

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

**MINUTES
GENERAL BUSINESS MEETING
March 6, 2009**

**Marriott Tampa Airport
Tampa International Airport
Tampa, Florida 33607
(813)879-5151**

Friday March 6, 2009

CALL TO ORDER

Katherine Teisinger, Chair, called the General Business Meeting to order at approximately 9:05 am. Those present for all or part of the meeting include the following:

MEMBERS PRESENT

Katherine Teisinger, AP, Chair
Qun Wang, AP, Vice Chair
Barbara Schwartz, AP
Barbara Thurman, AP
Zong Lan Xu, AP
Greg Gunter, Consumer Member
Barbara Rezmer, Consumer Member

STAFF PRESENT

Kaye Howerton, Executive Director
Paula Mask, Program Operations Administrator

ASSISTANT ATTORNEY GENERAL

Barbara Edwards

COURT REPORTER

Dempster & Berryhill Court Reporting
Penny M. Appleton, RPR
813-229-8225

Tab 1 Approval of New Executive Director

Action Taken: Mr. Gunter moved to approve the new Executive Director, Kaye Howerton. Mr. Wang seconded the motion, which passed unanimously 7/0.

REVIEW OF MINUTES

Tab 2 September 19, 2008 General business Meeting Minutes

Action Taken: Mr. Gunter moved to accept the minutes with noted corrections. Ms. Thurman seconded the motion, which passed unanimously 7/0.

REVIEW OF LICENSURE APPLICATION(S)

Examination

Tab 3 Leonard Melamed

Mr. Melamed was present and sworn in by the court reporter.

At the September 19, 2008 meeting, the board gave Mr. Melamed the option of submitting his educational credentials to a credentialing service for an evaluation. He submitted a credentials evaluation report from Career Consulting International which deemed his education equivalent to US Bachelor of Science Degree in Eastern Medicine and Acupuncture, a Master of Science Degree in Eastern Medicine and Acupuncture, and a Doctor of Medicine (M.D.) Degree from a Regionally Accredited College or University in the United States of America.

In addition, he submitted documentation from NCCAOM that he is certified as a Diplomate in Acupuncture of the NCCAOM.

Action Taken: Ms. Schwartz moved to approve for licensure. Ms. Rezmer seconded the motion, which carried unanimously 7/0.

Endorsement

Tab 4 Joan Steinhoff

Ms. Steinhoff was present and sworn in by the court reporter.

Ms. Steinhoff is a licensed RN in the state of Wisconsin. Her RN license and the test taken to get that license was sufficient to warrant the granting of an acupuncture license in Wisconsin and Maryland. Ms. Steinhoff informed the board that her RN licensure examination, NCLEX-RN, was deemed substantially equivalent or more stringent than the NCCAOM test in both states. Ms. Steinhoff graduated from Midwest College of Oriental Medicine with a Masters degree in Oriental Medicine with a total of 2,601.82 clock hours. She submitted documentation (transcript) indicating she had obtained additional hours of education to meet the 2700 hour requirement.

The NCLEX-RN is not an approved examination for licensure as an acupuncturist in Florida. Rule 64B1-3.004, Florida Administrative Code, requires applicants to take and pass the NCCAOM test. Ms. Steinhoff has failed to do so.

Action Taken: Following discussion, Ms. Steinhoff requested the board allow her to withdraw her application at this time. Mr. Gunter made a motion to allow Ms. Steinhoff to withdraw her application. Mr. Wang seconded the motion, which carried unanimously 7/0.

DISCIPLINARY CASES

Settlement Agreement

Tab 5 Stacey J. Sievers, A.P., Case No. 2008-10189

Ms. Sievers was not present nor represented by counsel. Mr. Gunter was recused due to participation on the probable cause panel.

Patricia Smith, Assistant General Counsel, Department of Health, presented the case to the board. Ms. Sievers was charged with violating s. 457.109(1)(x), F.S. (2007), for violating any provision of

this chapter or chapter 456, or any rules adopted pursuant thereto. Ms. Sievers was practicing while the license was in a delinquent status.

