



**State of Arizona Acupuncture Board of Examiners**  
1400 West Washington, Suite 230, Phoenix, Arizona 85007  
(602) 542-3095 FAX (602) 542-3093

**REGULAR MEETING**  
**July 23, 2008**

**MINUTES**

**Board Members Present:**

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

**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 1:02 p.m.

**2. Declaration of Conflicts of Interest**

Board Member Balensi declared a conflict of interest on Agenda Item 5 regarding Complaint #2008-02—Asian Institute of Medical Studies.

### **3. Discussion and Approval of Minutes**

Board Member Adelman moved the adoption of the minutes for the June 25, 2008 board meeting with Board Member Estrada providing a second. The Board approved the motion with a 6-0 vote.

### **4. Consideration of Request for Approval of Acupuncture Program—Academy of Classical Oriental Sciences**

Executive Director Gonzalez explained the reasons for this program review. Acupuncture license applicant Avi P. Fine submitted his application and provided the required documentation for Board review, but one item requires Board approval before his license application can be considered.

Mr. Fine attended the Academy of Classical Oriental Sciences in Nelson, British Columbia, Canada and completed his studies, but the school is not accredited in the United States. The school is accredited by the Private Career Training Institutions Agency of British Columbia and the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) recognizes this accreditation so graduates of the Academy can sit for the national exams required by the majority of the states. The State of Arizona requires that an applicant be certified by the NCCAOM or pass the exams required to secure certification.

The Academy has provided the attached materials as required in R4-8-403 and R4-8-404 and the Board must determine if the program meets the requirements before taking action on Mr. Fine's application for licensure.

Board Member Estrada moved for the approval of the Academy of Classical Oriental Sciences program in Nelson, British Columbia, Canada with Board Member Bernalley providing a second. The Board approved the motion with a 6-0 vote.

### **5. Complaints/Investigations**

The Board was provided with a brief review of complaint #2008-02. The matter involves a complaint against the Asian Institute of Medical Studies in Tucson, Arizona. It has been alleged that a student at the Institute performed a treatment, not of acupuncture, that caused an injury.

The Board heard from N.P., the student who allegedly caused the injury. N.P. was not willing to discuss the treatment of this particular patient (B.P.) without written permission to do so.

Board Member Rhodes asked if N.P. if she did perform the alleged maneuver and the answer was no.

The Board reviewed the complaint documents to determine if the Board has legal jurisdiction on this complaint. This review included a discussion of acupuncture statutes and rules.

Board Members discussed the responsibility of the school to supervise students during their clinical experience.

The Board tabled this item at 1:29 p.m. to finish the remainder of the agenda and returned at 2:36 p.m. to completion discussion on this item.

Chairperson Estrada asked N.P. what acupuncture treatment was performed on B.P. and the response from N.P. indicated that no acupuncture treatment took place.

Board Member Bernalley provided a motion for the Board to enter Executive Session to receive legal advice. Board Member Estrada seconded the motion. The Board approved the motion with a 5-0 vote. The Executive Session started at 2:50 p.m.

The Board reconvened to the regular meeting session at 3:15 p.m.

Board Member Adelman stated he does not believe in his review of the complaint that demonstrates the Board has jurisdiction on this matter. Board Member Wilks agreed.

Board Member Adelman moved to close this complaint file due to lack of jurisdiction and Board Member Wilks provided a second. A roll call vote was taken with the following results:

Board Member Rhodes--Aye  
Board Member Wilks--Aye  
Board Member Adelman--Aye  
Board Member Bernalley--Aye  
Board Member Estrada—Abstained

## **6. Applications for Licensure**

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

Chao Cho Chen  
Pei Jung Kuo

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

Avi P. Fine

The Board was informed that Mark C. Woods was previously licensed in Arizona, but his license had lapsed. The Board reviewed the license applicant chart and Board Member Adelman moved for the approval of the applicant for licensure

listed below with Board Member Bennalley providing a second. The Board approved the motion with a 6-0 vote.

Mark C. Woods

The Executive Director shared with the Board that Mr. Adam D. Da Virro had indicated in his application that he had been convicted of a DUI and court documents were provided to the Board. The Board reviewed the license applicant chart and Board Member Bennalley 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.

Adam D. Da Virro

## **7. Applications for Auricular Certification**

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

Taruno Steffensen  
Andrea M. Fry

## **8. Professional Business**

### 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.

Board Member Adelman is concerned the Board is not prepared to respond to this consolidation proposal and would like to see the Board have a written response.

Board Member Balensi is worried this proposal will create a mess for health care professionals and the general public. These sorts of proposals have surfaced in other states and many do not work as proposed. Furthermore, Board Member Balensi thinks this proposal if implemented would result in a disservice to the consumer.

