

FLORIDA | Board of Acupuncture

April 17, 2020



Meeting Minutes
Board of Acupuncture
General Business Teleconference Meeting
April 17, 2020
9:15 a.m.

TELECONFERENCE
Conference number: 1-888-585-9008
Conference code: 360-472-368

The meeting was called to order by chair, Kathy Veon, at approximately 9:15 a.m.

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

MEMBERS PRESENT:

Kathy Veon, DAOM, AP, CCA, Chair
Rodney Dunetz, DAOM, AP, Dipl.Ac, Vice-Chair
Janine Margewicz, AP
Steve Moreau, AP
Herman Vega, AMD, PhD, AP, LMHC
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

PROSECUTING ATTORNEYS:

Rose Garrison, Esq. Assistant General Counsel
Dannie Hart, Esq. Assistant General Counsel
Chad Dunn, Esq. Assistant General Counsel

COURT REPORTER:

For the Record Reporting
(850) 222-5491

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

REVIEW AND APPROVAL OF MINUTES

TAB 1: December 20, 2019, General Business Meeting Minutes

Motion: by Dr. Dunetz, seconded by Dr. Veon, to approve meeting minutes with noted changes.
Motion carried.

DISCIPLINARY ACTIONS

INFORMAL HEARING

TAB-2: Luz Marina Zapata, A.P., Case #2017-05660

PCP: Veon/Heine

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

Dr. Veon and Mr. Heine were recused due to participation on the probable cause panel.

Dr. Dunetz served as chair for this item on the agenda, due to Dr. Veon's recusal.

Dannie Hart represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 457.109(1)(q), Florida Statutes (2017), by practicing or offering to practice outside the scope of practice by offering to perform platelet rich plasma therapy for a Department investigator and through her website and pamphlets. On or about September 6, 2019. Respondent was served via certified mail. An election of rights was timely received requesting an informal hearing.

An oral amendment was made to change paragraph (8) to Section 457.109(1)(q), Florida Statutes (2017).

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz; to accept the Investigative Report into evidence, make a finding that the Respondent was properly served and requested a hearing not involving disputed facts. Motion carried.

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to accept the Investigative Report, into evidence for the purpose of imposing penalty.

Motion carried.

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

Motion carried.

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

The range of discipline, as well as, the Department's recommendation was provided to the board. The Department recommended \$1000 fine paid within one year as twelve monthly installments upon reactivating the license, one year probation with terms, indirect supervision by a monitor within 50 miles of the licensee's practice, must have a board approved monitor, must submit quarterly reviews of records, licensee and monitor must submit quarterly reports, probation would be tolled during the period the licensee is not practicing and would become effective upon practicing in Florida, CME laws and rules, costs and a reprimand.

Motion: by Dr. Vega, seconded by, Dr. Dunetz, Motion carried. To accept the recommended discipline.

Motion: by Dr. Dunetz, seconded by, Dr. Moreau, to assess costs in the amount of one thousand two hundred thirty-seven dollars and sixty-nine cents (\$1237.69) to be paid same as above within one year of the filing of the Final Order in this matter.

TAB 3: PROSECUTION SERVICES REPORT

The prosecution services report was included with the agenda materials for the board's information. Chad Dunn provided a summary of the report and requested the board allow the Prosecution Services Unit (PSU) to continue prosecuting any cases that are a year and older.

Motion: by Dr. Veon, seconded by Mr. Heine, to allow PSU to continue prosecution of one year and older cases. Motion carried.

PETITION FOR DECLARATORY STATEMENT

TAB 4: Stephanie Gil, AP, File #4700

Petitioner was not present.

Board counsel, Diane Guillemette provided the board with the statutory requirements for a petition for declaratory statement. Additionally, she provided guidance regarding the board's authority.

After much discussion which included public comment: Motion, by Dr. Vega moved to direct board counsel to move forward with drafting the declaratory statement and bring the language back to the June meeting for approval, seconded by Dr. Dunetz. Motion carried.

TAB 24: ADDENDUM ITEMS

TAB 1: REVIEW AND APPROVAL OF MINUTES

TAB A: March 27, 2020, General Business Meeting Minutes

Motion: by Mr. Heine, seconded by Dr. Veon, to approve meeting minutes. Motion carried.

BOARD COUNSEL REPORT - Diane Guillemette, Esq.

