

DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE
FLORIDA BOARD OF ACUPUNCTURE

MINUTES
GENERAL BUSINESS MEETING
March 2, 2011

Holiday Inn & Suites – Sawgrass Mills
3003 N University Drive
Sunrise, FL 33332
954.315.2169

1 **CALL TO ORDER**

2 Katherine Teisinger, Chair, called the General Business Meeting to order approximately 9.09 a.m. Those
3 present for all or part of the meeting included the following:

MEMBERS PRESENT

Katherine Teisinger, AP, Chair
Melody Clancy, AP, D.O.M., Vice Chair
Barbara Thurman, AP
Min Tian, AP, D.O.M., Ph.D.
Greg Gunter, Consumer Member
Barbara Rezmer, Consumer Member

STAFF PRESENT

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

COURT REPORTER

Official Reporting Services
Phone: 954.467.8204
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BOARD COUNSEL

Lee Ann Gustafson, Esq.
Assistant Attorney General

DEPARTMENT ASSISTANT GENERAL COUNSEL

Adrienne Rodgers, Esq.

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

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

8 **REVIEW AND APPROVAL OF MINUTES**

9 **Tab 4 December 9, 2011 General Business Meeting**

10 Ms. Clancy made a motion to approve the minutes as written. Ms. Rezmer seconded the motion which
11 carried unanimously 6/0.

1 **DISCIPLINARY PROCEEDINGS**

2 **Voluntary Relinquishment**

3 **TAB 5 Elham Kharabi, AP Case # 2011-16029 PCP: Ervolino & Gunter**

4 Respondent was not present nor represented by counsel. Ms. Rodgers represented the department and
5 presented the case to the board and advised no administrative complaint was filed in this case as
6 respondent waived probable cause. No board members needed to be recused from this case since
7 probable cause was waived.

8 **Action Taken:** Ms. Thurman made a motion to accept the voluntary relinquishment. Ms. Clancy
9 seconded the motion which carried unanimously 6/0.

10 **Determination of Waiver**

11 **Tab 15 Juan Martinez, AP Case # 2010-10512 PCP: Ervolino & Gunter**

12 Respondent was not present nor represented by counsel. Ms. Rodgers represented the department and
13 presented the case to the Board. Mr. Gunter was recused due to participation on the probable cause
14 panel.

15 Ms. Rodgers referred the board to the Motion for Determination of Waiver and Entry of a Final Order filed
16 by the department against the respondent. The motion alleges that the department filed an administrative
17 complaint against the respondent and that it was properly served on respondent. The respondent failed to
18 file an election of rights or otherwise respond to the administrative complaint.

19 **Action Taken:** Ms. Kathy Teisinger moved to find that the administrative complaint was properly served.
20 Ms. Thurman seconded the motion, which carried unanimously.

21 The department recommended the board find that Respondent failed to respond to the Administrative
22 Complaint and has waived the right to be heard.

23 **Action Taken:** Ms. Teisinger moved to find that the respondent failed to respond to the administrative
24 complaint and therefore waived their rights to be heard. Ms. Rezmer seconded the motion, which carried
25 unanimously.

26 The Department recommended the board adopt as its findings as fact, those facts alleged in the
27 Administrative Complaint.

28 **Action taken:** Ms. Teisinger moved to adopt the findings of fact as alleged in the administrative
29 complaint. Ms. Thurman seconded the motion which carried unanimously.

30 Ms. Rodgers advised the administrative complaint alleges a violation of section 457.109(1)(s), F.S., for
31 violation of a lawful order of the board issued on March 31, 2010, in discipline case # 2008-04460, for
32 failure to pay costs of that discipline action within 30 days of the entry of the final order. The Department
33 recommended the board find the findings of fact support a finding of a violation of Florida Statutes, as
34 charged in the Administrative Complaint.

35 **Action Taken:** Ms. Teisinger moved to find that the findings of facts support a finding of a violation of
36 Florida Statutes, as charged in the Administrative Complaint. Ms. Rezmer seconded the motion, which
37 carried unanimously.

1 The Department recommended the board accept into evidence the investigative file for purposes of
2 determining the penalty and requested an opportunity to make a penalty recommendation.

3 **Action Taken:** Ms. Teisinger moved to accept into evidence the investigative file for purposes of
4 determining the penalty. Ms. Rezmer seconded the motion, which carried unanimously.

