

BOARD OF ACUPUNCTURE
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lt. Governor, as required by §92-7(b), Hawaii Revised Statutes (“HRS”)

Date: Thursday, June 5, 2014
Time: 1:00 p.m.
Place: Princess Likelike Conference Room
King Kalakaua Building, 3rd Floor
335 Merchant Street
Honolulu, Hawaii 96813

Members Present: Michael Howden, L.Ac., Chairperson
Jayne Tsuchiyama, L.Ac., Member, Vice-Chairperson
Dr. James Corcoran, Member
Mike Hashimoto, D.Ac., Member

Staff Present: Christine Rutkowski, Executive Officer
Daniel K. Jacob, Deputy Attorney General
Alice Worthy, Secretary

Guests: Jana Wells, L.Ac., Self
Wai Hoa Low, ICAOM

Call to Order: There being a quorum established, Chair Howden called the meeting to order at 1:01 p.m.

Agenda Additions or Revisions: Distribution of additional documents: Dr. Hashimoto provided copies of the following documents: (1) proposed drafts to the rules. After a review, it was concluded that these would be put on the agenda for the next Board meeting, and (2) copies of page 4 to the June 19, 1986 meeting minutes and a comparison sheet relating to item 7.b.

Minutes of Previous Meeting: Minutes of the April 3, 2014 Meeting
It was moved by Ms. Tsuchiyama, seconded by Dr. Hashimoto (Dr. Corcoran abstained), and unanimously carried to approve the minutes of the April 3, 2014 meeting as circulated.

Chair’s Report: None.

Executive Officer’s Report: None.

Applications: Exam and License – None.

Ratifications

Board members reviewed the list of licenses and intern permits. It was moved by Ms. Tsuchiyama, seconded by Dr. Corcoran, and unanimously carried to ratify the applications of the individuals as listed for respective approvals sought (attached).

New Business: Acupuncture Today (May 2014, Vol. 15, Issue 05) – “Dry Needling is Acupuncture: Anatomy of a Legal Victory in Oregon”

Copies of the article were given to members for their information.

In summary, the Oregon Court of Appeals overturned the Oregon Board of Chiropractic Examiners “dry needling” administrative rule, which allowed chiropractic physicians to perform acupuncture after only 24 hours of training. The Court of Appeals ruled that “dry needling is not within the practice of chiropractic...and the rule thus exceeds the scope of the board’s statutory authority”.

The Oregon Association of Acupuncture and Oriental Medicine (OAAOM) was successful in its efforts to get a ruling stating that dry needling is not within the chiropractic’s scope of practice. The OAAOM expressed concerns for patients’ safety, its reputation if performed by inadequately trained practitioners and the impact on professional opportunities and reputation.

Dr. Corcoran asked what does this decision mean for Hawaii? Chair Howden stated that this decision sets a precedent for other states facing the same concerns. Deputy Attorney General Jacob stated that the language is specific to Oregon, and that it is not binding in Hawaii. Parallel language would define the language specific to each state as each state is different. Deputy Attorney General Jacob added that interested parties may refer to the decision as reference. The Executive Officer stated that the dry needling issue came before the Board a few years ago. The Board requested feedback from the Hawaii Board of Physical Therapy regarding its position on dry needling. The Board of Physical Therapy replied that dry needling is not part of the scope of practice for physical therapists in this State.

May 16, 2014 Request from Total Body Care, Inc., Shinji Tsukamoto, Regarding Use of Ultrasound and TENS Unit Combination Device and Traction Device for Lumbar Spine in the Practice of Acupuncture

Members reviewed the May 16, 2014 request from Total Body Care asking for the Board's input as to the use of the ultrasound and TENS unit combination device and traction device for lumbar spine in the practice of acupuncture.

Dr. Hashimoto provided copies of the following handouts to members on this subject:

- (1) Page 4 of the Board's June 19, 1986 meeting minutes wherein the Board discussed the use of electro, laser and ultrasound equipment in the practice of acupuncture. "Based on the discussion among the board members and guests, it appears that the use of the above equipment is within the scope of acupuncture practice. There appears to be specific equipment for use by trained acupuncturists that are different from equipment that only physicians can use. Since the use of such equipment is relatively recent, the board will be researching the matter for more information."
- (2) Comparison sheet of distinctive terms in the definition and scope among the various states' acupuncture laws.

