

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

MINUTES
GENERAL BUSINESS MEETING
MARCH 5, 2010

Rosen Plaza Hotel
9700 International Drive
Orlando, FL 32819
(407) 996-9700

CALL TO ORDER

Katherine Teisinger, Chair, called the General Business Meeting to order at 9:01 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT

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

STAFF PRESENT

Paula Mask, Program Operations Administrator
Jacqueline Clahar-Anderson, Regulatory Specialist II

COURT REPORTER

American Court Reporting
407.896.1813

MEMBER ABSENT

Greg Gunter, Consumer Member (excused)

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

REVIEW AND APPROVAL OF MINUTES

Tab 1 December 3, 2009 Rules Hearing

Action Taken: Ms. Xu moved to approve the minutes without corrections. Mr. Wang seconded the motion, which passed unanimously 6/0.

Tab 2 December 4, 2009 General Business Meeting

Action Taken: Ms. Rezmer moved to approve the minutes without corrections. Ms. Schwartz seconded the motion, which passed unanimously 6/0.

(Agenda moved out of order)

ADMINISTRATIVE PROCEEDINGS

Examination:

Tab 7 Natalie A. Doliner

Ms. Doliner was present with counsel, George Indest, Esquire and sworn in by the court reporter.

Ms. Teisinger advised the board Ms. Doliner needed to provide proof of 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture and oriental medicine.

It was determined after review of the four college transcripts which were submitted that she had a total of 28 college credits. Therefore, she needs an additional 32 college credits.

She had been accepted into the acupuncture program at Florida College of Integrative Medicine and graduated January 9, 2010.

Mr. Indest informed the Board he had written a letter requesting to table the application until the next meeting and had waived the 90 day requirement for review of application.

Action Taken: Ms. Schwartz moved to continue the application. Ms. Thurman seconded the motion which carried 6/0.

DISCIPLINARY PROCEEDINGS

Settlement Agreement:

Tab 4 Grace Park, AP Case # 2008-09756 PCP: Gunter and Ervolino

Ms. Park was present with counsel, Parker Easton, Esquire, and sworn in by the court reporter. Ms. Smith represented the department and presented the case to the board.

The department filed an administrative complaint alleging a violation of sections 457.109(1)(g) and (r), F.S.

Action Taken: Ms. Rezmer moved to adopt the Settlement Agreement as follows:

- \$1,125.18 Costs within 30 days from the date of the filed final order
- Letter of Concern
- Six (6) months suspension with suspension stayed upon meeting certain conditions as outlined in the agreement which includes obtaining an acupuncturist approved by the board to serve as a monitor
- Probation for six (6) months subject to conditions as outlined in the agreement
- Submit affidavit attesting she has read and understands the Laws and Rules governing the practice of Acupuncture within one(1) year of the date of filing of the Final Order

Ms. Schwartz seconded the motion, which passed 6/0.

Additional Action Taken: Ms. Schwartz moved to accept Blaine Maselli, AP 2303, as Ms. Park's monitor. Ms. Thurman seconded the motion which carried 6/0

Tab 3 Juan Jose Martinez, AP Case # 2008-04460 PCP: Gunter and Ervolino

Mr. Martinez was present and sworn in by the court reporter. Ms. Smith represented the department and presented the case to the board.

The department filed an administrative complaint alleging a violation of section 457.109(1)(s), F.S.

Action Taken: Mr. Wang moved to adopt the Settlement Agreement as follows:

- \$285.14 Costs within 30 days from the date of the filed final order
- Reprimand
- Six (6) months probation

Ms. Rezmer seconded the motion, which passed 6/0.

Informal Hearing:

Tab 5 Kenneth D. Suh, AP Case # 2008-07961 PCP: Gunter & Skuban

Mr. Suh was not present nor represented by counsel. Ms. Smith represented the department and presented the case to the board.

The department filed an administrative complaint alleging a violation of section 457.109(1)(c) and 456.072(1)(x), F.S. Ms. Smith represented the department and presented the case to the board.

Ms. Teisinger moved to adopt the material facts as alleged in the Administrative Complaint are not in dispute and to adopt the allegations of fact in the administrative complaint as the board's conclusions of fact in this proceeding. Ms. Schwartz seconded the motion which carried 6/0.

Ms. Teisinger moved to adopt the findings of fact and conclusions of law as set forth in the administrative complaint as the board's conclusions of law in this proceeding. Ms. Schwartz seconded the motion which carried 6/0.

Ms. Teisinger moved to adopt the case materials and any materials in the addendum into evidence as a part of the record in this proceeding. Ms. Schwartz seconded the motion which passed 6/0.