The Board agreed to discuss the topic of consolidation at the August 27, 2008 board meeting to formulate a position that should be communicated to the Governor's Office.

### Posting of Board Meeting Minutes on the Board's Web Site

The Board reviewed the memorandum prepared by Assistant Attorney General Seth Hargraves regarding the posting of board meeting minutes on the Board's web site.

Board Members discussed the current statutory requirements in the posting of board meetings. A public body is required to have draft meeting minutes for public inspection within three working days after the meeting.

Assistant Attorney General Seth Hargraves provided the Board with an explanation of their statutory requirements so the public is able to inspect public documents to include board meeting minutes.

Board Member Balensi stated he would rather have approved board meeting minutes on the web rather than draft minutes. Board Member Wilks concurred and didn't see a need to change the current practice of posting only board-approved meeting minutes.

The Board decided to not make any changes on the matter of posting board minutes.

#### Resignation of Joe Balensi as Board Secretary

The Board was presented with the resignation of Joe Balensi as Board Secretary due to health issues, but he will continue to serve on the Board via telephone.

#### Election of Board Secretary

Chairperson nominated Board Member Bennalley. Board Member Bennalley expressed her willingness to serve if elected.

Board Member Adelman nominated himself as a consumer member of the Board.

The Board voted as follows:

Board Member Wilks voted for Board Member Adelman  
Board Member Balensi voted for Board Member Adelman  
Board Member Estrada voted for Board Member Bennalley  
Board Member Rhodes voted for Board Member Bennalley

Due to lack of majority, the Board decided to table this item until a future board meeting.

## **9. Executive Director Report**

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

Active Licensed Acupuncturists (as of 7/14/08): 463  
Current Expired Licenses: 29  
Active Certified Auricular Acupuncturists (as of 7/14/08): 62

#### **Arizona Department of Revenue:**

Report of Indebtedness and Lease Purchase/Third-Party Financing Contracts.

**Government Information Technology Agency:**

Technology Infrastructure and Standards Assessment (TISA) and Information Services Inventory Status (ISIS) reports.

**Governor’s Regulatory Review Council:**

FY 2008 Time-Frame Rule Compliance Report.

On July 14, 2008, the Executive Director addressed students at the Phoenix Institute of Herbal Medicine and Acupuncture. The Executive Director provided an overview of Board activities and responded to a number of questions related to acupuncture laws, rules and legislation.

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.

For the month of June, the board website was visited by 1114 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 6508 visits.

As a result of the passage of HB 2620, a transfer (fund sweep) of \$100,000 was made from the dedicated fund of the Acupuncture Board of Examiners on or before June 30, 2008 to meet the budget shortfall of FY 2008.

The FY 2009 state budget resulted in fund sweep of \$88,300 from the Board’s fund. At the August board meeting, the Board will be provided with the proposed budget request for FY 2010 and FY 2011.

The Executive Director provided an overview of licensure and office data for the just completed fiscal year—July 1, 2007 to June 30, 2008.

**10. Future Meeting Dates**

August 27, 2008

**11. Call to the Public**

Y.M. Chen, L.Ac., addressed the Board and introduced himself as the newly-elected President of the Arizona Society of Oriental Medicine & Acupuncture (AzSOMA). He thanked the Board for all their hard work and dedication in serving on the Board. Mr. Chen invited the Board to the October 26, 2008 AzSOMA conference in Tucson.

Patricia Martin, L.Ac., thanked the Board for addressing her request regarding the posting of board minutes and explained why she made this request. Ms. Martin

expressed interest on the topic of board consolidation. Finally, Ms. Martin thanked the Executive Director for taking the time to speak to acupuncture students.

Catherine Niemiec, L.Ac., President of the Phoenix Institute of Herbal Medicine and Acupuncture. Ms. Niemiec informed the Board of her role with the AzSOMA and looks forward to working with the Board in the future. Ms. Niemiec spoke to the issue of consolidation and offered to assist the Board in their response to the proposal.

Board Member Balensi left the meeting at 2:35 p.m.

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

Executive Director Gonzalez will be presenting the preliminary budget proposal for the next budget submittal.

Request to discuss the proposal by the Governor's office regarding board consolidation.

Election of Board Secretary.

Board meeting in Tucson.

## **13. Adjournment**

Board Member Rhodes moved for adjournment and Board Member Adelman provided a second. The motion passed by a vote of 6-0. The Board adjourned at 3:17 p.m.

Respectfully Submitted,



Pete Gonzalez  
Executive Director

Approved by the Board: August 27, 2008