5 **Action Taken:** After discussion Ms. Clancy moved to IMPOSE the following penalty:

- 6 • Reprimand; suspension until respondent demonstrates compliance with each and
7 every term of the Final Order in Case No. 2008-04460 and pays the costs imposed
8 by this case; suspension stayed for 30 days

9 Motion seconded by Ms. Tian and carried unanimously.

10 **Action Taken:** Ms. Tian made a motion for the respondent to pay investigative costs of \$87.45 within 30
11 days of the filed final order. Ms. Thurman seconded the motion which carried unanimously.

12 **Tab 16 Billy Jo McCauley AP, Case # 2011-00949 PCP: Ervolino & Gunter**

13 Respondent was not present nor represented by counsel. Ms. Rodgers represented the department and
14 presented the case to the board. Mr. Gunter was recused due to participation on the probable cause
15 panel.

16 Ms. Rodgers referred the board to the Motion for Determination of Waiver and Entry of a Final Order filed
17 by the department against the respondent. The motion alleges that the department filed an administrative
18 complaint against the respondent and that it was properly served on respondent. The respondent failed to
19 file an election of rights or otherwise respond to the administrative complaint.

20 **Action Taken:** Ms. Kathy Teisinger moved to find that the administrative complaint was properly served.
21 Ms. Tian seconded the motion, which carried unanimously.

22 The department recommended the board find that Respondent failed to respond to the Administrative
23 Complaint and has waived the right to be heard.

24 **Action Taken:** Ms. Teisinger moved to find that the respondent failed to respond to the administrative
25 complaint and therefore waived their rights to be heard. Ms. Clancy seconded the motion, which carried
26 unanimously.

27 The Department recommended the board adopt as its findings as fact, those facts alleged in the
28 Administrative Complaint.

29 **Action taken:** Ms. Teisinger moved to adopt the findings of fact as alleged in the administrative
30 complaint. Ms. Rezmer seconded the motion which carried unanimously.

31 Ms. Rodgers advised the administrative complaint alleges a violation of section 457.109(1)(x), F.S. for
32 violation of a lawful order of the board issued pursuant to citation on December 16, in case # 2010-17535,
33 that is her failure to pay a fine and costs of that action within 30 days of the filing of the citation. The
34 Department recommended the board find the findings of fact support a finding of a violation of Florida
35 Statutes, as charged in the Administrative Complaint.

36 **Action Taken:** Ms. Teisinger moved to find that the findings of facts support a finding of a violation of
37 Florida Statutes, as charged in the Administrative Complaint. Ms. Tian seconded the motion, which
38 carried unanimously.

1 The Department recommended the board accept into evidence the investigative file for purposes of
2 determining the penalty and requested an opportunity to make a penalty recommendation.

3 **Action Taken:** Ms. Teisinger moved to accept into evidence the investigative file for purposes of
4 determining the penalty. Ms. Tian seconded the motion, which carried unanimously.

5 **Action Taken:** After discussion on whether the licensee needed to make up the continuing education
6 credits not taken, Ms. Clancy moved to IMPOSE the following penalty:

- 7 • Reprimand; suspension until respondent demonstrates compliance with each and
8 every term of the Final Order in Case No. 2010-17535 and pays the costs imposed
9 by this case; suspension stayed for 30 days

10 Ms. Rezmer seconded the motion which carried unanimously.

11 **Action Taken:** Ms. Teisinger made a motion for the respondent to pay investigative costs of \$80.91
12 within 30 days of the filed final order. Ms. Tian seconded the motion which carried unanimously.

13 **ADMINISTRATIVE PROCEEDINGS**

14 **Examination: Enrolled in school prior to August 1, 1997**

15 **Tab 17 Abigail Podrecca**

16 Applicant was present without counsel.

17 **Action Taken:** Ms. Clancy made a motion to approve licensure. Ms. Thurman seconded the motion
18 which carried unanimously 6/0.

19 **Endorsement Application: Endorsement by NCCAOM Certification**

20 **Tab 6 Jinsong Tian**

21 Applicant was present without counsel.

22 After discussion, Ms Teisinger suggested the applicant change the category for licensure to
23 "endorsement enrolled in school prior to August 1, 1997".

24 **Action Taken:** Ms. Tian made a motion to approve for licensure. Motion was seconded by Barbara
25 Thurman which passed unanimously 6/0.

