that sell needles to their students as a wholesaler under the law. Board Member Jeannie Kang (Kang) asked why the Pharmacy Board regulates the sale of needles and the history of the regulation. Legal Counsel Kelsey Pruden (Pruden) replied she would research the issue and report back to the Board.

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vii) Future Stakeholder Meetings

AEO Bodea announced a new survey, designed for professional associations and Acupuncture schools, to complete and return to the Board. The survey, which is completely voluntary, will be available on the Board's website. He noted the survey will help the Board increase outreach and bring more voices to the table.

Public comment was taken on the EO report. One comment referred to the sale of needles and the difficulty of obtaining a wholesaler license from the Pharmacy Board. Another comment noted that an advertisement from a needle supplier was sent out to licensees referring to the issue; Board Member Kang asked for a copy of the advertisement to be sent to Board staff.

b. Enforcement: Performance Measures (Brothers)

Enforcement Coordinator Kristine Brothers (Brothers) gave the Board's enforcement statistics for quarter three January through March 2016.

President Aguinaldo asked about CE Audits. AEO Bodea answered the current CE Audits were still ongoing, although the process has slowed down due to staff vacancies. President Aguinaldo also asked that future Enforcement reports presented to the Board include CE audit statistics.

Board Member Chan asked about making improvements to the CE provider process, specifically making more stringent requirements for CE providers and requiring them to be more proactive in providing the Board more information. AEO Bodea agreed and noted we could have this as a future agenda item.

There were no public comments made on this item.

c. Legislative and Regulatory Update (Johnson)

Johnson provided the Legislative and Regulatory update to the Board.

i) Discussion and possible action on legislation (Board Action)

Johnson reviewed the bills with the Board and specifically noted the Board's Sunset Bill, AB 2190. The bill has not been set for hearing in a policy committee yet, and amendments, if any, to the bill would be introduced in the policy committee. Vice President Zamora discussed the process of the Sunset Bill and noted AEO Bodea's progress in developing a relationship with the Legislature.

*MOTION: Vice President Zamora made a motion to support the bill, in its current form, and direct staff to draft a letter supporting the bill to the Assembly B&P committee. Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***



Public comments made strongly supported the work of the current Board.

ii) Update on Regulations

Johnson gave an update on the Board's current regulatory packages, highlighting the SB 1246 regulatory package. He noted the importance of this package, since it is implementing the Board's Sunset Bill. Vice President Zamora asked about implementation deadlines for SB 1246, and noted the Board may need to have a special Board meeting for regulatory implementation of SB 1246.

No public comment was made on this item.

Agenda Item #3 – Approval of Board Meeting Minutes (Board Action)

- February 26, 2016 Board meeting minutes

Member Zamora requested a change on page two. "Resigned from his post as the president of the board and from the full board effective immediately."

President Aguinaldo asked AEO Bodea for a review of how Board minutes are produced. AEO Bodea described how other DCA Boards produce their minutes, and recommended the Board use a streamlined version, capturing all options and assignments to committees. President Aguinaldo agreed.

*MOTION: Vice President Zamora made a motion to approve the February 26, 2016 Board meeting minutes, with the necessary changes made here today. President Aguinaldo seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0***

- March 10, 2016 Board meeting minutes

No revisions or changes were made.

*MOTION: Vice President Zamora made a motion to approve the March 10, 2016 Board meeting minutes. Board Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – ABSTAIN. **MOTION PASSES 5-0-1.***

There were no public comments made on this item.

Agenda Item #4 – Committee Assignments (Aguinaldo)

President Aguinaldo announced the following Board committee assignments:

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Executive Committee –
Kitman Chan (Chair), Jaime Zamora, Francisco Hsieh, Hildegarde Aguinaldo.

Exam Committee –
Jeannie Kang (Chair), Kitman Chan, Francisco Hsieh, Dr. Michael Corradino.

Education Committee –
Jamie Zamora (Chair), Jeannie Kang, Kitman Chan, Dr. Michael Corradino.

Enforcement Committee –
Hildegarde Aguinaldo (Chair), Jamie Zamora, Francisco Hsieh, Jeannie Kang.

A new committee has been created was created entitled, Research Committee -
Dr. Michael Corradino (Chair), Jamie Zamora, Kitman Chan, Jeannie Kang.

Board Member Michael Corradino (Corradino) commented that the new research committee was formed for the purposes of looking at issues which may be outside of the Board's jurisdiction, but still may be of concern to Acupuncture. President Aguinaldo asked that the new committees meet before the next scheduled Board meeting to report. She also asked the Enforcement committee to follow up on the human trafficking presentation recently made to the Legislature by AEO Bodea.