Action Taken: After discussion, Ms. Schwartz moved to impose the following penalty:

- Revocation

Ms. Rezmer seconded the motion which passed 6/0.

Additional Action Taken: Ms. Thurman moved to impose payment of \$2,366.23 costs to be paid within . Ms. Schwartz seconded the motion which carried 6/0.

ADMINISTRATIVE PROCEEDINGS

Examination:

Tab 2 Long V. Mai

The applicant was present and sworn in by the court reporter. He was not represented by counsel.

Summary: Mr. Mai was issued license number AP 2135 to practice Acupuncture in Florida on August 1, 2005. His license was revoked on March 25, 2008 due to disciplinary action against his Acupuncture license in Rhode Island and Virginia.

Mr. Mai re-applied for licensure in Florida on January 26, 2009 and was placed on the June 12, 2009 meeting for consideration. Mr. Mai requested the board to extend the review of his application until the December 2009 board meeting as he could not be present until that meeting. He also waived his rights to have his application reviewed within 90 days as required in section 120.60, Florida Statutes.

The board tabled this item until the March 5, 2010 meeting allowing Mr. Mai time to clear up licensure problems in other states.

After discussion by the board, Ms. Teisinger moved to approve for licensure with the following conditions:

- Applicant/Licensee shall complete a Laws and Rules continuing education course and a three-hour Ethics course within 30 days of the filing of this Order.
- Two years of supervised probation. Supervisor shall be a licensed Florida acupuncturist approved by the Board Chair; Applicant/Licensee shall submit three (3) curriculum vitas of potential monitors to the board office within 30 days of the filing of this Order; and the chosen monitor shall submit monthly reports to the board office based on a monthly review of Applicant/Licensee's billing records

Mr. Wang seconded the motion which carried 6/0.

Petition for Variance and Waiver of Rule

Tab 8 Margaret Spargo, Health Concerns - re: rule 64B1-6.005(2), F.A.C.

This petition was presented based upon the denial of the continuing education courses submitted by Health Concerns at the December 2009 meeting, as the designated presenter lacked the minimum required education qualifications.

Action Taken: Ms. Thurman moved to grant the petition to accept the presenter for these courses. Ms. Schwartz seconded the motion which carried 6/0.

REVIEW OF CONTINUING EDUCATION COURSES

Tab 9	Course # 20-248509	Kiiko Style: Scars & Their Pathophysiologic Impact on the Body with David Euler	Neon Pink Tiger Health Works
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Action Taken: After discussion Ms. Thurman made a motion to accept both the live and distance learning courses which was seconded by Ms. Schwartz and carried unanimously 6/0.

Tab 10	Course # 20-254201	Understanding Personality Disorders	Institute for Brain Potential
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Action Taken: After discussion Ms. XU moved to accept which was seconded by Ms. Thurman and carried unanimously 6/0.

Tab 11	Course # 20-254245	Anger, Forgiveness, and the Healing Process	Institute for Brain Potential
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Action Taken: After discussion Ms. Schwartz moved to accept which was seconded by Ms. Rezmer and carried unanimously 6/0.

Tab 12	Course # 20-255053	Pulsynergy Made Easy Part I	Lotus Institute of integrative Medicine
Tab 13	Course # 20-255054	Pulsynergy Made Easy Part II	Lotus Institute of integrative Medicine
Tab 14	Course # 20-255057	Pulsynergy Made Easy Part III	Lotus Institute of integrative Medicine
Tab 15	Course # 20-255058	Pulsynergy Made Easy Part IV	Lotus Institute of integrative Medicine
Tab 16	Course # 20-255064	Case Studies: Live Discussion on Pulse Diagnosis and Herbal Prescriptions	Lotus Institute of integrative Medicine

Action Taken: Ms. Thurman made a motion to approve tabs 12 through 16. Ms. Rezmer seconded the motion. The motion failed 3/3 with Mr. Wang, Ms. Xu and Ms. Schwartz opposing the motion.

Ms. Teisinger made a motion to reconsider Tabs 12 through 16. Ms. Rezmer seconded the motion which carried 6/0.

After additional discussion, Ms. Rezmer made a motion to table these course approvals until one of the courses can be audited.

Tab 17 Course # 20-255388 Mastering the Thyroid Apex Energetics

Action Taken: Ms. Teisinger made a motion to approve. Ms. Xu seconded the motion which carried 6/0.

Tab 18 Course # 20-257037 Developing a Working/Productive Relationship with a Medical RE&I Clinical Practice ProD Seminars

Action Taken: Ms. Teisinger made a motion to deny as the course content is primarily devoted to administrative or business management aspects of acupuncture practice. Ms. Schwartz seconded the motion which carried 6/0.

PROSECUTOR REPORT

Tab 21 March 5, 2010

Informational. No action needed.

