



State of Arizona Acupuncture Board of Examiners
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REGULAR MEETING

March 25, 2009

OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:01 p.m. on Wednesday, March 25, 2009, at 1400 West Washington, Conference Room B-1, Phoenix, Arizona.

Board Members Present:

Toni Bernalley, L.Ac., Chairperson
Ross Adelman, Consumer Member, Secretary
Joe Balensi, L.Ac., Professional Member
John M. Rhodes, L.Ac., Professional Member
Rebecca Wilks, MD, MD(H), Professional Member
Toni Karnas, Consumer Member (via telephone)
Diane Pruetz, Consumer Member

Board Members Absent:

Della Estrada, L.Ac., Professional Member
Vacancy—Professional Member

Attorney General Representative:

Seth T. Hargraves, Assistant Attorney General

Administrative Staff:

Pete Gonzalez, Executive Director

Call to Order

Chairperson Bernalley called the meeting to order at 1:01 p.m. The following order of business was then considered:

Declaration of Conflicts of Interest

Board Member Balensi declared a conflict of interest on Complaint #2009-01.
Board Member Bernalley declared a conflict of interest on Complaint #2009-01.

Discussion and Approval of Minutes

Board Member Pruetz moved the adoption of the minutes for the February 25, 2009 board meeting with Board Member Balensi providing a second. The Board approved the motion with a 7-0 vote.

Board Member Pruetz moved the adoption of the executive sessions minutes for the February 25, 2009 meeting with Board Member Wilks providing a second. The Board approved the motion with a 5-0 vote.

Complaint/Investigations

Complaint #2009-01 re: Della Estrada, L.Ac.

Board Members Bernalley and Balensi left the table and did not participate on this item having declared a conflict of interest. Board Member Estrada, along with her legal counsel, was present and participated only as the subject of the investigation.

Secretary Adelman assumed the Chair on this item and a motion to enter executive session to receive legal advice at 1:03 p.m. was made by Board Member Pruetz with Board Member Rhodes providing a second. The motion was approved 5-0.

The Board returned to regular session at 1:18 p.m.

Rene' Parke, the complainant, asked for acknowledgment from Ms. Estrada that a mistake was made. If no admission is made then the error will continue to exist. Ms. Parke would like to see a code of ethics be put in place to help guide the behavior of professionals.

Susie Cannata, legal counsel for Ms. Estrada, addressed the Board and requested the case be dismissed due to lack of a violation.

Board Member Wilks stated a number of items have been discussed on this matter that do not fall under the jurisdiction of the Board. She pointed out that the Board's jurisdiction is limited to matters of unprofessional conduct, and says that she does not see any evidence of unprofessional conduct on Ms. Estrada's part.

Board Member Rhodes offered the following on this matter:

The situation regarding the hiring and firing of faculty and/or staff at the Arizona School of Acupuncture and Oriental Medicine (ASAOM) had already reached a volatile point prior to the distribution of Ms. Estrada's email dated Friday, January 2, 2009.

Even though Ms. Estrada served, at the time, as an Executive Member of the Arizona Acupuncture Board of Examiners, and must consider her responsibility and response to situations, as well as her influence on the profession that she represents, at all times; her actions, at their worst, indicate no more than implied influence on the subsequent outcome of this situation, as outline in Complaint #2009-01.

The tone taken in Ms. Estrada's email was directly related to her position and concern as a faculty member of ASAOM and not as an active member of the Arizona Acupuncture Board of Examiners.

The details of Ms. Estrada's email response do not support her knowingly making any false or fraudulent statements. No malfeasance or malpractice has been established based on the information available to this Board and as outlined in the Arizona Acupuncture Practice Act.

After careful review of the Arizona Revised Statutes, Title 32, Chapter 39, 32-3901. Definitions. The nature and classification of the complaint filed against Della Estrada, does not meet the criteria that would cause it to fall within the jurisdiction or authority of the Board.

Board Member Rhodes made a motion to dismiss Complaint #2009-01. Board Member Pruetz seconded the motion. A roll call vote was taken on the motion.

Board Member Toni Karnas voted aye.
Board Member Rebecca Wilks voted aye.
Board Member John Rhodes voted aye.
Board Member Diane Pruetz voted aye.
Board Member Ross Adelman voted aye.

By a vote of 5-0, Complaint #2009-01 was dismissed.

At this time, Secretary Adelman returned the Chair to Chairperson Toni Bennalley.

Applications for Licensure (without self disclosures)

The Board reviewed the license applicant chart and Board Member Pruetz moved for the approval of the applicants for licensure listed below with Board Member Bennalley providing a second. The Board approved the motion with a 7-0 vote.

Sacha M. Landreneau
Katherine Thompson
Theresa M. Emrie

Professional Business

The Board reviewed the document-- "Strategic Plan 2009". One of the items identified in this document was the thought of changing the renewal dates of licensees and certificate holders to the end of the month. The Executive Director provided the Board with an overview of the license/certificate renewal process. In addition, the Board reviewed the memo prepared to begin discussion of a proposed substantive policy statement regarding license/certificate renewal dates.

Board Member Rhodes moved that a draft substantive policy statement to move license/certificate renewal dates be changed to the end of the month be prepared for Board review and action at a future board meeting. The motion was seconded by Board Member Adelman. The motion was passed by a 7-0 vote.

The Board continued its review of the Strategic Plan document and discussed on how to prioritize the items listed. The Board discussed the requirements related to the issuance and retention of an auricular acupuncture certificate.

A discussion about continuing education courses was initiated as part of the Board's interest in studying the need for more information on this topic. The Board may appoint a committee for further study.

Board Member Balensi provide the Board with information on the topic of ethics and the varying definitions of the word.

Executive Director Report

Executive Director Gonzalez provided the following report to the Board.

License and Certificate Status Report:

Active Licensed Acupuncturists: 477
Current Expired Licenses: 6
Active Certified Auricular Acupuncturists: 56

Board Appointment News:

The Governor's Boards and Commissions office is addressing the vacancies on the Board. I have spoken with the new Director of the office and appointments are forthcoming. 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. The Board also has a vacancy due to a resignation in October 2007. The first terms of Board Members Bernalley and Wilks were completed in January 2009.

Board Office Information/Activities:

On Wednesday, March 11, 2009, Chairperson Toni Bernalley and the Executive Director attended the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) Regulatory Affairs Webinar. This online forum was held to provide attendees with valuable information on a number of issues.

For the month of February, the board website was visited by 897 individuals. A steady increase of hits has taken place in the last three years. In 2006, a total of 7496 individuals used the web; 10,200 in 2007; and 11,930 in 2008. A total of 459,755 hits were made in 2008. To date, there have been 2481 unique visits and 93,092 hits.

Chairperson Bernalley shared information from the Webinar and encouraged board members to make themselves available for future webinars.

Future Meeting Dates

April 22, 2009

May 27, 2009

Call to the Public

No requests were submitted for consideration.

Discussion of Items to be place on a future meeting agenda

No specific requests were made at this time.

Adjournment

Board Member Adelman moved for adjournment and Board Member Pruetz provided a second. The motion passed by a vote of 6-0. The Board adjourned at 2:42 p.m.

Respectfully Submitted,



Pete Gonzalez
Executive Director

Approved by the Board: April 22, 2009