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**BOARD MEETING
APPROVED MEETING MINUTES
March 22, 2024**

LOCATION:

1625 North Market Boulevard
Suite 102
Sacramento, CA 95834

Remote Access via Web Ex Teleconference

Staff Present

Benjamin Bodea, Executive Officer
Brennan Meier, Legal Counsel
Jay Herdt, Licensing Manager
Marisa Ochoa, Central Services Manager
Kristine Brothers, Policy Coordinator

Members of the Board

John Harabedian, Esq. President
Dr. Yong Ping Chen, Ph.D., L.Ac., Vice President
Hyun "Francisco" Kim, M.S., L.Ac.
Shu Dong Li, Ph.D.
Dr. Amy Matecki, M.D., L.Ac.
Ruben Osorio

Item 1 – Call to Order, Roll Call, and Establishment of Quorum

Meeting commenced at 9:12 a.m.

Roll call taken. All members present. Quorum established.

Item 2 – President's Remarks

Board President John Harabedian (President Harabedian) welcomed members, staff, and the public to the meeting.

Item 3 – Review and Possible Approval of Board Meeting Minutes for October 26, 2023

Board members reviewed the minutes from the October 26, 2023, meeting.

MOTION

Board Vice President Yong Ping Chen (VP Chen) motioned to approve the October 26, 2023, meeting minutes.

Board Member Amy Matecki (Matecki) seconded.

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0

Motion Passes

Item 4 – Executive Management Report

(A) Budget Update

Brad Lencioni (Lencioni) from the Budget Office presented the Board's expenditure and revenue projections as well as the fund condition statement. Mr. Lencioni noted one of the main factors driving expenditure increase for the ensuing years is personal service adjustments which include general salary increases as well as employee compensation and retirement rate adjustments. The Budget Office will continue to monitor the Board's revenues and expenditures and report back to the Board with expenditure projections as they continue to close fiscal months in the current fiscal year.

President Harabedian inquired if any preparation is necessary in case the Board's reserves will be utilized to balance the state's budget deficit. Harmony Defilippo (Defilippo) from the Budget Office explained the Board's reserve balance is not affected by the expenditure freeze.

Board Member Matecki asked how many months in reserve is the Board allowed to have. Ms. Defilippo replied twenty-four months is the maximum any fund can have.

(B) Licensing Report Q2 FY 2023-24

Licensing Manager, Jay Herdt (Herdt) reported the data for Licensing, Continuing Education, Tutorial, Training Programs, and Exam Results.

President Harabedian pointed out the discrepancy between active licensees and wall license holders. He inquired what steps are being taken in promoting awareness to licensees about the wall license requirement.

Mr. Herdt responded that the wall license requirement is made prominent on the Board's website. Also, licensees are reminded of the wall license requirement when they inquire about their renewal. Executive Officer (E.O. Bodea) further stated he is planning to have a dialogue with associations and apprise them of the wall license requirement.

E.O. Bodea and Mr. Herdt elaborated that obtaining a wall license is an essential part of the renewal process for licensees who have a place of practice.

Public Comment

A public comment was made stating Emperor's College incorporates the wall license requirement in the school's laws and ethics subject.

(C) Enforcement Report Q2 FY 2023-24

E.O. Bodea reviewed the complaints/convictions and investigations data for Quarter Two of 2023-24 Fiscal Year (October 1 – December 31, 2023).

Public Comment

A public comment was made bringing attention to the Board AB 796, otherwise known as the Athletic Training Practice Act. The commenter expressed concern on athletic trainers practicing dry needling.

Another public comment was made echoing the same concern of the first commenter. The speaker encouraged the Board to make a public comment or position statement opposing the practice of dry needling by athletic trainers.

Item 5 - Legislative Report

Policy Coordinator, Kristine Brothers (Brothers) provided a report on the bills of interest introduced in 2024.