(Recessed for lunch at 12 noon.)

The board reconvened approximately 1:00 p.m.

Tab 19 Course # 20-259167 Tui Na & Qi-Gong 3 Shin Wellness
Tab 20 Course # 20-259169 Tui Na & Qi Gong 4 Shin Wellness

Action Taken: Ms. Xu made a motion to approve the courses listed in tabs 19 and 20. Ms. Schwartz seconded the motion which carried 6/0.

Tab 24 Course # 20-254018 Treating Insomnia with 5 Element Patterns Vera H. Kaikobad Addendum
Course # 20-254059 Treating Chronic Constipation with 5 Element Patterns
Course # 20-254054 Treating Depression with 5 Element Patterns
Course # 20-254063 Treating Insomnia with % element Patterns (this included certificates for the CE training and the breakdown of CE hours offered for each learner objective for the course Treating Insomnia with 5 element Patterns)
Course # 20-254061 Treating Arthritis of the Hands with 5 Element Patterns
Course # 20-254060 Treating Restless Leg Syndrome with 5 Element Patterns
Course # 20-254057 Treating Anxiety with 5 Element Patterns

Action Taken: Ms. Schwartz made a motion to deny based on the content of the courses do not contribute to the advancement, extension or enhancement of a licensee's skills and knowledge related to the practice of acupuncture and oriental medicine. Mr. Wang seconded the motion which carried 6/0.

The Board discussed section 456.013(8), F.S., which states in part: ". . .**may adopt** rules to provide for the use of approved videocassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements . . .". The Board requested Ms. Mask to contact CE Broker to advise they have not adopted rules in this area as the statute does not require the board to do so. She is to also advise that the board allows unlimited number of hours in one subject for approved online courses.

GENERAL BUSINESS/CORRESPONDENCE

Tab 22 Ben Kavoussi, MS, MSOM, Lac re: upcoming article in Focus on Alternative and Complementary Therapies (FACT)

Informational. No action needed.

REPORTS

Tab 23

A. Board Chair Report – Katherine Teisinger

Ms. Teisinger expressed concern regarding legislation to give the physical therapy profession authority to practice acupuncture and requested Ms. Amy Sear to advise the board regarding this matter.

Ms. Sear stated the legislation is SB 2146. She stated the biggest concern is striking the language that the physical therapists may do acupuncture according to the guidelines by the Board of Medicine but it may not penetrate the skin. The legislation adds language for the physical therapists to develop rules which gives their profession the ability to perform acupuncture. She advised the association has been on the alert for the past 3 years concerning physical therapists trying to pave the way for “needling” in 50 states and they have taken over four states. The association will keep the board apprised.

B. Board Counsel Report

Ms. Comingore listed the status on the following rules:

Rule 64B1-4.001 – Rule amended effective 3/4/10.

Rule 64B1-4.0011 – This rule had been delayed as JAPC requested additional time to review the rule and the application revisions.

Rule 64B1-6.005 – This rule was being republished as a notice of change and refilled.

Rule 64B1-8.001 and 8.002 – Ms. Comingore will develop language for these rules.

Staff requested if Ms. Comingore and the board could review rule 64B1-6.005(2), to simplify the instructor requirements. Ms. Teisinger requested Ms. Comingore to review the rule to determine if the rule could be better clarified.

C. Board Director Report – Kaye Howerton

Ms. Mask advised pursuant to Ms. Teisinger’s request to provide the “Manual for Members of Board within the Department of Health” for reference for the board members.

D. Board Liaisons

Community Relations - Ms. Rezmer

Ms. Rezmer provided the document, Tapping the Full Potential of Public Members, which she received at the fall meeting of the Citizen Advocacy Center meeting.

No other reports were provided.

OLD BUSINESS

None.

NEW BUSINESS

Tab 25 Rule 64B1-9.001 Disciplinary Guidelines – (Addendum)

Ms. Rezmer moved to open rule 64B1-9.001 for development to incorporate s. 456.072(1)(ii - II), F.S., based on SB 1986. Ms. Schwartz seconded the motion which carried 5/0 as Mr. Wang was not present for the vote.

Tab 26 February 11, 2010 Telephone Conference Call Meeting (2nd Addendum)

Ms. Schwartz made a motion to approve. Ms. Rezmer seconded the motion which carried 6/0.

ANY OTHER BUSINESS

Ms. Sear inquired if there was anything written by the board or the department that succinctly described the exact changes in SB 1986. Ms. Mask advised information is posted on the board's and the department's website.

Ms. Sear requested again if any changes were made to the continuing education rules for the board to place language stating within which biennium the rule would be effective.

The meeting adjourned approximately 3:00 p.m.