

**MINUTES
DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE
BOARD OF ACUPUNCTURE**

**GENERAL BUSINESS MEETING
TELEPHONE CONFERENCE CALL
September 13, 2013**

CALL TO ORDER

Ms. Clancy, Chair, called the General Business Meeting to order approximately 9:00 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT

Melody Clancy, AP, D.O.M., Chair
Min Tian, AP, D.O.M., Ph.D., Vice-Chair
Katherine Teisinger, AP
Barbara Thurman, AP
Herman Vega, AP, PhD, AMD, LMHC
Greg Gunter, Consumer Member
Barbara Rezmer, Consumer Member

STAFF PRESENT

Anthony Jusevitch, Executive Director
Paula Mask, Program Operations Administrator
Jacqueline Clahar-Anderson, RS II

COURT REPORTER

For The Record
PHONE: 850.222-5491
FAX: 850.224.5316

MEMBER ABSENT

Herman Vega, AP, PhD AMD, LMHC (unexcused)

BOARD COUNSEL

Lee Ann Gustafson, Esq.
Senior Assistant Attorney General

DEPARTMENT PROSECUTING ATTORNEY

Elana Jones, Esq.
Assistant General Counsel

Please note the meeting minutes reflect the actual order agenda items were discussed during the meeting and may differ from the agenda outline.

An audio of this meeting can be found by clicking on "Audio Files" at http://www.doh.state.fl.us/mqa/acupunct/acu_meeting.html

RULE HEARING

Rule 64B1-4.0011 Documentation Necessary for Licensure Application

Request for Public Hearing Richard Freiberg
Notice of Proposed Rule
Notice of Hearing
Notice of Correction for Public Hearing

Board counsel explained to the Board whenever a Board promulgates a rule and the rule notice is published in the Florida Administrative Register, any substantially affected person can request a public hearing on the rule. Mr. Freiberg requested a rule hearing but was not present at the meeting. Board counsel then asked members of the audience for comments. There being no comments Ms. Gustafson recommended the board terminate the public hearing and direct her to go forward with the rules. Mr. Gunter made a motion to terminate the public hearing and move forward with rule promulgation. Motion was seconded by Ms. Clancy, which carried unanimously.

DISCIPLINARY PROCEEDINGS

Settlement Agreement

Saterra Vishnu, A.P.

Case # 2011- 03734

PCP: Ervolino & Gunter

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel. Elana Jones, Esq., represented the Department and presented the case to the Board. Mr. Gunter was recused based on participation on the probable cause panel.

The Department filed an administrative complaint alleging a violation of sections 457.109(1)(k) and 456.109(1)(i), F.S.

Ms. Jones on behalf of the Department, presented the recommended settlement agreement:

- Reprimand
- Pay \$1,000 fine within 30 days of the filed final order
- Pay \$1,994.69 costs within 30 days of the filed final order

Action Taken: Ms. Teisinger moved to accept the Settlement Agreement as presented. Ms. Thurman seconded the motion which passed 4/1 with Ms. Clancy opposing the motion. Motion was opposed by Melody Clancy.

Prosecution Report

Ms. Jones, Assistant General Counsel, gave a brief synopsis of the cases currently in inventory for the Board of Acupuncture. Ms. Jones indicated there are currently 10 active cases. Two cases are new and under legal review. There is one case where recommendation concerning whether probable cause should be found, and will be scheduled for the next available Probable Cause Panel meeting. There are 7 cases where Probable Cause has been found and 5 cases where a hearing has been requested before the Division of Administrative Hearings. At least 2 or three of those cases, settlement agreements are being pursued.

Regarding the year old cases, there are 4 from 2010, and 2 cases from 2012. Ms. Jones requested permission to continue to pursue the cases.

Action Taken: Ms. Rezmer made a motion for Ms. Jones to move forward with the cases. Motion was seconded by Ms. Clancy, which passed unanimously.

Unlicensed Activity Report

Mr. Tim Tate, Investigative Services Unit Liaison, Unlicensed Activity Program addressed the Board regarding unlicensed activity and the procedures his unit is currently working on to combat unlicensed activity.