- AB 2269, Board membership qualifications: public members.
- AB 2862, Licenses; African American applicants
- SB 1067, Healing arts: expedited licensure process: medically underserved area or population

The Board recessed from 10:22 a.m.-10:37 a.m.

Item 6 – Regulatory Report

Ms. Brothers summarized the status of each Board regulatory package in progress.

Item 7 – Discussion and Possible Action to Consider Adoption of Proposed Clarifying Amendments Identified by Office of Administrative Law Relating to Application Process for Licensing Examination and Re-examination, and Criteria, and Procedures for Approval of a Credential Evaluation Service Rulemaking (16 CCR sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, and 1399.416.4, 1399.417 and 1399.419)

Ms. Brothers provided a brief background of the regulatory package. She stated the Board previously met on August 26, 2021, and voted to approve the regulatory language which implements AB 2190, provides definitions for terms, sets requirements for applicants applying and reapplying for the licensing exam, and updates processes related to the exam, including documentation and submission requirements. The proposed regulations were noticed on September 8, 2023, and later filed with the Office of Administrative Law on November 2, 2023. However, the regulatory action was withdrawn on January 5, 2024, to address substantive edits. Ms. Brothers proceeded to discuss the changes within the modified text that were made and recommended the Board review and consider the changes.

MOTION

Board Member Matecki moved to approve the proposed modified regulatory text and changes to 16 CCR, Division 13.7, sections 1399.409, 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.2, 1399.416.3, 1399.416.4, 1399.417, and 1399.419, and

Direct staff to submit the proposed modified text to the Director of the DCA and the Business, Consumer Services, and Housing Agency for review.

If no adverse comments are received, authorize the Executive Officer to take all steps necessary to continue the rulemaking process, make any technical or non-substantive

changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 15-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed.

Board Member Osorio seconded.

Vote

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0 motion passes

Item 8 – Discussion and Possible Adoption of Continuing Education: Law and Ethics Requirement Rulemaking (16 CCR sections 1399.480, 1399.489 and 1399.489.1, Including Consideration of Comments Received)

Ms. Brothers gave a brief background of the regulatory package. The proposed regulations were noticed on October 6, 2023, for a 45-day public comment period which ended November 1, 2023. During this period, two comments were received. She proceeded to summarize the comments that were received as well as the proposed responses for the Board's consideration. A discussion ensued among Board members on what would satisfy the requirement of completing the four hours of law and ethics.

MOTION

VP Chen moved to direct staff to reject the actions requested in the comments, provide the responses to the comments (as indicated in the meeting materials), and use the noticed proposed text and responses for completing the regulatory process.

Direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the proposed regulations, and adopt the proposed regulations as described in the proposed text as noticed.

Board Member Matecki seconded.

Vote

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0 motion passes

Public Comment

A public comment was made stating the ethics code in Chinese medicine is clear and these are interesting aspects to include in an ethics class.

Another public comment was made recommending the creation of a subcommittee to address issues that haven't been resolved.

Item 9 – Discussion and Possible Action to Reconsider Previously Approved Text, Authorize Initiation of a New Rulemaking and to Adopt New Text to Establish Section

1399.419(3) in Title 16 of the California Code of Regulations: Application for Retired Status; Retired Status; Restoration

Ms. Brothers provided a brief background of the regulatory package. She discussed substantive edits that were made to the proposed language that was previously approved by the Board, including clarification of the term “disciplinary reasons” and the requirements for restoration of a retired license. The Board was asked to review the proposed language, and if approved, rescind the Board's prior proposed text.

MOTION

Board Member Osorio moved that the Board rescind prior proposed text approved August 16, 2019, and approve the newly proposed regulatory language and changes to Division 13.7, Article 2, section 1399.419.3 and Article 6, section 1399.460, as provided in the materials, and...

Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking, and adopt new Section 1399.419.3 of Article 2 and amend Section 1399.460 of Article 6 of Division 13.7 of Title 16 of CCR as noticed.

Board Member Kim seconded.