26 **Board Counsel's Report**

27 **Tab 7 Rules Report**

28 Ms. Gustafson indicated the major issue on the rules report is the Disciplinary Guidelines rule regarding
29 the inquiry at the last meeting from Representative Ray. Ms Gustafson indicated she had not received
30 any further correspondence from Representative Ray, The Joint Administrative Procedures Committee
31 (JAPC) or Marjorie Holliday. Ms. Gustafson's recommendation was to proceed with promulgation of rule
32 64B1-9.001.

1 Ms. Teisinger, Board Chair, asked for discussion on the topic. Ms. Riggan brought to the attention of the
2 board members an email from Representative Nehr which was sent to board members the day before the
3 board meeting.

4 **BREAK**

5 *(Tab 7 continued)*

6 **Action Taken:** After a lengthy discussion, Ms. Clancy made a motion to continue with promulgation of
7 the rule. Motion seconded by Ms. Rezmer and passed unanimously 6/0.

8 **Budget – Gregory Gunter**

9 Mr. Gunter addressed the board regarding the recent budget liaison workshop held in Tallahassee on
10 February 20, 2012.

11 Mr. Gunter referred the board to the report in the agenda, Expenditures by Function report for period
12 ending December 31, 2011 and period ending September 30, 2011.

13 The Chair suggested reducing the renewal fee to \$205. Mr. Jusevitch stated the Department is in the
14 process of conducting a reassessment on what it means to have a reasonable cash balance and what
15 each profession's fees should be in order to maintain a reasonable cash balance.

16 **Board Chair Report – Katherine Teisinger**

17 No report.

18 **Board Liaison Reports**

19 **Community Relations – Barbara Rezmer**

20 No report.

21 **Consumer Protection – Barbara Rezmer**

22 No report.

23 **Continuing Education – Barbara Thurman, Melody Clancy, Min Tian**

24 No Report

25 **Application Examination & Endorsement – Katherine Teisinger**

26 No report.

27 **Legislative & Rules – Katherine Teisinger**

28 Ms. Riggan addressed the board concerning the PIP legislation. No action taken.

29 Ms. Tian had questions on speaking to legislators regarding the PIP legislation. Ms. Gustafson relayed
30 that board members are not restricted from speaking to legislators. Ms. Tian also wanted to know
31 whether or not she could go with lobbyists from association to talk with legislators on issues that effect the
32 acupuncture profession. Ms. Gustafson stated as long as the board members were not lobbying on
33 behalf of the board of Acupuncture they were allowed to attend these meetings. However, Ms. Gustafson
34 advised she would contact the Ethics Commission for further clarification.

1 Ms. Riggin gave a brief report about her recent trip to Tallahassee where she coordinated with the Florida
2 Acupuncture Association an acupuncture education day at the Capitol and treated some legislators and
3 speaking to the public.

4 Ms. Teisinger asked Ms. Tian if she would like to take the position of board liaison for the legislative &
5 rules position since Ms. Tian was based in Tallahassee. After discussion Ms. Tian accepted the position
6 as legislative and rules liaison. She will also assist with application review for transcripts coming from
7 foreign countries.

8 Ms Gustafson assured board members that any time board members had questions regarding issues that
9 may be a conflict of interest; board members are encouraged to call the Ethics Commission.

10 **Unlicensed Activity – Melody Clancy**

11 No report.

12 **REVIEW OF CONTINUING EDUCATION COURSES**

13	Provider:	Lotus Institute	
14	Tab 8	Course # 20-337143	Chinese Veterinary Medicine for Dogs
15			Cats and horses (Part I)
16	Tab 9	Course # 20-337144	Chinese Veterinary Medicine for dogs
17			Cats and horses (Part II)

18 **Action Taken:** Mr. Gunter made a motion to deny the courses for tabs 8 and 9 as the courses do not
19 meet the scope and practice of an acupuncturist. Motion was seconded by Ms. Rezmer and passed 5/1
20 with Ms. Thurman opposing the motion.

21	Provider:	Dr. Anika Al-Shura	
22	Tab 10	Course # 20-334881	Health Communications

23 **Action Taken:** Ms. Clancy made a motion to deny the course based on the provider has less than 2
24 years experience teaching the subject matter. Motion was seconded by Mr. Greg Gunter which carried
25 unanimously.