Action Taken: Following discussion, Ms. Thurman made a motion to accept the settlement agreement which includes:

- A Letter of Concern be issued from the Board of Acupuncture;
- Pay an administrative fine of \$500.00; and
- Reimburse the Department for administrative costs of \$1,694.89.

Ms. Xu seconded the motion, which carried 5/1 with Ms. Schwartz opposing.

REVIEW OF CONTINUING EDUCATION COURSES

Tab 6 20-214623: Chinese Medical Astrology, Feng Shui, TCM Reflexology, and Face Diagnosis

Tab 7 20-214624: East Meets West in the Spa Room

Tab 8 20-2144626: Chinese Qi Gong & Chinese Massage in China

These continuing education courses were withdrawn by the provider. No action taken.

ADDENDUM

Review of Continuing Education Courses

Tab 8A 20-217641: Trigrams Applications. Gynecology

Ms. Thurman moved to approve this course. Ms. Schwartz seconded the motion, which carried 6/1 with Mr. Wang opposing.

Tab 8B 20-217642: Trigrams Applications. Sexual Dysfunctions and Infertility

Ms. Schwartz moved to table the application until the June meeting allowing the applicant to submit additional information regarding clarification of content regarding fertility. Ms. Xu seconded the motion, which carried unanimously 7/0.

Tab 8C 20-217644: Trigrams Applications. 5 Phases Bio-Social Model of Development

Ms. Thurman moved to approve this course. Ms. Rezmer seconded the motion, which carried 6/1 with Mr. Wang opposing.

Tab 8D 20-217645: Trigrams Applications. Anxiety and Depression

Ms. Rezmer moved to approve this course. Ms. Thurman seconded the motion, which carried 6/1 with Mr. Wang opposing.

Tab 8E 20-217646: Trigrams Applications. Clinical Synopsis

Ms. Thurman moved to table the application until the June meeting allowing the applicant to submit additional information regarding learner objectives using "metamodel analysis of cases". Mr. Gunter seconded the motion, which carried unanimously 7/0.

Tab 8F20-217648: Trigrams Applications. Peri-Operative Acupuncture

Ms. Thurman moved to approve this course. Ms. Schwartz seconded the motion, which carried 6/1 with Mr. Wang opposing.

Tab 8G 20-217650: Trigrams Applications. Pentasymmetrical TCM

Mr. Gunter moved to table the application until the June meeting allowing the applicant to submit additional information regarding subject matter in particular “pentasymmetrical modes.” Ms. Thurman seconded the motion, which carried unanimously 7/0.

Tab 8H 20-217652: Trigrams Applications. Pentasymmetrical Supplements and Acupuncture

Mr. Gunter moved to table the application until the June meeting allowing the applicant to submit additional information regarding the definitions of pentasymmetrical supplements and SEA Approach. Ms. Schwartz seconded the motion, which carried unanimously 7/0.

Tab 8I 20-217653: Trigrams Applications. Integration of Herbs and Supplements

Ms. Schwartz moved to table the application until the June meeting allowing the applicant to submit additional information regarding the definitions of Trigrams and Metamodel OM diagnostics. Ms. Rezmer seconded the motion, which carried unanimously 7/0.

Tab 8J 20-217655: Identification of Trigrams and Meridian Group Polarities

Ms. Thurman moved to table the application until the June meeting allowing the applicant to submit additional information justifying the assignment of 14 hours to cover this topic. Mr. Gunter seconded the motion, which carried unanimously 7/0.

Tab 8K 20-217656: Trigrams Applications. Energetic Grid (Chinese Clock)

Ms. Schwartz moved to table the application until the June meeting allowing the applicant to submit additional information justifying the assignment of 14 hours to cover this topic. Ms. Rezmer seconded the motion, which carried unanimously 7/0.

Ms. Schwartz amended her motion to include the definition of Chinese Clock. Mr. Gunter seconded the motion, which carried unanimously 7/0.

Tab 8L20-217657: Trigrams Applications. Clinical Research principles I

Mr. Gunter moved to table the application until the June meeting allowing the applicant to submit additional information regarding Metamodels. Mr. Wang seconded the motion, which carried unanimously 7/0.

