

FLORIDA | Board of Acupuncture

December 20, 2019



Draft Meeting Minutes
Board of Acupuncture
General Business Meeting
December 20, 2019
9 a.m.

Doubletree by Hilton Orlando Airport
5555 Hazeltine National Drive
Orlando, Florida 32812
(407) 235-1925

The meeting was called to order by chair, Kathy Veon, at approximately 9:00 a.m.

Those present for all or part of the meeting included the following:

MEMBERS PRESENT:

Kathy Veon, AP, DOM, Chair
Rodney Dunetz, DAOM, AP, Dipl.Ac, Vice-Chair
Janine Margewicz, AP
Steve Moreau, AP
Herman Vega, Chair, AMD, PhD, AP, LMHC

STAFF PRESENT:

Kama Monroe, J.D. Executive Director
Carol Taylor, Program Administrator

MEMBERS ABSENT:

Dave Heine, Consumer Member

BOARD COUNSEL:

Diane Guillemette, Esq., Board Counsel

PROSECUTING ATTORNEYS:

Rose Garrison, Esq. Assistant General Counsel
Amanda Godbey, Esq. Assistant General Counsel

COURT REPORTER:

Magnolia Court
Jane Heneghan
(407) 896-1813

Please note that the meeting minutes reflect the actual order that agenda items were discussed during the meeting and may differ from the agenda outline.

REVIEW AND APPROVAL OF MINUTES

TAB 1: June 28, 2019, General Business Meeting Minutes

Motion: by Dr. Dunetz, seconded by Dr. Veon, to approve meeting minutes. Motion carried.

DISCIPLINARY ACTIONS

INFORMAL HEARING

TAB-2: Xiaojing Wang, A.P., Case #2018-15974

PCP: Veon/Heine

Respondent was present. Respondent was not represented by counsel.

Dr. Veon and Mr. Heine were recused due to participation on the probable cause panel.

Dr. Dunetz served as chair for this item on the agenda, due to Dr. Veon's recusal.

Amanda Godbey represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 457.109(1)(m), Florida Statutes (2018), for failing to keep written medical records justifying the course of treatment of the patient; and violation of Section 457.109(1)(p), Florida Statutes (2018), for gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances. On or about September 6, 2019. Respondent was served via certified mail. An election of rights was timely received requesting an informal hearing.

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to accept the Investigative Report into evidence, make a finding that the Respondent was properly served and requested an informal hearing, and adopt the findings of fact as set forth in the Administrative Complaint.

Motion carried.

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to adopt the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation the practice act. Motion carried.

Motion: by Dr. Dunetz seconded by, Dr. Vega, to impose the following discipline: Reprimand, a two thousand dollar (\$2,000.00) administrative fine to be paid within one year of the filing of the Final Order in this matter, six hours continuing education in documentation to be completed within one year of the filing of the Final Order in this matter; Probation for a period of two years during which time the Respondent will maintain a billing log that must be reviewed by a monitor; the Monitor will review a minimum of 10% of patient files and provide a quarterly report; review of patient files are to be performed initially and then quarterly for the remainder of the probation; the Licensee is responsible for obtaining the monitor and paying any costs associated with the monitor. Motion carried.

Motion: by Dr. Dunetz, seconded by, Dr. Vega, to assess costs in the amount of nine hundred nineteen dollars and four cents (\$919.04) to be paid within one year of the filing of the Final Order in this matter.

TAB-3: Ariane A. Jackson, A.P., Case #2015-26395

PCP: Veon/Heine

Respondent was not present. Respondent was represented by Scott Kirschbaum, Esquire who did appear on Respondent's behalf.

Dr. Veon and Mr. Heine were recused due to participation on the probable cause panel.

Dr. Dunetz served as chair for this item on the agenda, due to Dr. Veon's recusal.

Amanda Godbey represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 457.109(1)(m), Florida Statutes (2008-2015), for failing to keep written medical records justifying the course of treatment of the patients. On or about September 16, 2019. Respondent was served via certified mail. An election of rights was timely received requesting an informal hearing.

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to accept the Investigative Report into evidence. make a finding that the Respondent was properly served
Motion carried.