ADMINISTRATIVE PROCEEDINGS

Emily Leavins-Sketo – Examination

Applicant was present without counsel and was sworn in by the court reporter.

Action Taken: After discussion, Ms. Teisinger moved to approve the applicant for licensure. Ms. Thurman seconded the motion, which passed unanimously.

INFORMAL HEARING

<u>Provider Name</u>	<u>Course Name</u>	<u>Course #</u>
International Cupping Therapy Association	Contemporary Cupping Methods	20-262392

Action Taken: Ms. Thurman moved to approve the course. Ms. Teisinger seconded the motion, which passed unanimously.

REVIEW AND APPROVAL OF MINUTES

March 1, 2013 General Business Meeting

Ms. Clancy made a motion to approve the minutes as written. Ms. Gunter seconded the motion, which carried unanimously.

REPORTS

A. Board Chair Report – Melody Clancy

Ms. Clancy gave a brief overview of the Board/Council Chair and Vice Chair meeting she attended on Wednesday September 11, 2013.

B. Board Counsel Report – Lee Ann Gustafson, Esq. September Rules Report

64B1-3.004 Acupuncture Examination

Ms. Gustafson advised the board the rule will be filed soon.

64B1-4.0011 Document Necessary for Licensure Application

Ms. Gustafson advised the board this is the rule for which the hearing was held earlier in the meeting. Ms. Gustafson further stated she will be moving forward to adopt Rule 64B1-4.0011 as previously approved by the board.

Executive Director's Report

No report.

Board Liaison Reports

Application Examination & Endorsement – Katherine Teisinger & Min Tian

Ms. Teisinger has no report.

Ms. Tian had questions on whether or not providers previously approved would be required to meet the new application requirements regarding live courses and home study courses.

Mr. Jusevitch asked Ms. Gustafson to address the question. Ms. Gustafson indicated the providers are required to comply with the rule that was in place at the time they submitted their application.

After further discussion, Mr. Jusevitch further advised board members who are auditing continuing education courses that 1) they can move to repeal approval; 2) put their concerns in writing to the

board office and stall will reach out to the provider; and 3) if course is outdated and the provider does not update the course, then the course will come back to the board for review.

Budget – Gregory Gunter

Mr. Gunter referred the board to the cash balance report ending June 30, 2013.

Mr. Gunter asked about the status of the fee reduction. Ms. Gustafson indicated the rules were withdrawn because there was a request for a Statement of Estimated Regulatory Cost (SERC) before the language the board approved was published. The process has been restarted and will be published with a notice of rule development which will indicate the actual vote of the board so the public is aware of what the changes will be.

Community Relations – Barbara Rezmer

Consumer Protection – Barbara Rezmer

No report.

Continuing Education – Barbara Thurman, Melody Clancy, Min Tian, Herman Vega

No report.

Legislative & Rules – Melody Clancy and Min Tian

No report.

Unlicensed Activity – Melody Clancy

No report.

PETITION FOR A DECLARATORY STATEMENT

**Rule 64B1-4.022 – Diagnostic Techniques
WITHDRAWN**

Ms. Clancy stated the petition was withdrawn as it was not timely noticed. Ms. Gustafson explained the Uniform Rule regarding Declaratory Statements was amended by the Joint Administrative Committee to permit 21 days for people who would like to intervene in a request for a declaratory statement. Since it would not have been 21 days it will be rescheduled for another date.

After discussion it was decided the petition would be held via telephone conference call on September 25, 2013 at 4:00 p.m.

Ms. Teisinger requested to speak on the declaratory statement. Ms. Gustafson advised the board they can discuss the declaratory statement; however they may not vote on the matter. Ms. Teisinger then stated she was in agreement with the request stated in the declaratory statement.

Mr. Gunter asked board counsel if there can be recourse if a declaratory statement was approved. Ms. Gustafson stated if the declaratory statement is dismissed without an answer, or if an answer is given that the petitioner does not like, they have an opportunity to appeal it in the District Court of Appeal. Ms. Gustafson further explained if an answer is given and someone else did not like the answer given, then they would have to intervene at the initial consideration.

