



State of Arizona Acupuncture Board of Examiners
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REGULAR MEETING
August 27, 2008

MINUTES

Board Members Present:

Della Estrada, L.Ac., Chairperson
Joe Balensi, L.Ac., Secretary
Toni Bernalley, L.Ac., Professional Member
Ross Adelman, Consumer Member
John M. Rhodes, L.Ac., Professional Member
Rebecca Wilks, MD, MD(H), Professional Member

Board Members Absent:

Toni Karnas, Consumer Member
Diane Pruetz, Consumer Member
Vacancy—Professional Member

Attorney General Representative:

Seth Hargraves, Assistant Attorney General

Administrative Staff:

Pete Gonzalez, Executive Director

1. Call to Order

Chairman Estrada called the meeting to order at 1:00 p.m.

2. Declaration of Conflicts of Interest

Board Member Bernalley declared a conflict of interest on applicants for licensure Suzanne Gaynor and Patrick P. Patten.

3. Discussion and Approval of Minutes

Board Member Rhodes moved the adoption of the minutes for the July 23, 2008 board meeting with Board Member Balensi providing a second. The Board approved the motion with a 6-0 vote.

Board Member Rhodes moved the adoption of the executive session meeting minutes for the July 23, 2008 board meeting with Board Member Balensi providing a second. The Board approved the motion with a 6-0 vote.

4. Applications for Licensure (without self-disclosures)

The Board reviewed the license applicant chart and Board Member Bennialley moved for the approval of the applicants for licensure listed below with Board Member Wilks providing a second. The Board approved the motion with a 6-0 vote.

Helen Chen
Dorion T. Simmons
Henry Hom
Zita A. McCoig

The application of Harris Edward Weberman was tabled until a future board meeting. Mr. Weberman was unable to secure his national exam scores in time for the meeting.

The Board reviewed the license applicant chart and Board Member Rhodes moved for the approval of the applicant for licensure listed below with Board Member Balensi providing a second. The Board approved the motion with a 5-0 vote.

Suzanne Gaynor

5. Applications for Licensure (with self-disclosures)

The Executive Director shared a memorandum with the Board regarding the application of Mr. Patrick P. Patten. Mr. Patten disclosed on his application that he was cited on November 15, 1990 for public intoxication. On March 11, 1991, Mr. Patten was cited for public intoxication and possession of a controlled substance. Mr. Patten wrote an explanation as to the circumstances surrounding the charges. Lastly, Mr. Patten is a licensed massage therapist (since 2004) and has no record of disciplinary action by the Arizona State Board of Massage Therapy.

The Board reviewed and discussed the memorandum and Board Member Balensi moved for the approval of the applicant for licensure listed below with Board Member Rhodes providing a second. The Board approved the motion with a 6-0 vote.

Patrick P. Patten

6. Applications for Auricular Certification

The Board reviewed the auricular certificate applicant chart and Board Member Balensi moved for the approval of the applicants for certification listed below with Board Member Bernalley providing a second. The Board approved the motion with a 6-0 vote.

Heather A. Newgaard
Babak Nayeri

7. Professional Business

A. Consolidation of Health Care Regulatory Boards

The Board was provided a brief explanation of the Governor's proposal to consolidate health care boards to promote efficiency. The Executive Director informed the Board of the September 4, 2008 meeting called by the Governor's Office to discuss this proposal. Board members are encouraged to attend and have the opportunity to ask questions regarding the proposal and its impact on regulatory boards and the general public.

The Board members expressed a number of concerns with the consolidation proposal, but did not take any action until they attend the September 4, 2008 meeting.

B. Response from La Paz County Attorney's Office regarding Complaint #2008-01—Clark Kim, Oriental Health Care

The Board was provided with copies of the letters sent to the La Paz County Attorney's Office requesting their assistance in obtaining an injunction restraining Mr. Clark Kim from practicing acupuncture until he obtains an acupuncture license.

There has no written response from the La Paz County Attorney's Office so this matter was before the Board for further discussion and direction. After some discussion by the Board and reviewed the correspondence, the Board expressed its concern for public safety if Mr. Kim continues to practice acupuncture without a state license.

Board Member Bernalley moved to direct the Attorney General's office to file an injunction and Board Member Wilks provided a second. The Board approved the motion with a 6-0 vote.

C. Election of Board Secretary

Board Member Balensi expressed his interest to serve as Board secretary for the remainder of the calendar year.