26 **NEW BUSINESS**

27 **Tab 12 Question by Staff**

28 Staff asked the board to interpret subsection (5) of Rule 64B1-7.0015, Continuing Education
29 Requirements. Staff has been processing attendance at board meetings as "general" continuing
30 education credit. Staff asked if the board could discuss this rule and/or consider an amendment to this
31 rule.

32 The current rule reads:
33 (5) Continuing education credit up to a maximum of two hours will be awarded for each hour of
34 attendance at a board meeting at which another licensee is disciplined pursuant to Section 456.013(6),
35 F.S. Only one credit hour will be granted for each hour of attendance.

36 Ms Gustafson indicated generally the hours of attendance at a board meeting where another licensee has
37 been disciplined constitute laws and rules continuing education credits. She advised the board may want
38 to amend the rule. Mr. Jusevitch advised board members to clarify exactly who could obtain credit for

1 continuing education under this rule. Discussion was held and it was suggested probable cause panel
2 members and board members could receive laws and rules continuing education credit when attending a
3 board meeting with licensees being disciplined. Also, expert witnesses who review cases for probable
4 cause could receive credit for laws and rules.

5 **Action Taken:** Ms. Clancy made a motion to notice this rule for rule development and to amend the rule
6 which was seconded by Mr. Gunter and passed unanimously.

7 Ms. Gustafson will draft rule for the June 1, 2012 board meeting.

8 **Tab 13 Ratification of Licensure**

9 **Action Taken:** Mr. Gunter made a motion to ratify the licensure list, license numbers 3047 through 3088,
10 which was seconded by Ms. Tian. Motion passed unanimously 6/0.

11 **Tab 14 Ratification of Continuing Education Courses - 11/30/2011 through 02/10/2012**

12 **Action Taken:** Ms. Tian made a motion to ratify the continuing education courses. Motion was
13 seconded by Melody Clancy and carried 5/1 with Ms. Thurman opposing the motion.

14 **NEW BUSINESS**

15 **Tab 18 Request for Rule development – Rule 64B1-4.0011**

16 **Action taken:** Mr. Gunter made a motion for rule development on Rule 64B1-4.0011. Motion was
17 seconded by Ms. Thurman which passed unanimously.

18 **(Break)**

19 **RULE HEARING – Rule 64B1-3.004 Acupuncture Examination**

20 **Tab 1** Notice of Public Hearing

21 **Tab 2** Letter from Board Counsel to Mary Riggin, President, Florida Society of Doctors of Oriental
22 Medicine

23 **Tab 3** Summary of Rule History

24 Board counsel advised this was a public hearing and asked the audience for comments.

25 Mary Riggin, President, Florida Society of Doctors of Oriental Medicine, expressed her concerns with the
26 board requiring two additional modules of the acupuncture examination, the Biomedicine Module and the
27 Chinese Herbology Module. Ms Riggin indicated these exams would increase the financial burden on
28 new licensees.

29 Amy Sear, licensee, teacher and continuing education provider, expressed her opinions on why the board
30 should require the additional herbal examination.

31 Ms. Xu, licensee and former board member, expressed her support for the herbology examination to be
32 added to the examination requirement.

33 Mina Larson, Director of Public Professional Regulations, National Certification Commission for
34 Acupuncture and Oriental Medicine (NCCAOM), gave a brief presentation regarding the examinations

1 offered by NCCAOM and also the history of the examination. Ms. Larson advised each exam would cost
2 \$300 per module.

3 Ms. Teisinger and Ms. Thurman expressed concerns regarding the costs of the exam modules.

4 Ms. Riggin requested a SERC on this rule.

5 **Action Taken:** After discussion and input from the audience, Ms. Teisinger made a motion to withdraw
6 the rule and was seconded by Ms. Thurman. The motion was defeated with Ms. Teisinger and Ms.
7 Thurman in favor of the motion. The rule will move forward with promulgation,

8 **NEXT MEETING**

9 June 1, 2012
10 Grand Hyatt Tampa Bay
11 2900 Baypoint Drive
12 Tampa, FL 33607
13 813-874-1234

14 **ADJOURNMENT**

15 Ms. Thurman made a motion to adjourn the general business meeting. Ms. Clancy seconded the motion
16 which carried unanimously 6/0. Meeting adjourned approximately 12:32 p.m.