Public comment was made in support of the new Research committee.

Agenda Item #5 – Review and Possible Action to adopt Executive Officer Duty Statement (Aguinaldo)

President Aguinaldo introduced Ricardo De La Cruz, DCA Human Resources chief. He noted DCA has updated the Executive Officer duty statement using current DCA human resources terminology. He then went over the process and timelines for interviewing and hiring the EO, and noted once the EO duty statement is adopted they will work with the selection committee to draft and post the job posting. Vice President Zamora requested a change on page 5 to “as needed, in consultation with the Board, Board President and Legal Counsel”.

MOTION: President Aguinaldo made a motion to approve the duty statement with the recommended revisions. Vice President Zamora seconded. **VOTE NOT TAKEN**

Public comment noted a change to be made on the last page from “Nursing organizations” to “Acupuncture organizations”. There was discussion and concern about the use of the words “Asian medicine” in the duty statement.

AMENDED MOTION: President Aguinaldo amended her motion to approve the duty statement with the recommended revisions, including the phrase “Acupuncture and



*other Asian medicine organizations". Vice President Zamora seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **AMENDED MOTION PASSES 6-0***

(MOVED UP) Agenda Item #8 -- Presentation on Ethical Decision Making and Communication relating to Board activities (Pruden)

This item was taken out of agenda order and moved up. Legal Counsel Pruden gave a short presentation to the Board on ethical decision making and communication relating to Board activities.

There was no public comment on this item.

(MOVED UP) Agenda Item #9 -- Presentation on North Carolina Dental Board Examiners v Federal Trade Commission (Pruden)

This item was taken out of agenda order and moved up. Legal Counsel Pruden gave an overview to the Board of the recent "*North Carolina Dental Board Examiners v Federal Trade Commission*" Supreme Court decision regarding the role of consumer boards and anti-trust actions. She also outlined the guidance received from the Federal Trade Commission, and the memo sent from DCA.

There was no public comment on this item.

Agenda Item #6 -- Consideration and Possible Action Related to Results of the Audit of the National Certification Commission for Acupuncture and Oriental Medicine Exam (Board Action)

President Aguinaldo introduced Dr. Kory Ward-Cook (Ward-Cook), from National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). Dr. Ward-Cook noted there were a number of questions generated from the previous Board meeting, which NCCAOM has worked to address with the handout presented at this Board meeting. She went through the handout for the Board.

Board Member Corradino asked if NCCAOM was willing to change the 1600 hours requirement to a higher number. Dr. Ward-Cook affirmed that NCCAOM could work with CAB on this. NCCAOM last completed a job analysis survey (JAS) in 2008. This is similar to the Board's Occupational Analysis. She noted NCCAOM will do another JAS in 2017 in preparation for CAB's use of the NCCAOM exam, and expressed a desire for California practitioners to participate. Board Member Kang commented that it was important the NCCAOM use California acupuncturists in its JAS; Dr. Ward-Cook agreed noting NCCAOM would definitely look to add California acupuncturists who were in active practice.

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Discussion about foreign exam applicants commenced. Dr. Ward-Cook also reported Chinese and Korean applicants for NCCAOM are very low; Vice President Zamora asked if there were any plans to drop the Korean or Chinese version of the NCCAOM. Dr. Ward-Cook said no. Vice President Zamora asked Dr. Ward-Cook about the cost benefits of taking the NCCAOM. Dr. Ward-Cook mentioned the convenience of taking the exam at Pearson VUE testing sites throughout the state and the overall convenience in general.

Board Member Kang asked about NCCAOM making a testing module specifically for California noting concern about the costs of doing so. Dr. Ward-Cook replied that the topic has come up internally, and it could be done very easily. Member Kang said there must be a real discussion about the cost of doing so. AEO Bodea inquired if NCCAOM shares the test-taker's name and test results with the school. Dr. Ward-Cook replied that examinees can sign off on the application for the exam to send their exam results to the schools. Dr. Ward-Cook noted since the Board was looking at the option of a supplemental exam that NCCAOM could assist California in offering administrative services for that exam.

