

Minutes
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
FLORIDA BOARD OF ACUPUNCTURE
Marriott Tampa Airport
Tampa International Airport
Tampa, Florida 33607
Friday, September 14, 2007 at 9:00 a.m.
(813) 879-5151

Call to Order/Roll Call

Zong Lan Xu, AP, Chair, called the meeting to order at 9:07 a.m.

Members Present:

Zong Lan Xu, AP, Chair
Frank Ervolino, AP, Vice Chair
Gregory Gunter
Katherine Teisinger, AP
Qun Wang, AP

Board and Department Staff:

Barbara Edwards, Board Counsel
Ronda L. Bryan, Program Administrator

Prosecuting Attorney

Matthew Casey, Assistant General Counsel
Allison M. Dudley, Assistant General Counsel

Members Absent:

Rena Skuban, AP

Court Reporter:

Bay Park Reporting
(813) 490-0003

Review of Minutes

Tab 1 – March 9, 2007, General Business Meeting

Action Taken: After discussion, Ms. Teisinger moved to approve the minutes with the following corrections:

- Page 3, line 28 – delete “that”
- Page 3, line 29 - replace “or as to” with “and”
- Page 4, line 18 – add “accredited” after an
- Page 4, line 27 – delete “herbal” and replace with “supplement”

The motion was seconded by Mr. Ervolino and passed unanimously.

Discipline

Informal Hearing

Tab 2 – Juan J. Martinez, A.P. (case no. 2007-03351)

Mr. Martinez was not present or represented by counsel.

Mr. Casey represented the Department. Mr. Gunter and Mr. Wang were recused due to participation on the Probable Cause Panel.

Due to lack of a quorum, Mr. Martinez's case was continued until the next meeting.

Recommended Order

Tab 3 – Elham Kharabi, A.P. (case no. 2004-27932)

Mr. Kharabi was present and represented by Louise R. Caro, Esq, Coconut Grove, Florida.

Mr. Casey and Ms. Dudley represented the Department. Mr. Gunter and Mr. Wang were recused due to participation on the Probable Cause Panel.

Due to lack of a quorum, Mr. Kharabi's case was continued until the next meeting.

The Respondent and Petitioner agreed to waive the Chapter 120, Florida Statute requirement to hear the case in 90-days.

Action Taken: After discussion, a motion was made by Mr. Ervolino to accept the Respondent's and Petitioner's waiver of the 90-day requirement under Chapter 120, Florida Statutes. The motion was seconded by Ms. Teisinger and carried unanimously.

Prosecutor Report

Mr. Casey indicated that there were a total of 23 complaints and cases open as of today's date. Of the 23 cases, 3 cases will be heard at the PCP meeting on September 14, 2007. The remaining 20 cases include, 2 cases (both 2005) pending outcome of criminal cases; 1 formal hearing case; 1 informal hearing case; 5 cases are post-probable cause and are in negotiation for possible settlements; 10 cases are under legal review; and 1 case is awaiting a supplemental investigation.

Reports

A. Chair Report – Zong Lan Xu

Ms. Xu provided an update on several events associated with the Board's partners. She specifically noted that the National Certification Commission for Acupuncture and Oriental Medicine held their open house in Jacksonville, Florida this past June; the Florida State Oriental Medical Association held their 2007 annual conference in Orlando September 7-9; and the Acupuncture & Oriental Medicine National Coalition Corporation held a continuing education seminar in Miami on September 7-9.

Ms. Xu also shared that she has become aware that Federal employees who have health insurance under Blue Cross and Blue Shield can receive coverage for acupuncture services.

Board Counsel Report – Barbara Edwards

Tab 4 – Rules Report

64B1-3.004 - Acupuncture Examination

No action taken.

64B1-4.001 – Acupuncture and Program Requirements

Action Taken: After discussion, a motion was made by Mr. Ervolino to approve the language as submitted. The motion was seconded by Mr. Gunter and carried unanimously. (Please see Attachment A.)

64B1-7.0015 - Continuing Education Requirement

Action Taken: After discussion, it was the consensus of the Board to make the suggested language change and draft proposed language for Rule 64B1-6.005 for consideration at the next meeting. (Please see attachment B.)

Action Taken: After further discussion, a motion was made by Mr. Ervolino to notice rule development on Rule 64B1-6.005. The motion was seconded by Mr. Wang and carried unanimously.