(Break)

REVIEW OF CONTINUING EDUCATION COURSES

<u>Provider Name</u>	<u>Course Name</u>	<u>Course #</u>
Pro D Seminars	Acupuncture and Women's Health	20-386660
Pro D Seminars	Acupuncture and Women's Health	20-386661

Action Taken: Ms. Teisinger made a motion to approve both courses 20-386660 and 20-386661. Ms. Clancy seconded the motion, which passed unanimously.

Anika Al-Shura	Health Communications 1	20-387319
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Action Taken: Ms. Clancy made a motion to deny the course based on the fact it is not appropriate criteria for biomedical sciences. Ms. Thurman seconded the motion, which passed unanimously.

The International Alliance of Healthcare Educators	Heart Centered Therapy 1 Mastering Dialoguing Skills	20-390033
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Action Taken: Ms. Teisinger made a motion to deny the course based on the instructor does not meet the educational requirement. Ms. Tian and Ms. Clancy seconded the motion, which passed unanimously.

NEW BUSINESS

Ratification of Licensure

Action Taken: Mr. Gunter moved to ratify the new licensees, license numbers 3277 through 3319, which was seconded by Ms. Rezmer and carried unanimously.

Ratification of Continuing Education Courses – 5/17/13 through 8/28/13

Action Taken: Mr. Gunter moved to ratify the continuing education courses list, which was seconded by Ms. Rezmer and carried unanimously.

Revised Continuing Education Application

Action Taken: After discussion, it was decided courses previously approved for home study courses will remain as is; however moving forward, all new courses will fall under two categories: 1) home study and, 2) live courses. Web-based courses are considered as home study courses. It was also decided Ms. Clahar-Anderson would request an access code to webinar courses before sending the course to the continuing education liaisons.

Action Taken: Ms. Clancy made a motion to approve the new application. Ms. Resmer seconded the motion. Motion passed 4/2 with Ms. Thurman and Ms. Teisinger opposing the motion.

Action Taken: After discussion, Mr. Gunter made a motion to amend the rule to incorporate the form. Ms. Clancy seconded the motion, which passed with Ms. Teisinger and Ms. Thurman opposing the motion.

DELEGATION OF AUTHORITY

Mr. Jusevitch explained the reason for delegation of authority. Ms. Teisinger made a motion to accept the delegation of authority as presented. Motion was seconded by Mr. Gunter and passed unanimously.

Senate Bill 50

Ms. Gustafson explained the bill was relating to public meetings and allowing members of the public be given a reasonable opportunity to be heard by a board of commission. A proposed rule was included in the agenda.

Action Taken: After discussion, Mr. Gunter moved to approve the proposed rule with the discussed changes in subsection (2) limit to 5 minutes to provide comments, and in subsection (3) a group would consist of 5 or more persons . The motion was seconded by Ms. Clancy and passed unanimously.

64B1-1.008 Public Comment.

The Board of Acupuncture invites and encourages all members of the public to provide comment on matters or propositions before the Board or a committee of the Board. The opportunity to provide comment shall be subject to the following:

(1) Members of the public will be given an opportunity to provide comment on subject matters before the Board after an agenda item is introduced at a properly noticed board meeting.

(2) Members of the public shall be limited to 5 minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Board members, staff or board counsel. The chair of the Board may extend the time to provide comment if time permits.

(3) Members of the public shall notify board staff in writing of his or her interest to be heard on a proposition or matter before the Board. The notification shall identify the person or entity, indicate support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons consisting of 5 or more persons. Any person or entity appearing before the Board may use a pseudonym if he or she does not wish to be identified.

Summary – CS/SB 248 CS/SB 248

Ms. Gustafson explained CS/SB 248 relates to the Professionals Resource network (PRN) and allows a Board/Council to delegate to the Chair or other designee the authority to require an applicant for licensure undergo a PRN evaluation.

After discussion, the consensus of the board to maintain the current procedure and have the full board determine if a PRN evaluation is required.

NEXT MEETING

December 13, 2013
Grand Hyatt
Tampa Florida

The meeting adjourned approximately 11:08 am.