Motion: by Dr. Dunetz, seconded by, Dr. Vega, to make a finding that the Respondent was properly served and requested an informal hearing

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to adopt the findings of fact as set forth in the Administrative Complaint. Motion carried.

Respondent's counsel presented mitigating factors to the board.

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to adopt the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the practice act. Motion carried.

Motion: by Dr. Dunetz seconded by, Dr. Moreau, to impose the following discipline: Reprimand, a five hundred dollar (\$500.00) fine to be paid within one year of the filing of the Final Order in this matter, 6 hours of continuing education in documentation to be completed within one year of the filing of the Final Order in this matter. Dr. Vega opposed. Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to assess costs in the amount of six thousand two hundred seventy-nine dollars and ninety-two cents (\$6279.92) to be paid within one year of the Final Order in this matter.

VOLUNTARY RELINQUISHMENTS

TAB 4: Matthew D. Johnson, A.P., Case #2018-25316

Respondent was not present.

Dr. Veon was recused due to participation on the probable cause panel.
Dr. Dunetz served as chair for this item on the agenda, due to Dr. Veon's recusal.

Rose Garrison represented the Department and presented the case to the Board. Ms. Garrison requested the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of the case.

Motion: by Dr. Dunetz, seconded by, Dr. Margiewicz, to accept the Voluntary Relinquishment.
Motion carried.

DETERMINATION OF WAIVER

TAB 5: Vorarut Vorasiangasuk, A.P., Case#2019-01612

PCP: Veon/Heine

Respondent was present. Respondent was not represented by counsel.

Dr. Veon was recused due to participation on the probable cause panel.
Dr. Dunetz served as chair for this item on the agenda, due to Dr. Veon's recusal.

Amanda Godbey represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 456.072(1)(c), Florida Statutes (2018), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or to the ability to practice, a licensee's profession. The Respondent received service of the Administrative Complaint on September 26, 2019. The Department has not received a timely submitted election of rights or other responsive pleading from the Respondent.

Motion: by Dr. Dunetz, seconded by Dr. Vega, to accept the investigative report into evidence.
Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, that the Respondent was properly served and waived his right to a formal hearing.
Motion carried.

Motion: by Dr., seconded by Dr. Vega, to accept the findings of fact as set forth in the Administrative Complaint.
Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Vega, to adopt the conclusions of law set forth in the Administrative Complaint and find this constitutes a violation of the practice act.
Motion carried.

After Discussion:

Prosecuting Services Unit (PSU) attorney provided discipline recommendations as follows: Revocation

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to revoke Respondent's license. Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to assess costs in the amount of one thousand five hundred fifty-five dollars and eighty-two cents (\$1,555.82) to be paid within one year of the Final Order in this matter.

Dr. Moreau noted for the record that he knew this individual as a student but that it in no way affected his ability to make a determination in this matter.

TAB 6: Christy Jo Gillespie, A.P., Case #2017-21842
PCP: Veon/Heine

Respondent was present. Respondent was not represented by counsel.

Dr. Veon was recused due to participation on the probable cause panel.
Dr. Dunetz served as chair for this item on the agenda, due to Dr. Veon's recusal.

Rose Garrison represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Section 456.072(1)(k), Florida Statutes (2017), for defaulting on student loan. The Respondent received service of the Administrative Complaint on September 4, 2019. The Respondent failed to submit an election of rights or other responsive pleading within the twenty-one-day statutory time period to respond.

Motion: by Dr. Dunetz, seconded by Dr Margiewicz., to accept the investigative report into evidence for today's proceeding, for imposing penalty.
Motion carried.

Motion: by Dr. Dunetz, seconded by Dr Margiewicz., that the Respondent was properly served and waived his right to a formal hearing.

Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to accept the findings of fact as set forth in the Administrative Complaint.

Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to adopt the conclusions of law set forth in the Administrative Complaint and find this constitutes a violation of the practice act.

Motion carried.

After Discussion:

Prosecuting Services Unit (PSU) attorney provided discipline recommendations as follows: Letter of Concern; and placement of Respondent's license on probation for duration of the life of the loan.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to accept the discipline recommendations provided by PSU as discipline in this matter. Motion carried.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to assess costs in the amount of two hundred twenty-eight dollars and sixty-one cents (\$228.61) to be paid within one year of the Final Order in this matter.

