

**BOARD OF MEDICAL EXAMINERS
ADVISORY COMMITTEE FOR ACUPUNCTURE**

MINUTES

Date: August 26, 2008

Time: 1:00 P. M., CDT

Location: Iris Conference Room, Ground Floor
227 French Landing
Heritage Place MetroCenter
Nashville, TN 37243

Members Present: Mary Anne Johnson, Chair, Consumer
Jill Kelly, LAC
Serina Scott, LAC
Peggy Watson, Co-Chair, LAC
Betsy Wilson, ADS

Staff Present: Marsha Arnold, Unit Manager
Rebecca Brown, Board Administrator
Shiva Bozarth, Advisory Attorney
Rosemarie Otto, Executive Director

A quorum being present, Ms. Johnson called the meeting to order at 1:10 p.m., CDT.

Conflict of Interest Policy Review

Mr. Bozarth presented an overview of the Conflict of Interest Policy which governs the conduct of all Committee members to assure that the individual interests of Committee members do not conflict with their Committee responsibilities

Approval of Minutes

After reviewing the minutes from the February 19, 2008 meeting as presented, Ms. Watson made a motion to approve the minutes and Ms. Kelly seconded the motion. The motion passed unanimously.

Manager's Report

Ms. Arnold, Unit Manager, reviewed the Manager's report with the members present. The report outlined the activities of the Committee's administrative staff between

February 1, 2008 and July 31, 2008. The total number of active licensees is 98. The total active ADS as of July 31, 2008 is 7.

Judi Harrick

Ms. Otto held a discussion with the Committee concerning use of a previous board member to review application files. Ms. Kelly made the motion to designate Judi Harrick as their board consultant. Ms. Watson seconded the motion and the motion passed unanimously.

Bureau Office

Ms. Otto reviewed the financial report with the Committee members. The Advisory Committee has a projected cumulative carryover as of June 30, 2008 of \$85,896.35. Ms. Otto informed the Committee of the General Assembly's delegation to the Governor the ability to utilize the board reserves for the purpose of balancing the budget. To date, she had no additional information but advised the Committee to defer any decisions in relation to licensure fees until their next meeting.

Division of Investigations

Ms. Juanita Stone reported that there are ten open complaints in the Office of Investigations. Five cases are being investigated, four cases were closed and two cases were sent to the Office of General Council.

Disciplinary Coordinator

Ms. Juanita Stone informed the Committee that there are no acupuncturists currently being monitored by the Disciplinary Coordinator.

Policy for Non-Compliance Continuing Education Requirements

Mr. Bozarth and Ms. Otto lead a discussion concerning the continuing education policy.

The Committee had previously adopted a continuing education policy which sets out penalties for acupuncturists who fail to obtain required continuing education. The previous policy was not an issue, rather, the vehicle for enforcing the policy (the so-called demand letters) was insufficient in that they failed to provide appropriate notice to licensees of all their legal rights and remedies. To correct this deficiency and provide sufficient legal notice, the Office of General Counsel proposed replacing the demand letter with an Agreed Citation. The Agreed Citation would be legally sufficient, defensible and reportable as discipline on the Department of Health's Website and its monthly Disciplinary Action Report. Ms. Kelly made a motion to adopt the Agreed Citation Policy and Ms. Wilson seconded the motion. The motion passed with Ms. Watson voting no and Ms. Scott abstaining.

The Committee asked Mr. Bozarth to draft a rule to charge a fee for continuing education discrepancies for review at the next meeting.

Mr. Bozarth stated the same analysis applies to the Lapsed License Policy. After discussion Ms. Kelly made a motion to adopt the Agreed Citation Policy for the lapsed licenses and Ms. Wilson seconded the motion. The motion passed unanimously by roll call vote.

New Applicant Interviews

Marlene Louis Bair – Ms. Bair is applying for a license to practice acupuncture in Tennessee. Dr. Arnold, the consultant for the Board of Medical Examiners and Jill Kelly, Consultant for the Advisory Committee for Acupuncture, reviewed Ms. Bair's application for the Committee. Ms. Bair did not disclose on her application information relative to criminal conduct in the early 1980s. Dr. Arnold and Ms. Kelly requested that she appear before the Committee to explain these omissions. Ms. Bair appeared and explained the circumstances surrounding the lack of the disclosure on her application and indicated her remorse for this past incident. Ms. Watson made a motion to grant Ms. Bair licensure and Ms. Wilson seconded the motion. (Ms. Kelly recused herself from the vote since she was the reviewing consultant.) The motion passed unanimously with Ms. Johnson abstaining. The application will be referred to the Board of Medical Examiners for review and ratification at its next meeting, September 23, 2008.

Waiver Request

Mr. Yeu Quang Wong petitioned the Committee for a waiver or modification to the continuing education requirement for his licensure renewal in 2009.

The motion was made by Ms. Watson that Yeu Quang Wong be granted a waiver based on undue hardship. Ms. Wilson seconded the motion. The motion carried, unanimously. A letter will be sent to Mr. Wong to inform him of the Committee's decision.

File Review and Approval of Applications

Ms. Kelly made a motion to approve the list of new applications for licensure as presented and Ms. Watson seconded the motion to ratify. The motion passed unanimously.

The following people were approved for licensure: Marlene Louisa Bair, Lisa Ananda Borg, Rebeka Annette Dwyer-Ndosi, Jeffrey Neil Elkins, Kenneth Eugene Harbour, Alex Suzanne Hulsy, Robert Mark Jones, Binh Thanh Le, Trisha Marie Parisi, Hogmei Wu and Jiam Yan. The reinstatements approved were Jane Abram, Don Ho Kim and Nelson Andres Martinez. The list will be presented to the Board of Medical Examiners for ratification at their September 2008 meeting.

Next Meeting

The next meeting for the Committee is scheduled for February 17, 2009 in the Iris Conference Room of the Heritage Place MetroCenter at 1:00 p.m., CST.

Adjournment

With no further business, Ms. Kelly made a motion to adjourn. Ms. Watson seconded the motion and the motion carried unanimously. The Committee adjourned at 3:11 p.m., CDT.

The Committee ratified these minutes on February 17, 2009.