

# FLORIDA | Board of Acupuncture

March 23, 2018



**Draft Meeting Minutes**  
**Board of Acupuncture**  
**General Business Meeting**  
**March 23, 2018**  
**9 a.m.**

**Embassy Suites Tampa-USF/Near Busch Gardens**  
3705 Spectrum Blvd.  
Tampa, Florida 33612  
(813) 903-6620

The meeting was called to order by Dr. Kathy Veon, board chair at approximately 9:10 a.m.

Those present for all or part of the meeting included the following:

**MEMBERS PRESENT:**

Kathy Veon, AP, DOM, Chair  
Rodney Dunetz, DAOM, AP, Dipl.Ac, Vice-Chair.  
Herman Vega, Chair, AMD, PhD, AP, LMHC  
Steve Moreau, AP  
Janine Margewicz, AP  
Greg Gunter, Consumer Member  
Dave Heine, Consumer Member

**STAFF PRESENT:**

Kama Monroe, J.D. Executive Director  
Carol Taylor, Program Administrator

**MEMBERS ABSENT:**

None

**BOARD COUNSEL:**

Diane Guillemette, Esq., Board Counsel

**COURT REPORTER:**

Integra Reporting  
Cynthia Cianciolo  
(813) 868-5130

**OTHERS PRESENT:**

Rose Garrison, Prosecuting Attorney  
Sidronio Casas, ULA representative  
Brian Nell, Applicant  
Lonnie Aschebrook, Applicant  
Mary Frances Cook, Applicant  
Connie Sydnie Bryant, Applicant  
Denise Dupree, Applicant

**DISCIPLINARY ACTIONS**  
**DETERMINATION OF WAIVER**

TAB 1: RAGU P. NATH, A.P., CASE NUMBER 2016-22212

*PCP: Gunter*

Respondent was not present. Respondent was not represented by counsel.

Mr. Gunter was recused due to participation on the probable cause panel.

Rose Garrison represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 457.109(1)(s), Florida Statutes (2016), by violating the final order of the board, filed on March 6, 2013, in DOH case number 2011-14533.

Motion: by Mr. Heine, seconded by Dr. Veon, that the Respondent was properly served and waived his right to a formal hearing.

Motion carried.

Motion: by Dr. Moreau, seconded by Mr. Heine, to accept the investigative report into evidence for the purpose of imposing penalty.

Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz, to accept the findings of fact as set forth in the Administrative Complaint.

Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz, to adopt the conclusions of law set forth in the Administrative Complaint and find this constitutes a violation of the practice act.

Motion carried.

After Discussion:

Prosecuting Services Unit (PSU) attorney provided discipline recommendations as follows: a five hundred dollar (\$500) fine and suspension of the license until compliant with the Final Order in case number 2011-14533. PSU attorney noted that there is a separate cost motion in the amount of four hundred sixty-nine dollars and forty-nine cents (\$469.49).

The board noted the mitigating factor to justify imposing the penalty of suspension of the license is the length of time since the date of the violation that Respondent has had to pay the fine.

Motion: by Dr. Dunetz, seconded by Dr. Vega, to suspend the license until the terms of the previous final order are met and to impose costs for this case in the amount of four hundred sixty-nine dollars and forty-nine cents (\$469.49) to be paid within one year of the Final Order issued in this case.

Motion carried.

TAB 2: JOSE GUILLERMO CELPA, A.P., CASE NUMBER 2016-22054

*PCP: Gunter*

Respondent was not present. Respondent was not represented by counsel.

Mr. Gunter was recused due to participation on the probable cause panel.

Rose Garrison represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 457.109(1)(s), Florida Statutes, by violating the final order of the board.

Motion: by Dr. Veon, seconded by Dr. Moreau, that the Respondent was properly served and waived his right to a formal hearing.

Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz, to accept the investigative report into evidence for the purpose of imposing penalty.

Motion carried.

Motion: by Dr. Veon, seconded by Dr. Moreau, to accept the findings of fact as set forth in the Administrative Complaint.

Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Veon, to adopt the conclusions of law set forth in the Administrative Complaint and find this constitutes a violation of the practice act.

Motion carried.

After Discussion:

PSU attorney provided discipline recommendations as follows a five hundred dollar (\$500) fine and suspension of the license until compliant with the prior Final Order. PSU attorney noted that there is a separate cost motion in the amount of forty-three dollars and seventy-two cents (\$43.72).