Board Member Kang commented on the pass rates for NCCAOM and noted the California Acupuncture Licensing Exam (CALE) is harder. Dr. Ward-Cook replied that NCCAOM provided some confidential information and depth on the NCCAOM exam which cannot be released to the public, to be reviewed by the Board in closed session. Board Member Kang then asked how NCCAOM would accommodate California licensees who have not taken the NCCAOM exam. Dr. Ward-Cook replied NCCAOM had plans for this issue, but it would take cooperation from the Board, and that NCCAOM would not be "grandfathering" in existing licensees within California. She mentioned NCCAOM would be looking further into the issue.

Board Member Corradino asked about NCCAOM building an exam specifically for California, separately from the national exam itself. Dr. Ward-Cook replied that was a decision for the Board but NCCAOM could do it if needed. Dr. Tracy Montez interjected, reminding the Board of existing laws which required OPES to offer the California exam. Discussion commenced about how a supplemental California exam would be administered.

Dr. Tracy Montez, Division Chief of Programs and Policy Review of the California Department of Consumer Affairs, gave a short presentation reviewing the audit of the NCCAOM exam. She recommended a focus on options one and four, as described in the handout. She recommended a California supplemental exam be used in conjunction with the NCCAOM, to cover California laws and regulations, patient/practitioner interactions and integration between eastern and medicines. She noted DCA is very comfortable with the NCCAOM exam, saying the NCCAOM has provided a lot of data and stressed a collaborative approach. She further addressed the importance for the

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Board of writing correct regulations, making sure to build in criteria for the MOU with NCCAOM.

Board Member Chan expressed concerns about the extra costs of the NCCAOM exam - totaling about \$1795.00. Dr. Montez replied she has not been hearing many concerns about the costs. Vice President Zamora then commented that any decision made on the NCCAOM issue today by the Board is purely a recommendation to the Legislature.

Public Comment was taken on the item. One commenter complimented the Board about the open and transparent process of the NCCAOM decision. Two commenters were supportive of the inclusion of the NCCAOM exam as part of the licensing qualifications for California. Another commenter did not take a position on the NCCAOM exam, noting there were knowledge and competency gaps in the audit not addressed. Another comment raised concerns about the total hours required for the NCCAOM, noting they were lower than California's.

Vice President Zamora made the following motion: "I motion that the Acupuncture Board direct our EO to draft a letter informing the Assembly Business and Professions Committee, that the Board recommends the introduction of legislation mandating for Acupuncture licensure in California, that applicants now be required to take the NCCAOM exam with a California supplemental exam, to be implemented not before January 1, 2019."

Discussion about the motion commenced. Board Member Chan asked what option number four would mean, and expressed concern about students from other states just passing the NCCAOM doesn't qualify them for California license – they would need to pass the California supplement too. President Aguinaldo agreed with Board Member Chan and noted the Board will have to be very specific in the language to the Legislature and work on how to address the transition period.

President Aguinaldo assured the public that the Board is making a well-informed decision, pledging to maintain California's high standards. She explained that only two of the four exam options presented are legally defensible, and the recommendation to the legislature is very narrow and the Board would only be choosing an option to recommend.

MOTION: Vice President Zamora repeated the following motion:

"I motion that the Acupuncture Board direct our EO to draft a letter informing the Assembly Business and Professions Committee, that the Board recommends the introduction of legislation mandating for Acupuncture licensure in California, that applicants now be required to take the NCCAOM exam with a California supplemental exam, to be implemented not before January 1, 2019."

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Board Member Corradino seconded the motion. Vote: Aguinaldo – YES; Zamora – YES; Chan – YES; Corradino – YES; Hsieh – YES; Kang – YES. **MOTION PASSES 6-0**

Agenda Item #7 - Pursuant to Government Code section 11126(c)(1), the Board will meet in closed session to discuss the responses the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) provided regarding the NCCAOM examination audit with staff of the Office of Professional Examination Services.

The Board did not meet in closed session on this agenda item.

Agenda Item #10 – Public Comment for items not on Agenda (Aguinaldo)

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

Public comments were taken on items not on the agenda.

A commenter expressed concerns over the use of dry needling by physical therapists, and asked it be placed on a future agenda. He also asked for a future definition of the acupuncture scope of practice, including manual therapy and cupping.

A commenter expressed concern about approval of acupuncture schools and the process to gain approval.

A commenter requested a future Board agenda item regarding clarification of what is considered bleeding and how it is within the Acupuncture scope of practice.

A commenter requested the Board include additional detail of public comments made on Board minutes.

A commenter advocated the Board consider raising CEU provider fees.

Agenda Item #11 – Future Agenda Items

No future agenda items were added by the Board.

ADJOURNMENT AT 4:10 PM