

**MINUTES**  
**DEPARTMENT OF HEALTH**  
**MEDICAL QUALITY ASSURANCE**  
**FLORIDA BOARD OF ACUPUNCTURE**  
**The Sheraton Ft. Lauderdale Airport**  
**1825 Griffin Road**  
**Ft. Lauderdale, Florida 33004**  
**December 2, 2005 @ 9:00 a.m.**  
**(954) 920-3500**

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  
Paulette Karr, AP, Vice Chair  
Frank Ervolino, AP  
Gregory Gunter  
Gloria Rosello  
Katherine Teisinger, AP  
Qun Wang, AP

**Board and Department Staff:**

Daniel Biggins, Board Counsel  
Pamela King, Executive Director  
Ronda L. Bryan, Program Administrator

**Court Reporter:**

Official Reporting Services, Inc.  
(954) 467-8204

**Review of Minutes**

**Tab 1 – September 9, 2005, General Business Meeting**

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

- Page 3, Line 6 – Should read “June” instead of “July”
- Page 3, Line 14 – Should read “Ms. Karr” instead of “Mr. Gunter”
- Page 4, Line 14 -- Should read “June” instead of “July”
- Page 5, Line 39 – Should read “certified in” instead of “certified”

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

**Discipline**

**Tab 2 – Hu Pan, A.P. (Case No. 2005-53655)**

Mr. Pan was present and represented by Adam Oosterbaan, Esquire.

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

The complaint against Mr. Pan was presented to the Board for allegations of violating Sections 457.109(1)(x) & (j), 2004 Florida Statutes.

**Action Taken:** After further discussion, a motion was made by Mr. Ervolino to find that there were no disputed material facts. The motion was seconded by Ms. Rosello and passed with Ms. Teisinger opposing.

**Action Taken:** After discussion, a motion was made by Mr. Ervolino to adopt the Findings of Fact and move all case material into evidence. The motion was seconded by Ms. Karr and passed unanimously.

**Action Taken:** After further discussion, a motion was made by Mr. Ervolino to adopt the Conclusions of Law. The motion was seconded by Ms. Karr and passed with Ms. Teisinger opposing.

**Action Taken:** After further discussion, a motion was made by Mr. Ervolino, based on the mitigating factors in the case that the penalty will deter any further action of this nature and the evidence suggests that this was a minor one time instance, to impose the following penalty:

- Letter of Concern
- \$250.00 Fine
- 2 years probation

The motion was seconded by Ms. Rosello and passed unanimously.

**Action Taken:** After further discussion, a motion was made by Ms. Rosello to require payment of \$1,084.58 for cost, fine and cost to be paid within 6 months of final order. The motion was seconded by Ms. Karr and passed unanimously.

#### **Break 10:00 – 10:15**

#### **Tab 2a – Terry Shetler, A.P. (Case Number 2005-63981)**

Mr. Shetler was not present or represented by counsel.

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

The complaint against Mr. Shetler was presented to the Board for allegations of violating Sections 457.109(1)(x), Florida Statutes (2004 & 2005), 456.072(1)(u), Florida Statutes (2004), 456.063(1), Florida Statutes (2004), 457.109(1)(j), Florida Statutes (2004), 456.072(1)(a), (h), Florida Statutes (2003) and 457.116(1)(g), Florida Statutes (2005).

**Action Taken:** After discussion, a motion was made by Ms. Karr to accept the Voluntary Relinquishment. The motion was seconded by Ms. Teisinger and passed unanimously.

#### **Prosecutors Report**

Ms. Skilling noted that there were a total of 13 complaints and cases open as of November 30, 2005. Two of the cases are on the Board's December 2, 2005 agenda,

both of which are from 2005. Of the remaining 11 cases, five cases are post probable cause. Of the post probable cause cases:

- Three cases (one from 2002, one from 2003, and one from 2005) are being forwarded in December to the Division of Administrative Hearing (DOAH) for hearings to be set.
- A fourth case (2005) is in a holding status pending outcome of the corresponding criminal matter.
- In the fifth case, the Department is currently awaiting a response to the election of rights and an offer to enter a consent agreement.

The remaining 6 cases are pre-probable cause complaints (confidential). Of the pre-probable cause complaints:

- One case (2002) is under legal review;
- Two cases (2004 and 2005) are expected to be closing orders;
- Two cases (2005) are under expert review;
- An administrative complaint is being drafted on the remaining case (2005).

### **Licensure**

#### **Tab 3 - Leonard Melamed**

Mr. Melamed was not present or represented by counsel. Mr. Melamed's request to withdraw his application was presented to the Board for consideration.