Tab 8M 20-217654: Trigrams Applications. Clinical Research Principles II

Mr. Gunter moved to table the application until the June meeting allowing the applicant to submit additional information regarding Metamodels. Mr. Wang seconded the motion, which carried unanimously 7/0.

Tab 8N 20-217659: Trigrams Applications. Deciphering the Classics

Ms. Thurman moved to table the application until the June meeting allowing the applicant to submit additional information on all listed "Subject Matters" in this course. Ms. Rezmer seconded the motion, which carried unanimously 7/0.

The board stated that all tabled courses have until April 20th to submit the additional information for the June meeting.

PROSECUTOR'S REPORT

Ms. Smith presented the prosecutor's report outlining the current status of the 23 open disciplinary cases.

Under legal review	8
Recommended orders for probable cause	2
Probable cause found	8
Formal hearings	5

Of these cases one is a 2005 case and four are 2006 cases.

GENERAL BUSINESS / CORRESPONDENCE

Tab 9 Professional Resource Network Survey Results

Informational item.

Information Regarding the Term Doctor

Tab 10 Excerpt of September 19, 2008 Minutes

Tab 11 Correspondence reviewed at the September 19, 2008 meeting

Tab 13 Barbara Edwards, Assistant Attorney General, Re: The Term Doctor

Ms. Edwards furnished the following information in the agenda:

- Definitions
- Section 817.567, Florida Statutes, Making False Claims of Academic Degree or Title
- Section 1005.02(7), Florida Statutes, Definitions
- Westlaw, United States District Court, S.D. Florida. Samuel Bartow STRANG, III, Plaintiff, v. Michael SATZ, as State Attorney for Broward County, Florida, Defendant. No. 94-6686-CIV

The board discussed the three tabbed items simultaneously. Members of the audience were recognized to speak on this topic as well. Audience members who spoke to the board were sworn in by the court reporter.

Ms. Edwards opined that persons can use the title "Dr." if they specify that their degree is in oriental medicine and they state they are a licensed acupuncturist. In doing so they are not attempting to mislead the public. Ms. Edwards stated this is the position the board should take. Discussion ensued, however; the Board did not vote on this issue.

Tab 12 Acupuncture Today Article, Re: *Understanding ACAOM Draft Doctoral Standards*

Informational Item.

REPORTS

Tab 14 Board Chair Report – Katherine Teisinger

Informational item.

Tab 15 Board Counsel Report – Barbara Edwards

February 2009 Rules Report

- **64B1-4.001, F.A.C., Acupuncture Program Requirements**

Action Taken: After reviewing the proposed language, Mr. Gunter made a motion to approve the proposed language. Mr. Wang seconded the motion, which carried unanimously 7/0. The board determined a Statement of Estimated Regulatory Costs for this proposed amendment was not required.

- **64B1-4.0011, F.A.C., Documentation Necessary for Licensure Application**

Action Taken: After reviewing the proposed language submitted by Ms. Edwards, Ms. Rezmer made a motion to approve the language. The motion was seconded by Ms. Xu and carried unanimously 7/0. The board determined a Statement of Estimated Regulatory Costs for this proposed amendment was not required.

Since Ms. Edwards had revised this rule incorporating the application and form number in this rule, Ms. Schwartz made a motion to allow board counsel authority to open a second development on this rule. Ms. Xu seconded the motion, which carried unanimously 7/0.

- **64B1-4.0012, F.A.C., English Proficiency Requirement for Licensure**

Ms. Edwards advised the Joint Administrative Procedures Committee (JAPC) had submitted a letter questioning the difference between taking the examination on the computer and taking it on the internet. Ms. Edwards requested the board to review her proposed letter to the JAPC in which she described scores for the computer test, internet test and the written test. Ms. Edwards asked the board to provide her with further explanation.

Action Taken: Ms. Xu stated she would fax Ms. Edwards information regarding paper vs. internet exams. Mr. Gunter made a motion to table this rule until the June meeting. Mr. Wang seconded the motion, which carried 7/0.