The board noted aggravating factors supporting the penalty imposed as; the number of complaints filed against the licensee, the length of time the licensee has practiced Acupuncture, the deterrant effect of the penalty imposed, the number of offenses, and the length of time since the date of the violation that Respondent has had to pay the fine.

Motion: by Dr. Vega, seconded by Mr. Heine, to revoke the Respondent's license.

Motion carried.

The Department withdrew their motion for costs.

### **TAB 3: PROSECUTION SERVICES REPORT**

Ms. Garrison presented the prosecution services report.

Ms. Garrison stated that PSU is currently working diligently to resolve all Acupuncture cases. There are currently twenty-one cases in the Acupuncture inventory, eleven of which are a year or older. Two of the cases were resolved as part of today's agenda, bringing the year or older case load down to nine cases. Three of the cases are being set to send to the Division of Administrative Hearings (DOAH) in the near future. The Acupuncture team continues to process cases as expeditiously as possible. Ms. Garrison asked the Board to consider allowing PSU to continue to prosecute the year and older cases.

Motion: by Dr. Veon, seconded by Dr. Dunetz, to allow PSU to continue prosecuting cases one year and older. Motion carried

### **REVIEW AND APPROVAL OF MINUTES**

TAB 4: December 1, 2017, General Business Meeting Minutes

Motion: by Dr. Dunetz, seconded by Dr. Vega, to approve meeting minutes as written. Motion carried.

## TAB 5: ULA PRESENTATION - Sidronio Casas

Sidronio Casas, Unlicensed Activity Unit (ULA) representative from the Orlando Investigative Office presented a brief presentation regarding unlicensed activity occurring throughout the state. Mr. Casas noted that the ULA unit is currently conducting a lot of public outreach. He informed the board and audience of the areas where most Unlicensed Activity occurs within the state and the areas in which it is expected to spread soon. Of interest, was the fact some Public Service Announcements (PSAs) were broadcast in English, Creole and Spanish to ensure widespread outreach to the community. Mr. Casas noted that convenience stores are being targeted to encourage the public to “see something, say something.” Another form of PSA being used is the billboards on I-10 and the I-75 corridor. ULA has a hotline, a dedicated e-mail, and a website, that can be used to report unlicensed activity. Mr. Casas showed several brief videos of different unlicensed activity investigations that occurred throughout the state and informed the board and audience of the investigative results. The presentation provided beneficial information regarding reporting unlicensed activity throughout the state. Further it was informative regarding the types of Unlicensed Activity that is occurring and the actions being taken to prevent it.

## APPLICATIONS

### APPLICATION BY ENDORSEMENT THROUGH ANOTHER STATE

TAB 6: Brian Nell, File #4453

Applicant was present and sworn in.

Applicant verbally amended his method of application to Endorsement through NCCAOM certification.

**Action Taken:** After discussion, Dr. Vega moved to grant the license. Dr. Dunetz, seconded the motion. Motion carried.

TAB 7: Lonnie Henry Aschebrook, File #4456

Applicant was present and sworn in.

Applicant verbally amended his method of application to Endorsement through NCCAOM certification

**Action Taken:** After discussion, Dr. Veon moved to grant the license. Dr. Moreau, seconded the motion. Motion carried.

TAB 8: Mary Frances Cook, File #4465

Applicant was present and sworn in.

Applicant verbally amended her method of application to Endorsement through NCCAOM certification

**Action Taken:** After discussion, Dr. Veon moved to grant the license. Dr. Moreau, seconded the motion. Motion carried.

### APPLICATION BY ENDORSEMENT - NCCAOM

TAB 9: Connie Sydnie Bryant, File #4426

Applicant was present and sworn in.

**Action Taken:** After discussion, Dr. Veon moved to deny the license. Dr. Vega, seconded the motion. No vote was taken.

Applicant was provided the opportunity to withdraw the application. Applicant verbally withdrew the application.

TAB 10: Denise Dupree, File #4394

Applicant was present and sworn in.

**Action Taken:** After discussion, Dr. Vega moved to grant the license. Dr. Moreau, seconded the motion. Motion carried.

## **RATIFICATION OF LICENSURE**

TAB 11: Acupuncturist-11/21/2017-2/28/2018

Ratification of Acupuncturist Licenses Issued from 11/21/2017 through 2/28/2018.

Motion: by Dr. Dunetz, seconded by Dr. Veon, to approve ratification of licenses issued from 11/21/2017 through 2/28/2018, which included license numbers 3889 through 3921 inclusive. Motion carried.