**Action Taken:** After discussion, a motion was made by Mr. Ervolino to accept Mr. Melamed's request to withdraw his application. The motion was seconded by Mr. Wang and passed unanimously.

### **Petition for Variance and Waiver**

#### **Tab 4 – Muhamud Abdur-Rahim**

Mr. Abdur-Rahim was not present or represented by counsel.

Mr. Abdur-Rahim's application was presented at the June 10, 2005 meeting for consideration. Mr. Abdur-Rahim was originally issued license number AP-615 on January 25, 1995. He failed to renew his license in 2002 and 2004; therefore his license went Null and Void. Mr. Abdur-Rahim's acupuncture transcript appears to lack 120 hours of supervised instructions in traditional oriental acupuncture, currently required for licensure.

On August 25, 2005, Mr. Abdur-Rahim filed a Petition for Variance and Waiver of Rules 64B1-4.001(1) and 64B1-4.0011(1).

**Action Taken:** After discussion, a motion was made by Ms. Teisinger to approve the Petitioner for Variance and Wavier; based on the facts that he meets the intent of the law through his education and professional experience and that the rules would provide substantial economic and professional hardship and would be a violation of the principles of fairness. The motion was seconded by Mr. Gunter and passed unanimously.

**Action Taken:** After further discussion, a motion was made by Mr. Ervolino to grant Mr. Abdur-Rahim's application for licensure. The motion was seconded by Ms. Karr and passed unanimously.

### **Continuing Education**

**Tab 5 - Weapons of Mass Destruction – Incapacitants, Recin & Mycotoxin**

**Tab 6 - Weapons of Mass Destruction – Chemical Agents**

**Tab 7 - Weapons of Mass Destruction – Biological Agents**

**Tab 8 - Weapons of Mass Destruction – Medical Response to Nuclear & Radiological Terrorism**

Ms. Karr, Continuing Education liaison explained her concerns with these courses. She indicated that she would recommend denial of all of these courses and that they could be taken up together.

**Action Taken:** After discussion, a motion was made by Mr. Gunter to deny Tabs 5, 6, 7 and 8 continuing education course applications as they do not fall within the scope of acupuncture licensure. The motion was seconded by Ms. Karr and passed unanimously.

### **Reports**

#### **A. Board Chair Report – Zong Lan Xu**

Ms. Xu provided an overview of the Federation of Acupuncture and Oriental Medicine Regulatory Agencies (FAOMRA) annual meeting. Ms. Xu also provided an overview of the presentations conducted by the national organizations.

Ms. Karr also attended the FAOMRA meeting and noted that out of fifty states only 10 people attended the meeting. Ms. Karr recommended board staff contact the State of Georgia, Board of Acupuncture to provide an overview of FAOMRA and to request their attendance at the meetings.

#### **B. Board Counsel Report – Daniel Biggins**

##### **Tab 9 – Rules Report**

##### **64B1-2.018 – Retired Status and Reactivation of Retired Status License; Fees**

**Action Taken:** Rule noticed for development on November 23, 2005.

##### **64B1-2.010 – Fees of Inactive Status and Change to Active Status**

**Action Taken:** Rule noticed for development on November 23, 2005.

##### **64B1-9.001 – Disciplinary Guidelines**

**Action Taken:** Rule noticed for development on November 23, 2005.

##### **64B1-6.008 – Continuing Education**

**Action Taken:** After discussion, a motion was made by Mr. Ervolino to accept the proposed language. The motion was seconded by Ms. Karr and passed unanimously. (See attachment A)

**Tab 10 – Discussion of JAPC Concerns with Rules 64B1-3.001(6) and 64B1-9.005(3) & (4), F.A.C.**

There was proposed legislation in 2004 to amend the acupuncture practice act. Legislative Staff expressed concerns with the definition rules, related specifically to what the initials in the practice act referred to. The legislative staff reported their concerns to the Joint Administrative Procedures Committee (JAPC). Since then there has been correspondence between JAPC and the Board. JAPC is now asking for a representative of the Board to attend a meeting to discuss their concerns.

Mr. Biggins explained the JAPC rule hearing process and the different options available to the Board. Mr. Biggins noted that a board member would need to attend the rule hearing to answer questions.

Mr. Ervolino indicated that there is a doctor degree program and in three years students will be graduating with a doctor degree in acupuncture.

Amy Sear, A.P., Dipl O.M., President of the Florida State Oriental Medical Association (FSOMA) and Gus Bravo, Esquire indicated that FSOMA supports the rules and letter from Ms. Xu, Chair to JAPC.