Break 10:19 to 10:39

Board Director Report

Tab 5 – Topics

Pending board Issues

Ms. Bryan provided an update on the pending board issues.

Mission Statement

Mr. Ervolino submitted a draft mission statement for the Board to consider as follows:

Board of Acupuncture Mission Statement

“Ensuring that Florida’s citizens have access to acupuncture and the traditional Chinese medical system as practiced to the highest and safest professional standards. It is important to the Florida state board of acupuncture that this healing art be available to those who seek it.”

Action Taken: After discussion, a motion was made by Ms. Teisinger to adopt the draft mission statement as submitted. The motion was seconded and carried unanimously.

Compliance Reports

Informational Only

Budget Summary

Ms. Bryan explained that the Department was asking all offices to find cost saving measures that will save at least 10% of the current budget. Staff provided recommendations on potential areas of reduction:

1. Allow the Department to schedule meetings in locations that are lower in cost
2. Hold one of our regular meetings by conference call
3. Reduce overnight mailings to liaisons – by using e-mail
4. Cease presentations at association meetings for this fiscal year
5. Cease printing of Laws and Rules – require individuals to get materials on-line
6. Cease printing of applications – require individuals to get materials on-line

The Department is making the following cuts:

1. No out of state travel – unless you are speaker or the trip is paid by the entity
2. Cut budget by 10% across the board

Discussion on Procaine

After much discussion and testimony regarding procaine, it was the consensus of the Board to take no action and continue researching procaine. The Board requested interested parties to submit any information that would be helpful to the Board office for future consideration.

2008 Proposed Meeting Dates

Ms. Bryan asked the Board to consider 2008 Proposed Meeting Dates as follows:

- March 14, 2008
- June 20, 2008
- September 19, 2008
- December 5, 2008

Action Taken: After discussion, a motion was made by Mr. Gunter to approve the 2008 Proposed Meeting Dates and allow the Department to determine the most cost efficient location. The motion was seconded by Mr. Wang and carried unanimously.

Board Liaisons

a. Legislative & Rules – Zong Xu

No Report

b. Continuing Education – Renee Skuban & Frank Ervolino

No Report

c. Examination & Endorsement – Zong Xu & Renee Skuban

No Report

d. Unlicensed Activity – Frank Ervolino

No Report

e. Budget – Gregory Gunter

Tab 6 – Budget

Mr. Gunter noted that due to budget cuts, the Department would not be holding a face-to-face budget meeting this year. However, the Department did provide the Boards Budget Liaison with several different reports for their review.

f. Consumer Protection – Vacant

No Report

g. Community Relations – Katherine Teisinger

No Report

Old Business

After much discussion on the use of terms and acronyms, Ms. Edwards requested participants to submit any information that they may have to her for review and consideration.

New Business

It was requested that the Board consider requiring licensees to publish their license number in advertisements.

Next Meeting

December 7, 2007 – Ft. Lauderdale, Florida

Adjournment

Action Taken: A motion was made by Ms. Teisinger to adjourn the meeting at 12:05 p.m. The motion was seconded by Mr. Wang and carried unanimously.

Attachment A

64B1-4.001 Acupuncture Program Requirements.

In order to be certified to take the licensure examination or to be eligible for licensure by endorsement, the applicant must establish that he/she has met the following minimal requirements.

(1) For students enrolled in a program prior to August 1, 1997, applicants under this section must have completed at least 900 hours of supervised instruction in traditional oriental acupuncture and at least 600 hours of supervised clinical experience, as well as 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter, which can be obtained through an approved continuing education program or in a program offered at an ACAOM accredited oriental medicine school. All applicants under this provision must have started classes no later than February 1, 1998.