## **GENERAL DISCUSSION**

TAB 12: CE Provider List-11/21/2017-2/28/2018

Motion: by Dr. Veon, seconded by Dr. Moreau, to approve ratification of CE provider list approved from 11/21/2017 through 2/28/2018. Motion carried.

TAB 13: CE Course Approved List-11/21/2017-2/28/2018

Motion: by Dr. Dunetz, seconded by Dr. Vega, to approve ratification of CE course approved list approved from 11/21/2017 through 2/28/2018. Motion carried.

## **REPORTS**

### **Board Chair Report**

There was no board chair report at this time.

### **Board Counsel Report – Diane Guillemette, Esq.**

#### **Rules Report**

TAB 14: January 2018

TAB 15: February 2018 and March 2018

The reports were placed on the agenda for informational purposes.

Board counsel Diane Guillemette reported that the Disciplinary Guidelines have now been passed. Ms. Guillemette provided the website for the Florida Administrative Registrar (FAR) for utilization by board members to find the rules. Discussion ensued regarding a special training regarding the new disciplinary guidelines. Ms. Guillemette noted that board members can participate in a CEU and the CEU can pay for travel, but it is imperative that the board member follows proper procedures. Ms. Monroe informed the board that the board office can do a notice about the rules and send a publication out in mass emails. It was determined that the mass e-mail was the way to go. The rules were effective February 27, 2018.

## Rule Discussion

TAB 16: Rule Memorandum for Rule 64B1-4.001

Rule 64B1-4.001, Acupuncture Program Requirements

Ms. Guillemette provided background for the placement of the rule on the agenda. The board wanted to ensure that acupoint injection therapy be included for training. Acupuncturist's can not require additional training in order for acupuncturists to perform certain tasks. Part of the discussion included the sixty hours of training and whether it was an acceptable number of hours. After discussion, it was determined that the training could be included in education if the proposed language was changed to say the "education must include sixty hours study in injection therapy." This would meet the board's intent of ensuring the Acupuncturist has the needed training.

Motion: by Kathy Veon, seconded by Dr. Moreau, to open the Rule 64B1-4.001 for development. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Vega, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Moreau, that the finding of a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Veon, to approve the proposed language consistent with what was submitted for the agenda with the exception that the language will begin with "the education must include." Motion carried.

Further discussion resulted in agreement that the schools would be provided a heads up that this change is forthcoming. Additionally, the board requested consideration of possible adoption of the rule at the end of August. Board staff is to provide email notification of the impending changes to the registrars of the schools.

TAB 17: Rule Memorandum for Rule 64B1-9.001

Rule 64B1-9.001 Advertising

Ms. Guillemette stated that the board had requested the changes for Rule 64B1-9.001 at the last meeting. Dr. Veon clarified that the change was a differentiation between a degree and a professional designation; a level of education rather than a professional designation.

Motion: by Kathy Veon, seconded by Dr. Dunetz, to open Rule 64B1-9.001 for development. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Moreau, that the finding of a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Veon, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz to notice the rule as put forward on the agenda.

## **Endorsement Rules**

Ms. Guillemette directed discussion to the two endorsement rules for applications.  
Rule 64B1-3.009 and Rule 64B1-3.0010

### **Endorsement through NCCAOM Certification**

Discussion from the board during today's meeting indicated, that the board desired that the endorsement by the National Certification, which currently allows certification through either Acupuncture or Oriental Medicine, be consistent with only the Oriental Medicine certificate.

After discussion:

Motion by Dr. Veon, seconded by Dr. Moreau to open the rule for development and delete the certification by Acupuncture language. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz, that the finding of a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. Motion carried.

### **Endorsement through Licensure in Another State**

Ms. Guillemette informed the board that clarification is needed as to the board's intent regarding determining how state laws are to be compared for applications by endorsement through other states. The rule is currently silent on this matter. Specifically, should the laws be compared as to what Florida required at the time the applicant was licensed in another state or as to what Florida requires now?

After discussion:

Motion: by Dr. Veon, seconded by Dr. Moreau to open the rule for development. Motion carried.

Motion: by Dr. Veon, seconded by Mr. Dunetz, to revise the language to state: "submit proof of being actively licensed in a state that has requirements that are substantially equivalent to or are more stringent than those of this state at the time applicant was licensed."

Motion: by Dr. Veon, seconded by Dr. Dunetz, that the finding of a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Veon, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. Motion carried.