Richard Freiberg indicated that there is documentation to support an arrangement that was made in the past to approve the use of initials AP but not approve DOM.

**Lunch Break 12:10 p.m. – 1:30 p.m.**

**Tab 10 – Discussion of JAPC Concerns with Rules 64B1-3.001(6) and 64B1-9.005(3) & (4), F.A.C. (Continued)**

**Action Taken:** After further discussion, it was the consensus of the Board for Frank Ervolino to represent the Board before JAPC at their next meeting and Mr. Gunter if the Sunshine Law allows.

**C. Board Director Report – Pamela King**

**Tab 11 – Pending Issues**

Ms. King provided an update and status of the pending list. She noted that she will be working with the consumer protection liaison to develop a communication plan that can be used to educate the public between the different types of professions that provide acupuncture treatment.

Ms. King noted that the amended language to the Board of Chiropractic Medicine's advertisement rule requiring Chiropractors to specify that they are certified in acupuncture and not Acupuncturist went into effect on November 27, 2005.

Mr. Ervolino suggested that we send a letter to telephone directory companies noting that it is a violation for Chiropractors to advertise under the Acupuncturist heading.

## Quarterly Summary Report

Informational

### D. Board Liaison

- a. **Legislative & Rules – Zong Xu**  
No Report
- b. **Continuing Education – Paulette Karr & Frank Ervolino**  
Ms. Karr indicated that the Continuing Education liaisons are up to date on reviewing courses.
- c. **Examination & Endorsement – Zong Xu & Paulette Karr**  
Liaisons have not received any cases for review.
- d. **Unlicensed Activity – Frank Ervolino**  
Mr. Ervolino suggested that the Board request Mr. Mundy to attend the next meeting of the board to provide an update on the unlicensed activity cases that are over two years old.
- e. **Budget – Gregory Gunter**  
**Tab 12 – Budget**  
Informational Only
- f. **Consumer Protection – Gloria Rosello**  
No Report
- g. **Community Relations – Katherine Teisinger**  
Ms. Teisinger noted that she wrote an article at the beginning of the year for acupuncture day.

### Old Business

**Legislation** – Ms. King noted that she submitted the proposed legislative language to the Department for consideration, but that the Department was not submitting a 2006 legislative package. Ms. King also noted that it was her understanding that the Florida State Oriental Medical Associations also were not submitting legislative language for the 2006 legislative session.

The Board discussed the importance of getting legislation passed and asked what steps they could take to get someone to sponsor a bill on their behalf. It was recommended that they contact their local legislators to ask for support. Ms. Teisinger indicated that she is willing to meet with her local representative to ask for a sponsor and support.

### New Business

None

### Next Meeting

March 24, 2006 – Orlando, Florida

**Adjournment**

**Action Taken:** A motion was made by Mr. Ervolino to adjourn the meeting at 2:43 p.m. The motion was seconded by Ms. Karr and passed unanimously.

**Attachment A**

**64B1-6.008 Process for Program Approval.**

(1) In order to receive Board approval of one or more programs for which continuing education credit is awarded within a biennium to an acupuncture licensee, a provider shall submit a application for approval Form DOH/AP006, Continuing Education Program Approval, which is hereby incorporated by reference and will be effective 7-26-04, copies of which may be obtained from the Board office shall be submitted to the Board Office for program approval.

**Deleted:** Each program

**Deleted:** must be

**Deleted:** approved by the Board.

**Deleted:** A

(2) The following courses, that meet the criteria for approval under this section, are approved by the Board:

(a) Organized courses of study sponsored by a national or state acupuncture and/or oriental medicine organization that is registered with the Board.

(b) Organized courses of study sponsored by an accredited acupuncture and/or oriental medicine school that is registered with the Board.

(3) The Board retains the right and authority to audit and/or monitor programs given by any provider. The Board will reject individual programs offered by a provider if the provider has disseminated any false or misleading information in connection with the continuing education program, or if the program provider has failed to conform to and abide by the rules of the Board.

**Deleted:** (2) Each program application shall contain:¶  
(a) A detailed program outline or syllabus;¶  
(b) A current curriculum vitae of each speaker or lecturer;¶  
(c) The procedure to be used for recording attendance; and¶  
(d) Evidence of meeting all the requirements of Rule 64B1-6.005, F.A.C.¶

(4) If approved, the provider may identify the program as “approved by the Florida Board of Acupuncture for Purposes of Continuing Education Credit” in any flyer or other advertisement.

**Deleted:** (3) Upon approval of a program, the Board will assign an identification number to that program.¶

*Specific Authority 456.013(7), (8), (9), 456.025, 457.104, 457.107(3) FS. Law Implemented*