

FLORIDA | Board of Acupuncture

June 28, 2019



Draft Meeting Minutes
Board of Acupuncture
General Business Meeting
June 28, 2019
9 a.m.

Omni Resorts at Championsgate
1500 Masters Boulevard
Championsgate, Florida 33896
(407) 238-6551

The meeting was called to order by chair, Kathy Veon, at approximately 9:04 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
Dave Heine, Consumer Member
Herman Vega, Chair, AMD, PhD, AP, LMHC

STAFF PRESENT:

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

MEMBERS ABSENT:

None

BOARD COUNSEL:

Diane Guillemette, Esq., Board Counsel

PROSECUTING ATTORNEYS:

Rose Garrison, Esq. Assistant General Counsel

COURT REPORTER:

American Court Reporting
Cindy Green
(407) 896-5309

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.

TAB 2: 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. Dunetz, seconded by Dr. Vega, to allow PSU to continue prosecution of one year and older cases. Motion carried

ADDENDUM MATERIALS ADDED AFTER PUBLICATION

DETERMINATION OF WAIVER

TAB 22: DW-01 TADEUSZ ADAM SZTYKOWSKI, A.P., CASE NUMBER 2017-11096

PCP: Veon/Gunter

Respondent was present. Respondent was represented by attorney Ricky Huff.

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 457.109(1)(b), Florida Statutes (2016), by having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, and violation of Section 457.109(1)(x), Florida Statutes (2016), by having a relinquishment of licensure offered in response to filed charges against his/her license, by the licensing authority, Rhode Island Department of Health was accepted. The Respondent received service of the Administrative Complaint on May 22, 2018. The Respondent failed to respond to the Administrative Complaint within the twenty-one days statutory time period to preserve his right to respond.

Motion: by Dr. Dunetz, seconded by Mr. Heine, that the Respondent was properly served and did not respond to the Administrative Complaint, thus waiving his right to a formal hearing.

Motion carried.

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, 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: a Reprimand, a two thousand five hundred dollar (\$2,500) fine and continuing education to include the following: three (3) hours Laws and Rules; three (3) hours Prevention of Medical Errors; and two (2) hours Medical Ethics; and costs as in the cost motion in the amount of ninety-four dollars and fifty-nine cents (\$94.59). All terms due within one year of the filing of the Final Order.

Motion: by Mr. Heine, seconded by Dr. Moreau, to accept the discipline recommendations provided by PSU as discipline in this matter, including costs. Motion carried.

REVIEW AND APPROVAL OF MINUTES

TAB 1: March 29, 2019, General Business Meeting Minutes

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

TAB 3: PETITION FOR WAIVER OF RULE 64B1-4.001(4)

Mariana Beckman, AP, File #4690

Action Taken: After discussion, Mr. Heine moved to deny the petition for waiver based on the conversation, Dr. Dunetz, seconded the motion. Motion carried.

APPLICATIONS

APPLICATION FOR FULL LICENSURE

TAB 4: Mariana Beckman, AP, File #4690

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

Action Taken: After discussion, Mr. Heine moved to deny the application, but to allow the applicant the opportunity to withdraw the application within fourteen (14) days of notice, Dr. Margiewicz, seconded the motion. Motion carried.

APPLICATION BY ENDORSEMENT- OUT OF STATE

TAB 5: Guanhong Ma, AP File #4587

Applicant was present and sworn in. Applicant was not represented by counsel. Applicant was accompanied by John Humag for interpretation, who was also sworn in.

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

TAB 6: Barbara Marie Ward, AP, File #4709

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

Action Taken: After discussion, Dr. Veon moved to deny the application, but to allow the applicant the opportunity to withdraw the application within fourteen (14) days of the notice, Dr. Vega, seconded the motion. Motion carried.

TAB 7: Erin Grant, File #4701

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

Action Taken: After discussion, Mr. Veon moved to deny the application, but to allow the applicant the opportunity to withdraw the application within fourteen (14) days of the notice, Dr. Vega, seconded the motion. Motion carried.

REQUEST FOR APPROVAL OF CONTINUING EDUCATION COURSES

TAB 8: Punking and the Social Container- 30-0684623

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

Action Taken: After discussion, Dr. Veon moved to deny the application, because the course was more of a business course, which is not within the scope of the practice. The proposed course does not relate to the licensee's skills and knowledge related to Acupuncture. Dr. Dunetz, seconded the motion. Motion carried.

RATIFICATION OF LICENSURE

TAB 9: Acupuncturist-3/6/2019-6/17/2019

Ratification of Acupuncturist Licenses Issued from 3/6/2019 through 6/17/2019.

Motion: by Dr. Dunetz, seconded by Dr. Margiewicz, to approve ratification of license numbers 4033 through 4063 issued from 3/6/2019 through 6/17/2019. Motion carried.

GENERAL DISCUSSION

TAB 10: CE Provider List-3/6/2019-6/17/2019

This item was placed on the agenda for informational purposes.

TAB 11: CE Course Approved List-3/6/2019-6/17/2019

This item was placed on the agenda for informational purposes.

REPORTS

TAB 12: Board Chair Report

There was no board chair report.

Board Counsel Report – Diane Guillemette, Esq.

TAB 13: Rules Report

June 2019

May 2019

April 2019

This item was placed on the agenda for informational purposes.