TAB 7: PROSECUTION SERVICES REPORT

The prosecution services report was included with the agenda materials for the board's information. Ms. Garrison provided a summary of the report and requested the board allow the Prosecution Services Unit (PSU) to continue prosecuting cases that are a year and older.

Motion: by Dr. Veon, seconded by Dr. Moreau, to allow PSU to continue prosecution of one year and older cases. Motion carried

APPLICATIONS

APPLICATION BY ENDORSEMENT- OUT OF STATE

TAB 8: Guanhong Ma, AP File #4587

Applicant's appearance was waived. Applicant was not present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Dunetz moved to approve the application, Dr. Vega, seconded the motion. Motion carried.

TAB 9: Lisa Rana, A.P., File #4744

Applicant was present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Dunetz moved to approve the application, Dr. Moreau, seconded the motion. Motion carried.

TAB 10: Bridget Spence, A.P., File #4720

Applicant was present. Applicant was not represented by counsel.

Applicant requested to amend her application to application by examination and waived the deemer clause on the record.

APPLICATION FOR FULL LICENSURE

TAB 11: Carol Anne Zimmerman, A.P., File #4658

Applicant was not present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Veon moved to approve the application contingent upon the applicant passing the two required exams within one year; if proof the applicant has taken and passed the two exams does not occur within one year, the application will be denied, Dr Dunetz, seconded the motion. Motion carried.

PETITION FOR DECLARATORY STATEMENT

TAB 12: Stephanie Gil, AP, File #4700

Petitioner was not present.

Board counsel, Diane Guillemette provided the board with the statutory requirements for a petition for declaratory statement.

After discussion, this matter was continued. The petition will be noticed and placed on the next board agenda. Additionally, board counsel will draft a response to place on the next board meeting, as well as information regarding telemedicine laws.

REQUEST FOR APPROVAL OF CONTINUING EDUCATION COURSES

TAB 13: Understanding Oppression and Regulations; Tracking #20-672303

Applicant was not present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Veon moved to deny the application, the proposed course does not relate to the licensee's skills and knowledge related to Acupuncture and Oriental Medicine. Dr. Moreau seconded the motion. Motion carried.

TAB 14: ACE Acupuncture Continuing Education; course tracking #20-689318

Applicant was not present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Vega moved to deny the application, the proposed course does not relate to the licensee's skills and knowledge related to Acupuncture and Oriental Medicine. Dr. Moreau seconded the motion. Motion carried.

TAB 15: Tui Na II; Application Tracking #20-748882

Applicant was not present. Applicant was not represented by counsel.

Action Taken: After discussion, Dr. Veon moved to deny the application, because there was incomplete information; the proposed instructor has not shown the he/she has the expertise to teach; credits requested do not have a breakdown of how they are going to teach the various topics and there is no subject matter provided for the topics. Dr. Vega seconded the motion. Motion carried.

RATIFICATION OF LICENSURE

TAB 16: Acupuncturist- 6.18.2019-12.2.2019

Ratification of Acupuncturist Licenses Issued from 6.18.2019-12.2.2019.

Motion: by Dr. Veon, seconded by Dr. Vega, to approve ratification of license numbers 4064 through 4120 issued from 6/18/2019 through 12/2/2019. Motion carried.

GENERAL DISCUSSION

TAB 17: CE Provider List-6.18.2019-12.2.2019 *informational purposes only*

This item was placed on the agenda for informational purposes.

TAB 18: CE Course Approved List-6.18.2019-12.2.2019 *informational purposes only*

This item was placed on the agenda for informational purposes.

REPORTS

Board Chairman Report-Kathy Veon

TAB 19: ACAOM DISCUSSION

Dr. Veon brought the fact that the ACAOM is considering renaming degrees by breaking the Masters in Oriental Medicine degree into two degrees: the Masters of Acupuncture and a Masters of Herbal Medicine. Dr. Veon brought up for discussion, as something the board may have to consider in future as it affects what the board requires in their rules. Currently the rules require a Masters in Oriental Medicine.

Board Counsel Report – Diane Guillemette, Esq.

TAB 20: Rules Report

November 2019 Rules Report
October 2019 Rules Report
September 2019 Rules Report
August 2019 Rules Report
July 2019 Rules Report
June 2019 Rules Report

Ms. Guillemette informed the board that all the rules the board has been working on have been promulgated and are effective.