- **64B1-6.005, F.A.C., Standards for Approval of Continuing Education Credit**

Ms. Edwards advised this rule was tolled on December 10, 2008 and needs to be redeveloped.

Action Taken: Ms. Xu made a motion to approve the language presented pursuant to discussion held by the board. Ms. Schwartz seconded the motion, which carried unanimously 7/0.

- **64B1-7.0015, F.A.C., Continuing Education Requirement**

Ms. Edwards advised this rule was tolled on January 14, 2008 and needs to be redeveloped.

Action Taken: Ms. Schwartz made a motion to move forward with the language presented pursuant to discussion held by the board. Ms. Rezmer seconded the motion, which carried unanimously 7/0.

Ms. Edward asked the board to review the rules workshop agenda again. It was determined the workshop was unnecessary for the reasons stated.

Action Taken: Mr. Gunter made a motion to deny the workshop on rule 64B1-4.0011 as unnecessary. Mr. Wang seconded the motion, which carried unanimously 7/0.

Ms. Edwards will draft a letter for Ms. Howerton to sign for the board chair.

Action Taken: Motion was made and seconded to allow board counsel authority to make changes to rules that are not substantive. Motion carried unanimously 7/0.

Tab 16 Board Director Report – Kaye Howerton

- **Annual Delegation of Board authority to Staff**

Mr. Gunter made a motion to grant the Executive Director authority to sign all orders of the board on behalf of the board chair. Ms. Xu seconded the motion, which carried unanimously 7/0.

Ms. Thurman made a motion to allow staff to issue licenses to all applicants that have no issues or concerns. Ms. Schwartz seconded the motion, which carried unanimously 7/0.

- **Budget Report**

Ms. Howerton included in the agenda the Profession by Profession Revenue and Expenditure Projections. Ms. Howerton also advised the MQA legislative package included raising fee caps.

Tab 17 Board Liaisons

- **Application Examination & Endorsement** - None
- **Budget** – Ms. Howerton discussed the budget under tab 16. Mr. Gunter had no additional information
- **Community Relations** – Ms. Teisinger asked about information on the sexual misconduct book and who had sent it.
- **Consumer Protection** - None
- **Continuing Education** - None
- **Legislative & Rules** - None
- **Unlicensed Activity** - None

OLD BUSINESS

None

NEW BUSINESS

Tab 18 Letter from Chair, Re: Insurance Companies

Ms. Teisinger's letter was regarding insurance companies paying for acupuncture treatments performed by health care professionals not qualified as Florida licensed Acupuncturists. Ms. Edwards suggested sending the letter to the Department of Insurance as well.

Ms. Teisinger also disbursed additional information on the chiropractic statute.

Tab 19 Discussion on Chiropractors advertising as Acupuncturists

Board of Chiropractic Rules:

- **64B2-15.001** – Deceptive and Misleading Advertised Prohibited; Policy; Definition.
- **64B2-16.003** – Guidelines for the Disposition of Disciplinary Cases.
- **64B2-16.0075** – Citations.

Ms. Teisinger furnished this information to the board. It was emphasized to the board to file complaints if they know of anyone advertising as an acupuncturist and not qualified to do so.

The board requested staff to email them giving instructions on how to file a complaint.

20. Appointment of Board Liaisons

- **Application Examination & Endorsement** – Zong Lan Xu & Katherine Teisinger
- **Continuing Education** – Barbara Thurman, Barbara Schwartz and Qun Wang
- **Community Relations** – Barbara Rezmer
- **Unlicensed Activity** – Barbara Schwartz reminded the board she had signed up for this at the last board meeting.

The board requested Ms. Howerton and Ms. Mask to research CE Broker, application timeframes and clarify for the board how CE Broker learns of CE rule changes.

NEXT MEETING

June 12, 2009

Marriott Tampa Airport
Tampa International
Tampa, FL

ADJOURNMENT

Mr. Gunter made a motion to adjourn. Mr. Wang seconded the motion, which carried unanimously 7/0.

The meeting adjourned approximately 3:00 p.m.