RULES DISCUSSION

TAB 14: JAPC Letter 64B1-7.002 and 64B1-7.004

The Joint Administrative Procedures Committee (JAPC) sent a letter identifying certain issues with Rule 64B1-7.002 and 64B1-7.004. Board counsel, Dianne Guillemette reviewed the issues and the proposed changes to satisfy the issues.

Rule 64B1-7.002, requires a correction of the reference to the rule. This will be resolved as a technical change.

Rule 64B1-7.004(2), requires verbiage authorizing electronic notification

After discussion: Motion by Dr. Veon, seconded by Dr. Margiewicz to approve the proposed change of Rule 64B1-7.004, F.A.C. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Moreau, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Margiewicz to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

TAB 15: JAPC Letter 64B1-1.003

The JAPC letter brought to the board's attention that the minimum length of a meeting for which a board member should receive compensation is four hours. Board counsel will make the technical change.

After discussion: Motion by Mr. Heine, seconded by Dr. Dunetz to approve the proposed change of Rule 64B1-1.003, F.A.C., from one hour to four hours, bringing it consistent with the statute. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Vega to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

TAB 16: JAPC Letter 64B1-6.006 and 64B1-6.008

The JAPC letter requested copies of Form DOH/AP007 which is incorporated into Rule 64B1-6.006(1) and Form DOH/AP006 which is incorporated into Rule 64B1-6.008(1). Form DOH/AP006 no longer exists, as the process has changed. Discussion ensued regarding the current process and changes to the rule to bring it current.

After discussion: Motion by Dr. Veon, seconded by Dr. Vega to approve the proposed change of Rule 64B1-6.006, F.A.C., with the following modification to paragraph (1): "Register with CE Broker through CEbroker.com, and pay the provider registration fee directly with CE Broker." Motion carried.

Motion: by Mr. Heine, seconded by Dr. Veon, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Veon to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

TAB 23: JAPC Letter 64B1-9.003 and 64B1-9.006

The JAPC letter brought several issues to the board's attention. Discussion ensued. Ms. Guillemette will draft a rule based on today's discussion, amend the disciplinary guidelines accordingly, and bring back to the board at the September meeting. The rule will be added to mediation once adopted.

After discussion: Motion by Dr. Dunetz, seconded by Dr. Vega to make Rule 64B1-9.007(1)(f), F.A.C., a mediatable offense. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Vega, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Moreau to find that a violation of this rule or any part of this rule would be considered a minor violation. Motion carried.

Rule 64B1-9.003

After discussion: Motion by Dr. Veon, seconded by Dr. Margiewicz to designate Rule 64B1-9.003, F.A.C., a minor violation. Motion carried.

Motion: by Mr. Dunetz, seconded by Dr. Moreau, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Dunetz to find that a violation of this rule or any part of this rule would be considered a minor violation. Motion carried.

TAB 17: DH-MQA 1116 Acupuncture Application for Licensure

After discussion: Motion: by Dr. Vega, to approve the proposed changes to the application, seconded by Dr. Margiewicz. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Vega, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Veon to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

Rule 64B1-4.0011

After discussion:

Motion: by Dr. Dunetz, seconded by Dr. Veon, to make the changes as noted. Motion carried.

Motion: by Dr. Veon, seconded by Dr. Margiewicz, that the proposed changes will not make an adverse impact on small business and proposed changes would not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in aggregate in Florida within one year after the implementation of the rule. No SERC is needed, and no legislative ratification is needed. Motion carried.

Motion: by Mr. Heine, seconded by Dr. Veon to find that a violation of this rule or any part of this rule would not be considered a minor violation. Motion carried.

TAB 19: OLD BUSINESS

There was discussion regarding the number of home study credit hours that are allowed. Executive Director, Kama Monroe will bring the continuing education application, as well as, options regarding home study that can be on the applications, to the next board meeting.

Additionally, there was discussion regarding what action the board is allowed regarding requiring some courses to be in-person. Board counsel will obtain a determination and bring to the next board meeting.

EXECUTIVE DIRECTOR REPORT-Kama Monroe

Tab 17: This issue was discussed earlier in this meeting.

Legislative Update: Executive Director, Kama Monroe provided a legislative update on the three bills that will affect the Board of Acupuncture.

TAB 20: NEW BUSINESS

There was discussion regarding an inquiry posed by a school. Direction was provided.

TAB 18: BOARD LIAISON REPORTS

- **Application-Exam & Endorsement-Kathy Veon**
Currently no report.
- **Budget-Mr. Heine**
Nothing to report other than the materials included in the agenda.
- **Community Relations-** Janine Margewicz
Currently no report.
- **Consumer Protection-** Dave Heine
Currently no report.
- **Continuing Education** - Janine Margewicz, Steve Moreau, Herman Vega & Kathy Veon
Currently no report.
- **Legislative & Rules-** Kathy Veon
Currently no report.
- **Unlicensed Activity-**Steve Moreau
Currently no report.
- **Healthy Weight Initiative-** Rodney Dunetz
Currently no report. Dr. Dunetz directed everyone to the handouts on the display table.

TAB 21: PUBLIC COMMENT

There was no public comment.

ADJOURN: Motion by Dr. Veon, seconded by Dr. Dunetz, to adjourn the meeting.
Next Meeting Date and Location: September 27, 2019-Tallahassee