

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS
LICENSURE COMMITTEE MEETING MINUTES

February 1, 2008

The meeting was called to order at 9:12 a.m. by the Chair, Meng-Sheng Linda Lin, L.Ac. Committee members present were Donald Ray Counts, M.D.; Pedro (Pete) Garcia, Jr.; and Hoang Xiong Ho, L.Ac.

Executive Session, was considered. Mr. Garcia moved, Mr. Ho seconded, and the motion passed at 9:13 a.m. to go into executive session for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action under the authority of the Open Meetings Act, GOVERNMENT CODE, 551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009; and TEXAS OCCUPATIONS CODE ANNOTATED, 205.304; and Attorney Generals Opinion No. H-484.

Open session resumed at 11:19 a.m. and it was announced that no action was taken during executive session. A certified agenda was made.

The Licensure Committee conducted hearings to review applicants appearing concerning eligibility. The hearings were conducted in Executive Session for deliberations concerning licensure applications and consideration of possible rehabilitation orders under the authority of the Open Meetings Act, GOVERNMENT CODE, 551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009 and 205.304; and Attorney Generals Opinion No. H-484. Following the hearings, the Committee reconvened and considered the applications.

Agenda Item 3 Discussion, recommendation, and possible action regarding applicants appearing concerning eligibility.

Applicant #598 appeared before the Committee with counsel in executive session on appeal of a determination of ineligibility by the Executive Director. In open session, **Mr. Garcia moved to recommend to the full Board that the applicant be granted an acupuncture license under a public, non-disciplinary rehabilitation order that includes the requirements specified in the Rehabilitation Checklist that has been distributed to the members of the committee. This recommendation is due to the applicants history of alcohol and substance abuse.** Factors contributing to this recommendation include that the applicant has two substance abuse related arrests. However, the applicant has had no further legal action since 2001, has positive evaluations, was successful in training, and graduated in 2006. **Dr. Counts seconded. All voted in favor. The motion passed.**

Agenda Item 2 Discussion, recommendation, and possible action regarding request for rehearing and rehearing, if rehearing request is granted.

Applicant #596s request for rehearing was reviewed by the Committee. **Mr. Garcia moved to recommend to the full Board that the request for rehearing be granted. Mr. Ho seconded. All voted in favor. The motion passed.**

At the request of the applicant, the rehearing was held in open session. Applicant # 596 will now be referred to as Juliana Cumbo.

Ms. Juliana Cumbo appeared before the committee with counsel, David Cohen, to discuss the request for rehearing of her licensure application. Ms. Cumbo also brought co-counsel, Lucy Wood, an attorney with Advocacy Inc.

Mr. Cohen requested that Ms. Lin recuse herself from the determination on this application. Ms. Lin declined to recuse herself.

Ms. Cumbo described the techniques and modifications she uses to accommodate her disability. She answered the Committee members questions. Xiaotian Shen, L.Ac., the director of the student clinic at the Academy of Oriental Medicine at Austin (AOMA) spoke on her behalf. The

Chair recognized a member of the public, Lynda El-Mandouh, who, as a long-time patient of acupuncture due to serious illness, expressed concerns regarding the safety of licensing a blind acupuncturist, specifically as it relates to the acupuncturist using the patients observations of him or herself as a diagnostic tool. Tommy Craig, President of the National Federation of the Blind of Texas, advocated for Ms. Cumbo and stated that he believed the Committees reservations were largely based in their lack of information regarding the techniques or modifications used by the blind for daily living. Next, Will Morris L.AC, President of AOMA, spoke on Ms. Cumbos behalf, outlining the admissions policy at AOMA. He was followed by Linda Fontaine, Vice-President of AOMA, who spoke on Ms. Cumbos behalf as a long time patient of acupuncture.

Executive Session, was considered. Mr. Garcia moved, Mr. Ho seconded, and the motion passed at 1:25 p.m. to go into executive session for private consultation and advice of counsel concerning pending or contemplated litigation, deliberations concerning licensure applications, and/or possible disciplinary action under the authority of the Open Meetings Act, GOVERNMENT CODE, 551.071; and the Medical Practice Act, TEXAS OCCUPATIONS CODE ANNOTATED, 152.009; and TEXAS OCCUPATIONS CODE ANNOTATED, 205.304; and Attorney Generals Opinion No. H-484.

Open session resumed at 2:15 p.m. and it was announced that no action was taken during executive session. A certified agenda was made.

Mr. Garcia moved to recommend to the full Board that regarding Ms. Juliana Cumbos licensure application, the Committee recommend to the full Board that the Board defer action on this application, and extend the applicants expiration date and fees for 6 months, to allow an evaluation by independent consultants approved by the Board, and mutually agreed upon by the applicant. The independent consultants may not be affiliated with any school. One independent consultant must be a licensed acupuncturists, the other consultant may be a licensed acupuncturist or a licensed physician knowledgeable in the practice of acupuncture. The independent consultants will observe and evaluate Ms. Cumbo in the practice of acupuncture (diagnosis and treatment) on two patients; one male and one female. Ms. Cumbo may not have treated the patients in the past. The independent

consultants will report to the Board. Dr. Counts seconded. All voted in favor. The motion passed.

Agenda item 5 - Report on licensing of acupuncturists and the 60 hour general college coursework requirement. Ms. Garanflo presented a follow up report on the licensing of acupuncturists and the 60 hour general college coursework requirement. All Academy of Oriental Medicine at Austin (AOMA) graduates, who apply for licensure, are graduates of an approved school and have demonstrated compliance with the 60 hours of general college courses required by all applicants under the Acupuncture Act. Ms. Lin directed staff to obtain a letter from the Texas Higher Education Coordinating Board (THECB) that verifies that each Texas Acupuncture school is allowed to set their own standards for the composition of the 60 required hours; and to confirm the resolution of the students education at AOMA. In addition staff was directed to find out what the three schools admissions standards are for composition of the 60 hours.

Agenda item 4 - Discussion, recommendation, and possible action regarding applicants for Texas Acupuncture License: There were 8 applicants who met all requirements to be considered for acupuncture licensure by the Texas State Board of Acupuncture Examiners (TSBAE). **Mr. Garcia moved, Ms. Lin seconded and the motion passed to recommend to the full board that the 8 applicants be approved for licenses and that their names be listed as part of the minutes of this committee.**

Agenda item 6 - Discussion, recommendation, and possible action regarding examination attempt limits. Ms. Garanflo presented a report on the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) regarding their standards for exam attempts. The NCCAOM allows up to five attempts, with continuing education required after three failed attempts. Mr. Garcia directed staff to gather stakeholder input on a possible rule change to come into accordance with NCCAOM standards, and defer action on this item until the next board meeting.

There being no further business, the meeting was adjourned at 2:46 p.m.