RULES DISCUSSION

Ms. Guillemette provided background information as to whether the board can require online courses. She also provided information regarding action taken by the Chiropractic board as it relates to mandatory contact hours. Discussion ensued. The board determined that ten hours of continuing education should be in person, to make it more hands on due to detail and more hands-on procedures. Also, to guarantee more current information. Details, techniques and procedures that are better relayed in person than by any type of media. Acupuncture is a hands-on profession and hands on techniques are better taught hands on.

Board Counsel will insert in Sub (2) under 7.0015 that “ten hours of said hours must be completed by live hands on practice.”

David Bibbey provided public comment. He stated he understands rationale regarding hands on technique being enhanced by requirement for ten hours to be completed live.

TAB 21: Annual Regulatory Plan

Motion: by Dr. Dunetz, to ratify the Annual Regulatory Plan approved by board chair Dr. Veon, seconded by Dr. Vega. Motion carried.

TAB 29: ADDENDUM MATERIALS

A. Letter from Governor DeSantis

Board Counsel Diane Guillemette provided an overview of the letter received from Governor DeSantis. She informed the board that the board is actively doing most of the things requested by the Governor. The only thing the board is not actively doing at this time is (5), the sunset provision. There is some conflict between the Governor’s office and the Joint Administrative Procedures Committee (JAPC) regarding sunset provisions. To address this issue Board Counsel will add the following question; Do you want to sunset this rule”

EXECUTIVE DIRECTOR REPORT-Kama Monroe
TAB 22: Acupuncture CE Provider Application

The CE provider application was discussed earlier in the agenda.

TAB 26: Election of Officers

Motion: by Dr. Dunetz, to nominate and approve Dr. Veon as chair for the 2020 calendar year, seconded by Dr. Moreau. Motion carried.

Motion: by Dr. Veon, to nominate and approve Dr. Dunetz as vice-chair for the 2020 calendar year, seconded by Dr. Moreau. Motion carried.

Motion: by Dr. Veon, that board liaisons remain the same, seconded by Dr. Moreau. Motion carried

TAB 23: BOARD LIASION REPORTS

- **Application-Exam & Endorsement-Kathy Veon**
There is currently no report.
- **Budget-Mr. Heine**
Mr. Heine was not present, there was no report.
- **Community Relations- Janine Margewicz**
There is currently no report.
- **Consumer Protection- Dave Heine**
Mr. Heine was not present, there was no report.
- **Continuing Education - Janine Margewicz, Steve Moreau, Herman Vega & Kathy Veon**
There is currently no report.
- **Legislative & Rules- Kathy Veon**
There is currently no report.
- **Unlicensed Activity-Steve Moreau**
There is currently no report.
- **Healthy Weight Initiative- Rodney Dunetz**
There is currently no report. Dr. Dunetz directed everyone to the handouts on the display table.

OLD BUSINESS

TAB 24: Home Study Discussion

After discussion, it was determined to remove home study from the continuing education application, and for it to become effective after March 1, 2020.

TAB 25: Continuing Education

TAB 25 was discussed under rule discussion.

Discussion ensued regarding what procedure to follow when a complaint is received against an existing continuing education course. It was determined that when a complaint is received, the board office will place it on the board agenda for an Order to Show Cause

NEW BUSINESS

TAB 26: Election of Officers

This item was discussed under the Executive Director Report

TAB 27: 2021 Proposed Meeting Dates and Locations

After discussion, the board agreed to the following:

March 26	<u>Deerfield Beach</u> , Boca Raton, Pompano Beach
June 25	<u>Championsgate</u> , Orlando, Altamonte Springs
September 24	<u>Tallahassee</u> , Jacksonville, Wakulla Springs
December 3	<u>Orlando</u> , Altamonte Springs, Kissimmee

TAB 28: PUBLIC COMMENT

Public attendee requested clarification on several issues. Clarification was provided that as it relates to the live courses, the board would keep the language as in person because it is a broader term.

The board clarified the home study is being removed from the continuing education application.

The board clarified the various methods of licensure.

ADJOURN: Motion by Dr. Veon, seconded by Dr. Vega, to adjourn the meeting.
Next Meeting Date and Location: March 27, 2020-Daytona Beach