Vote

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0 motion passes

Item 10 – Review and Possible Action on the Board's Draft Strategic Plan

E.O. Bodea presented the draft strategic plan the Board developed at its public meeting held in October 2023. E.O. Bodea pointed to areas of the plan where he had suggested edits. E.O. Bodea recommended the removal of Goal Area 3.2 as medical doctors cannot direct assistants to perform acupuncture involving the application of a needle. E.O. Bodea then recommended the approval of Goal Area 3.7 to allow parity between foreign and domestic applicants. Lastly, E.O. Bodea recommended the removal of Goal Area 4.3 and 4.5. These goal areas can be combined with Goal Area 4.1.

VP Chen sought clarification of Goal Area 1.2, which is to consult with the Department of Consumer Affairs' Office of Professional Examination Services to gather information on the differences between the national certification exam and the California licensing exam. After deliberation, the Board members decided to remove the item since there is no imminent compelling reason to shift to a national certification exam.

MOTION

President Harabedian moved to adopt the strategic plan, removing goal 1.2, removing goal 3.2, adding goal 3.7, and removing goals 4.3 and 4.5 as identified in the materials.

Board Member Osorio seconded.

Vote

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0 motion passes

Public Comment

A public comment was made supporting the action taken by the Board in removing Goal Area 1.2.

A second public comment was made recommending the retention of Goal Area 1.2.

The third public comment agreed with the sentiment of the second commenter, which is not to remove items from the strategic plan.

Item 11 – Review and Possible Action on the Board’s Administrative Manual

E.O. Bodea stated it is recommended that the Board review its administrative manual every few years. After a thorough review, changes were made, including updates to policies, the inclusion of citations of laws and regulations where policy was derived from, and other non-substantive changes.

MOTION

Board Member Osorio moved to adopt the changes provided in the Board administrative manual as presented by staff.

Board Member Matecki seconded.

Vote

Yes: Harabedian, Chen, Osorio, Kim, Li, Matecki

6-0 motion passes

Public Comment

A public comment was made expressing some of the recommended agenda items brought forth by the public are not being included on subsequent agenda items.

Item 12 – Public Comments for Items Not on the Agenda

Public Comment

The first public comment expressed concern on athletic trainers who perform dry needling. The commenter encouraged the Board to take a strong stance against any legislation that would essentially allow athletic trainers to practice acupuncture.

The second public commenter reiterated the concern of the first commenter, opposing athletic trainers from performing dry needling.

The third public commenter stated public comments are not being taken into consideration by the Board before a vote on a motion is to be made. The commenter also voiced his concern regarding athletic trainers performing dry needling. Lastly, recommended the Board to communicate with the Medical Board on the exclusion of athletic trainers from performing dry needling.

The fourth commenter voiced apprehension on physical therapists and chiropractors performing dry needling.

The fifth commenter conveyed their view to stop the practice of dry needling by athletic trainers.

The sixth commenter pointed out acupuncture is not included in Section 2529.8.3 of the Athletic Training Practice Act.

The last public commenter also opposed physical therapists from performing dry needling. The speaker added that the Board and stakeholders should work together to resolve the issue.

Item 13 – Future Agenda Items

President Harabedian requested discussion of AB 796 for the next agenda.

Board Member Kim suggested a dialogue on dry needling with respect to other healthcare professions. He also wanted to discuss the education program as well as coordination in terms of acupuncture promotion for Medicaid recipients.

VP Chen recommended to discuss the law and ethics requirement for continuing education.

Board Member Matecki concurred with President Harabedian's suggestion to discuss AB 796 in the next agenda.

Public Comment

A public comment was made stating Emperor's College offers a 20-hour course of law and ethics.

A second public comment was made declaring California University-Silicon Valley offers Ethics subject. The commenter also made an emphasis on Medical Ethics.

The third public comment enumerated education, curriculum competency, law, ethics, Asian massage, occupational analysis, and workers compensation as future agenda items to be discussed.

Item 14 – Adjournment

President Harabedian adjourned the meeting at 1:15 p.m.