## **Executive Director Report-Kama Monroe**

### **TAB 18: Proposed Profession Specific Application**

Standardized Applications

Rule 64B1-4.0011; DH-MQA 1116, 11/16

Executive Director Kama Monroe informed the board that the Department is developing a standardized application that would take care of those questions which are universal to all professions within the Department, such as, name, address, and questions required by Chapter

456. Once done the Acupuncture profession specific questions would need to be revised. Ms. Monroe requested the board open the rule and form to facilitate Ms. Monroe working with a board member to develop an Acupuncture specific application.

Motion: by Mr. Heine, seconded by Dr. Veon, to open Rule 64B1-4.0011 and form DH-MQA 1116 for development. Motion carried.

### **Review of Continuing Education Applications.**

Ms. Monroe then proposed board members, excluding consumer members, agree to divide the continuing education course applications between them. During discussion Ms. Guillemette informed the board that the statute states it is the board's duty to review applications. After discussion, board members agreed to equally review the continuing education course applications.

### **Letter to Physical Therapy Board**

Ms. Guillemette informed the board that she has the proposed Physical Therapy rule for dry needling. She further noted that the Joint Administrative Procedures Committee (JAPC) had several questions regarding the proposed rule. One of the comments was "please explain whether the subsection establishes a separate level of licensure for Physical Therapists offering dry needling and if so what statutes authorize such license?"

Ms. Monroe then reminded the board they had directed her to send a letter to the Executive Director of the Board of Physical Therapy regarding this matter. She informed the board that the letter would be going out on Monday, March 26, 2018.

### **TAB 19: Board Liaison Reports**

- **Application-Exam & Endorsement-Kathy Veon**  
There was no report at this time.
- **Budget-Greg Gunter**  
There was no report at this time. Mr. Gunter noted that there were voluminous reports on the agenda for review and if there were any questions, he advised the board to direct their questions to board staff.
- **Community Relations- Janine Margewicz**  
There was no report at this time.
- **Consumer Protection- Dave Heine**  
There was no report at this time.
- **Continuing Education- Janine Margewicz, Steve Moreau & Herman Vega**  
There was no report at this time.
- **Legislative & Rules- Kathy Veon**  
There was no report at this time.
- **Unlicensed Activity-Steve Moreau**  
There was no report at this time. Dr. Moreau noted that the ULA presentation during today's meeting was informative.
- **Healthy Weight Initiative- Rodney Dunetz**  
Dr. Dunetz noted that he was impressed with the materials on display in the back of the meeting room. There was no report at this time.



## **OLD BUSINESS**

### **HB21 update**

A request for update on HB21 was made. Ms. Monroe noted that the bill has passed and been signed by the governor. The Department is working on implementation of that bill. The prescribing professions will be meeting, tentatively on April 18, 2018, to discuss the continuing education that is a part of the bill. Hopefully, a larger meeting where both the prescribing and non-prescribing professionals will participate will follow. Dr. Moreau asked if the board would be a part of the April discussion. Ms. Monroe informed him they would not, as they are not prescribing professionals.

### **Discussion of Survey**

Dr. Vega brought up previous discussion regarding discussion of the survey. Dr. Vega voiced concern regarding the fact the survey has been lingering for a year. He noted, Mr. Heine's suggestion at the last meeting to research use of the funds toward the opioid concern. Dr. Veon noted that there is a difference in what various states are allowed to do pursuant to their laws and rules. Ms. Monroe explained again that there was a difference between the original intent and survey and the final product. Ms. Guillemette then provided legal direction. Discussion ensued that maybe the emphasis should be shifted, especially since Acupuncture could maybe contribute to opioid education. Dr. Vega noted he would revise the questions and present to the next board meeting. The matter was tabled for the next meeting.

## **NEW BUSINESS**

### **TAB 20: Board of Acupuncture Proposed 2019 Meeting Dates and Locations**

Proposed dates and locations for 2019 were submitted to the board for approval. After discussion, it was determined that there were several conflicts with meeting dates and locations. A poll will be taken and new dates will be submitted.

The first meeting will be in one of the following locations: Boca Raton, Ft. Lauderdale, or Sarasota. The following locations were approved for the remaining meetings: Orlando, Tallahassee, and Orlando.

Requests were made for hotels close to airports and that have shuttles.

## **PUBLIC COMMENT**

None

## **ADJOURN:**

Motion: by Dr. Veon, seconded by Dr. Dunetz, to adjourn.

Next Meeting Date and Location: June 22, 2018-Orlando