TAB 8: RULE REPORT

March 2020 Rules Report
February 2020 Rules Report
January 2020 Rules Report
December 2019 Rules Report

Board counsel noted the reports are there for the board's information.

RULE DISCUSSION

TAB 9: Continuing Education
64B1-7.0015 Continuing Education Requirement.

Board counsel noted the only rule being currently developed is Rule 64B1-7.0015. She recommended they wait to act on this development due to the current COVID-19 environment. After discussion, the board determined not to move forward on the rule at this time.

TAB 10: Telehealth
456.47-Use of Telehealth to Provide Services
64B1-9.001- Disciplinary Guidelines Telehealth disciplinary guidelines

After discussion, Motion: by Mr. Heine, to accept guidelines as amended, seconded by Dr. Veon. 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 the government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Dr. Veon, seconded by Mr. Heine to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

Motion: by Dr. Moreau, seconded by Dr. Veon, that this rule should not be sunsetted.

EXECUTIVE DIRECTOR REPORT- Kama Monroe, E.D.

TAB 11: Executive Order Memorandum

TAB 12: Legislative Report

Executive Director, Kama Monroe, provided a brief summary of bills of interest to the board. Those included 467, which allows physical therapists to perform dry needling, and 713 which changes the penalty for failure to pay a student loan.

She further informed the board that there is little that can be said about the governor's Executive Order regarding unnecessary medical procedures, as the Board has no authority to interpret executive order only the governor's office does.

TAB 7: BOARD CHAIRMAN REPORT, Kathy Veon, DAOM, AP, CCN

State of Florida and Pinellas County Safer at Home Guidance

FSOMA Notice to Pinellas County BOCC

Board chair recognized David Bibbey, a representative from the Florida State Oriental Medical Association (FSOMA), to provide an update on issues in Pinellas County.

Mr. Bibbey noted that HB 467 was adopted in the Senate, which allows Physical Therapists to perform dry needling. He added that the legislation included training, required reporting and tracking, and a definition.

Dr. Bibbey noted that FSOMA has been working with the Florida Medical Association (FMA) regarding the governor's Executive Order to receive clarification from the governor's office. The FMA to obtain best practices guidance, that includes avoiding in-person treatment in your office and the use of telehealth options, to encouraging the continuity of treatment to patients. As it relates to Pinellas County the county commissioners listed acupuncturist as a non-essential service unless under the care of a medical provider. FSOMA requested acupuncture be removed from the non-essential list.

BOARD LIASION REPORTS

TAB 13: Application-Exam & Endorsement-Kathy Veon

There is currently no report.

TAB 14: Budget-Mr. Heine

There is currently no report.

TAB 15: Community Relations- Janine Margewicz

There is currently no report.

TAB 16: Consumer Protection- Dave Heine

There is currently no report.

TAB 17: Continuing Education - Janine Margewicz, Steve Moreau, Herman Vega & Kathy Veon
There is currently no report.

TAB 18: Legislative & Rules- Kathy Veon
There is currently no report.

TAB 19: Unlicensed Activity-Steve Moreau
There is currently no report.

TAB 20: Healthy Weight Initiative- Rodney Dunetz
Provided healthy weight website

NEW BUSINESS

TAB 21: Delegation of Authority

Motion: by Mr. Heine, to approve delegation authority, seconded by Dr. Dunetz. Motion carried.

Executive Director, Kama Monroe, provided an update to the board regarding the ULA campaign. She noted that the team is working on final touches, and the board will see before the next meeting.

TAB 22: Discussion of NCCAOM and California Agreement

Board staff requested direction from the board regarding how to proceed with applications where the applicant is from California and is applying using NCCAOM under the California agreement. It was determined that board staff will proceed by continuing to license California NCCAOM applications per the rule.

TAB 23: PUBLIC COMMENT

Meeting attendee asked two questions. Much discussion ensued. The attendee was informed that as a board, we do not make suggestions to the governor.

Public Comment was closed.

GENERAL DISCUSSION

TAB 5: CE Provider List-12.3.2019-3.9.2020 *informational purposes only*
This item was placed on the agenda for informational purposes.

TAB 6: CE Course Approved List-12.3.2019-3.9.2020 *informational purposes only*
This item was placed on the agenda for informational purposes.

ADJOURN: Motion by Dr. Veon, seconded by Dr. Margiewicz, to adjourn the meeting.
Next Meeting Date and Location: June 26, 2020-teleconf