~~(2) Applicants who apply for licensure on or after August 1, 2001 must have completed a core curriculum comparable to that of the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) master's level program in oriental medicine with a minimum of 2700 hours of supervised instruction:~~

~~(a) 15 hours of supervised instruction in universal precautions; and~~

~~(b) 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter.~~

~~(2)(3) All other aApplicants who apply for licensure on or after October 1, 2003 must have graduated from an Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) candidate or accredited 4-year master's level program or foreign equivalent in oriental medicine with a minimum of 2700 hours of supervised instruction and must have successfully completed:~~

~~(a) 15 hours of supervised instruction in universal precautions; and~~

~~(b) 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter which may be obtained through an approved continuing education program or in a program offered at an ACAOM accredited oriental medicine school; and. For purposes of the Florida Statutes and Rules and HIV/AIDS requirements imposed by this chapter for initial licensure, the term "supervised instruction" shall mean instruction in a Board approved continuing education program or in a program offered at an ACAOM accredited oriental medicine school.~~

~~(c)(4) For applicants who enroll on or after July 31, 2001, applicants must have completed An 8 eight hour program that incorporates the safe and beneficial use of laboratory test and imaging findings in the practice of acupuncture and oriental medicine.~~

Specific Authority 457.102, 457.104, 457.105 FS. Law Implemented 456.033, 457.102, 457.105 FS. History—New 8-30-84, Formerly 21AA-4.01, Amended 7-20-88, 4-30-89, 9-19-89, 3-18-92, Formerly 21AA-4.001, 61F1-4.001, Amended 3-24-96, Formerly 59M-4.001, Amended 12-31-97, 11-1-99, 6-21-00, 4-3-01, 5-24-04, 10-11-04, 10-24-04, 5-30-07.

Attachment B

64B1-7.0015 Continuing Education Requirement.

(1) As a condition of the biennial renewal of a license, each licensee shall complete a minimum of 20 credit hours per biennium of continuing education that meets the requirements of Chapter 457, F.S. Effective March 1, 2002, as a condition of the biennial renewal of a license, each licensee shall complete a minimum of 30 credit hours per biennium of continuing education that meets the requirements of Section 457.107, F.S. Pursuant to Section 456.033(2), F.S., each licensee shall submit confirmation of having completed a 3-hour HIV/AIDS course when submitting fees for the initial biennial renewal. Each biennium, the licensee shall complete a program awarding at least 5 hours of continuing education credit in Biomedical Clinical Competencies Programs as set forth in Rule 64B1-6.005, F.A.C. concerning the use of laboratory test findings. ~~Each biennium, the licensee shall complete a program awarding at least 3 hours of continuing education credit concerning the use of imaging findings.~~ Each biennium, the licensee shall complete a program on Chapters 456 and 457, F.S., and Rule Chapter 64B1, F.A.C., consisting of at least 2 hours of study.

(2) As a condition of initial licensure or renewal of license, each licensee shall complete a 2-hour course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for the profession. The course shall be approved by the Board and include a study of root-cause analysis, error reduction and prevention, and patient safety.

(3) For the first renewal period after initial licensure, the licensee is exempt from the continuing education requirements of Rule 64B1-7.0015, F.A.C., except for the continuing education hours mandated for medical errors and the 3-hour HIV/AIDS course.

(4) Credit hours are not retroactive or cumulative. All credit hours must be earned within the biennium for which they are claimed.

(5) Continuing education credit up to a maximum of two hours will be awarded for each hour of attendance at a Board meeting at which another licensee is disciplined pursuant to Section 456.013(6), F.S. Only one credit hour will be granted for each hour of attendance.

(6) The Board and/or the Department will audit a number of licensees who are selected at random as is necessary to assure that the continuing education requirements are met. Each licensee shall retain such receipts, vouchers or certificates as may be necessary to document completion of the continuing education requirements for a period of 2 years following the biennium for which they are applied. Failure to document compliance with the continuing education requirements, or furnishing false or misleading information regarding compliance shall be grounds for disciplinary action under Rule 64B1-9.001, F.A.C.

~~(7) Other provisions of a rule of the Board notwithstanding, effective for the biennium beginning March 1, 2004, and ending February 28, 2006, all non-statutory continuing education licensure renewal requirements imposed by Board rule are suspended. No continuing education credits will be required for renewal of licensure at the February 28, 2006 renewal date except for the medical errors and HIV/palliative care requirements imposed by Sections 456.013(7) and 456.033, F.S., respectively.~~

Specific Authority 456.013, 457.104, 457.107, 457.108, 457.1085 FS. Law Implemented 456.013, 456.033, 457.107, 457.108, 457.1085, 457.109 FS. History—New 3-18-97, Formerly 59M-7.0015, Amended 4-25-00, 4-3-01, 11-24-02, 5-18-04, 5-30-07.