Board Member Bernalley nominated Board Member Balensi for Board Secretary and a second was provided by Board Member Rhodes. The Board approved the motion with a 6-0 vote.

D. Review of Compliance regarding Consent Agreement and Order and Possible Termination of Agreement—Complaint #2007-001—Andre Zitcer

The Board reviewed the memorandum regarding the terms of the Consent Agreement and Order with Andre Zitcer, L.Ac. The order placed Mr. Zitcer on a 12 month probation period with specific requirements to be met before the probation is completed.

The Board reviewed the memorandum outlining the specifics of the Agreement and Order, but determined to enter into executive session. Attached to the memorandum is a signed compliance affidavit, by Mr. Andre Zitcer, certifying he has complied with the requirements set forth in the Consent Agreement and Order.

Board Member Balensi moved to enter into executive session at 1:30 p.m. Board Member Bernalley provided a second. The Board approved the motion with a 6-0 vote.

The Board reconvened to the regular meeting session at 2:01 p.m.

The Board asked Mr. Andre Zitcer to explain course of action/plan to avoid any relapse during his recovery. Mr. Zitcer indicated he is still attending a 12-step program and speaks with professionals on regular basis to maintain his treatment status.

Board Member Balensi moved to end the probation for Mr. Andre Zitcer and Board Member Wilks provided a second. The Board approved the motion with a 6-0 vote.

E. Potential Board Meeting in Tucson

This item was tabled for a future board meeting.

8. Other Applications/Requests—Continuing Education

The Board reviewed the application for continuing education listed below:

Sheng Zhen Wu Ji Yuan Gong--Kwan Yin Standing Form offered by Li Junfeng on November 8 & 9th, 2008 in Tucson, Arizona for 12 CEU's.

Board Member Estrada moved for the approval of this continuing education course and Board Member Rhodes provided a second. The Board approved the motion with a 6-0 vote.

9. Executive Director Report

The Executive Director provided the following information found in his report:

Active Licensed Acupuncturists (as of 8/20/08): 465

Current Expired Licenses: 24

Active Certified Auricular Acupuncturists (as of 8/20/08): 62

Still no word from the Governor's Office of Boards and Commissions on appointments to the Board. The terms of board members Adelman, Balensi, and Pruetz expired January 2008 and each member has expressed interest in reappointment to the Boards and Commissions office. In addition, the Board has a vacancy due to a resignation in October 2007.

The Executive Director prepared, completed and submitted the following reports.

Arizona Government University:

Inter-Agency Service Agreement (ISA) between Arizona Government University (AZGU) and the Board.

Office of the Attorney General:

Annual Client Agency Survey

Arizona Department of Administration:

Statewide Employee Survey

As required by Board Rule R4-8-407, Program Monitoring: Records: Reporting, letters have been sent to board-approved acupuncture or clinical training programs to verify the programs continue to meet the standards established by the Board. The rule prescribes the method of reporting and requires that a course catalog be included with the report submitted to the Board.

For the month of July, the board website was visited by 1086 individuals. A steady increase of hits has taken place in the last two years. In 2006, a total of 7496 individuals used the web and 10,200 in 2007. To date, there have been 7874 visits.

On July 22, 2008, the Executive Director attended the "FY 2009 Budget: A Briefing for Small to Medium Sized State Agencies". Representatives from the Governor's Office of Strategic Planning and Budgeting (OSPB) and the Arizona Department of Administration (ADOA) reviewed budget bills including appropriations, fund transfers and the hiring freeze.

The Executive Director provided the Board with an explanation of the 2009 Appropriations Report.

10. Future Meeting Dates

September 24, 2008

October 22, 2008

11. Call to the Public

Patricia Martin, L.Ac., expressed her thoughts regarding the consolidation of health boards as proposed by the Governor's office. Ms. Martin urged the board to consider sending a press release on the topic of health board consolidation.

12. Discussion of Items to be place on a future meeting agenda

Continue discussion on the proposal by the Governor's office regarding board consolidation.

Board meeting in Tucson.

Discussion on Board jurisdiction over schools of acupuncture.

13. Adjournment

Board Member Rhodes moved for adjournment and Board Member Bernalley provided a second. The motion passed by a vote of 6-0. The Board adjourned at 3:35 p.m.

Respectfully Submitted,



Pete Gonzalez
Executive Director

Approved by the Board: September 24, 2008