



CHRIS CHRISTIE
Governor

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New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Medical Examiners
Acupuncture Examining Board
124 Halsey Street, 6th Floor, Newark, NJ 07102



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ACUPUNCTURE EXAMINING BOARD PUBLIC SESSION MINUTES May 19, 2010

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I ROLL CALL

PRESENT

Edith Lee, Henry McCann, Roger Rossi, Nita Raval, Barbara Montana

ABSENT

Shoshanna Katzman, Mimi Vassilev-Baker, Karen Wei-Ru Lin,

ALSO PRESENT

Megan Cordoma, DAG
Renee P. Clark, Executive Director
Tanya Gollett, Staff

CALL TO ORDER

The regular monthly meeting of the Acupuncture Examining Board was called to order at 124 Halsey Street at 9:30 a.m., all members having been notified of the time, date and, place and materials pertinent hereto having been provided.

SUNSHINE LAW

In compliance with Chapter 231 the Public Law of 1975, notice of this was sent to the Courier-Post and the Record.

II. MINUTES

A motion was made by Edith Lee and seconded by Roger Rossi to accept January 20, 2010 Public Session Minutes with amendments. The motion carried by unanimous vote.

III. REGULATORY ANALYSIS

Regulatory Analyst Charles Manning. The Acupuncture Examining Board reviewed suggestions made by Charles Manning and determined to approve all suggestions. A motion was made by Edith Lee and seconded by Barbara Montana. Motion carried by a unanimous vote.

IV. ASSEMBLY #2456

Board to review Assembly #2456. Taken as informational.

V. HEARINGS AND PLEAS

Young K Lee

The Board adopts the findings of fact and conclusions of law of the administrative law judge in this matter in total, with one modification insofar as the Board notes that despite the fact that expert report was stipulated in evidence, case law is clear that expert testimony regarding witness credibility cannot be considered by the trier of fact. A written Order more fully detailing the Board's reasoning will follow. Motion was made by Barbara Montana and seconded by Nita Raval to accept the OAL decision.

VI. CORRESPONDENCE

- A. Correspondence from the New Jersey Association of Acupuncture and Oriental Medicine President Candace Sarges M. Ac. L. Ac. Dipl. O.M. regarding a question on dry needling by a Physical Therapist.** The Acupuncture Examining Board has reviewed correspondence from New Jersey Association of Acupuncture and Oriental Medicine and agrees to send a letter to the Acupuncture Association's President Candace Sarges informing her that they are aware of this issue and are currently investigating the matter. A motion was made by Edith Lee and seconded by Roger Rossi. Motion carried by unanimous vote.
- B. Update on the Board's decision to meet as a committee with Board of Physical Therapy regarding a question on dry needling by Physical Therapist.** The Acupuncture Examining Board remains concerned that Physical Therapist's may believe they can utilize dry needling in their practice. The Board directs the committee to discuss applicable statutes and relevant training with the Physical Therapy Board. A motion was made by Roger Rossi and seconded by Edith Lee. A motion carried by unanimous vote.

VII. NEW BUSINESS

- A. Correspondence from New Jersey Foundation for Aging.** The Acupuncture Examining Board determined that this information will be posted on the website for viewing. A motion was made by Barbara Montana and seconded by Nita.
- B. Correspondence from Arsenne Keushkerian.** The Acupuncture Examining Board has reviewed correspondence from Arsenne Keushkerian and determined that the Board cannot make decisions regarding insurance remuneration Mr. Keushkerian should contact the Department of Banking and Insurance on this matter. A motion was made by Edith Lee and seconded by Barbara Montana. Motion carried by unanimous vote.
- C. Correspondence from Anne Kim.** The Acupuncture Examining

Board has reviewed Ms. Kim's correspondence and has determined that Ms. Kim's questions are not specifically addressed in the Acupuncture Examining Board Statute and Regulations. However she should be aware that there is a Federal Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)) that applies to all health care professionals. Physicians are subject to further New Jersey State and Federal regulations such as the Federal Stark Law and N.J.S.A. 45:9-22.5. A motion was made by Nita Raval and seconded by Barbara Montana. The motion carried by unanimous vote.

- D. Correspondence from Matthew Fellner.** The Acupuncture Examining Board has reviewed the correspondence from Matthew Fellner and has determined that it is permissible for a student to remove needles under the license and direction of a licensed acupuncturist provided the student is performing this action as part of their curriculum in an accredited training program. The Board is in the process of revising its regulations to address the question of delegating responsibilities such as needle removal in the practice of acupuncture. In addition, the Administrative office should advice regulatory analyst that they would like to include this issue on the list of items to be added to the discussion on regulations in the near future. A motion was made by Roger Rossi and seconded by Nita Raval. Motion carried by unanimous vote.

Edith Lee made a motion to proceed to Executive Session, seconded by Nita Raval, to consider and review advertisement, consumer complaints and other information received pursuant to the Board's investigative authority in order to determine whether violations of law, including Board regulations, have occurred. The results of these deliberations will be made known when, and if, the Board chooses to issue a Uniform Penalty Letter, the action will be taken in Public Session immediately after the Executive Session.

Respectfully submitted
ACUPUNCTURE EXAMINING BOARD

Renee P. Clark, Executive Director