After a brief discussion, it was moved by Dr. Corcoran, seconded by Dr. Hashimoto, and unanimously carried to write Mr. Tsukamoto of Total Body Care, Inc. advising him that the Board finds both techniques to be within the scope of practice.

Upon further discussion, Dr. Corcoran withdrew his motion.

Ms. Tsuchiyama asked whether the devices were being used within the scope of practice of Oriental Medicine (OM).

Dr. Hashimoto related that the use of the devices was discussed previously. He asked why the Board would want to limit the use of the equipment so long as the practitioner is using it in the practice of OM.

Board members continued discussion and noted that there was not sufficient information for the Board to make a determination on whether the devices are within the scope of practice for acupuncture licensees. Board members agreed that more information was needed. Also, the Board felt that it was important that they obtain more information on the devices for the safety of the consumer. Personnel would need to be properly trained to use these devices, and questions arose on whether further studies would be required.

After further discussion, it was moved by Chairperson Howden, seconded by Dr. Corcoran, and unanimously carried to direct the Executive Officer to write Mr. Tsukamoto requesting that he clarify his request and provide more specific information about the equipment and how it would be used.

S.C.R. No. 31 S.D. 1 (S.B. 2439) – Requesting the Auditor to Conduct a Sunrise Review of the Licensure and Regulation of Herbal Therapists

The Executive Officer reported that the Legislative Auditor (“Auditor”) will be conducting the above referenced study relating to S.C.R. No. 31 S.D. 1 (S.B. 2439). The bill seeks to regulate the practice of herbal therapy but exempts Native Hawaiian healing practices. The Auditor’s office will contact Christina Kapothanasis, Executive Director, HOMAA, for any additional information/input. There is the possibility that as a result of the Auditor’s review that a new board may be created, the Board of Herbal Therapy. There is nothing to do until the 2015 legislature is in session.

Open Forum:

Jana Wells, who attended the April 3, 2014 Board meeting, mentioned that she had discussed the Hawaii Health Innovative Plan and that the Executive Officer was going to follow up on it. She mentioned that she had written the Governor’s Office and briefly read the letter she sent. Ms. Wells wanted to know if the members were interested in pursuing this issue further.

Deputy Attorney General Daniel Jacob stated that he is familiar with the matter she is referring to. He suggested that she ask to be included on the mailing list to receive hearing notices. The Governor has not signed the bill yet. Ms. Wells stated that she will follow up on her end.

The Executive Officer stated that this matter is not an issue for the Board’s Program of Work, and rather one for the profession.

Wai Low, ICAOM, asked the Board what the definition of an “official transcript” is. The Executive Officer explained that an “official transcript” must have the official seal on it and be submitted in a sealed envelope. If the transcript does not have the official school’s seal, it will not be accepted. Copies are not acceptable; copies of diplomas are okay.

Wai Low explained that there is a student who wants to transfer schools and wants to know what the procedure is. The Executive Officer stated this appears to be a matter to be handled by the school; this is not a licensing matter.

The Executive Officer stated that if the prospective student is having difficulty with the school, the prospective student may contact ACAOM for assistance. Wai Low further explained that the student doesn’t want to report the school for fear that someone might do something. It was suggested that in the student’s best interest, that she file a report with ACAOM.

Next Meeting: Thursday, August 7, 2014
1:00 p.m.
Princess Likelike Conference Room
King Kalakaua Building, 3rd Floor
Honolulu, Hawaii 96813

Adjournment: Chairperson Howden adjourned the meeting at 2:46 p.m.

Taken and recorded by:

/s/ Alice Worthy

Alice Worthy, Secretary

Reviewed and approved by:

/s/ Christine Rutkowski

Christine Rutkowski, Executive Officer

CR:aw
7/7/14

- [X] Minutes approved as is.
[] Minutes approved with changes. See Minutes of _____.

BOARD OF ACUPUNCTURE

RATIFICATION LIST

Thursday, June 5, 2014

ACU	1092	CHRISTINA N Y C <SOHRIAKOFF<
ACU	1093	ELIZABETH ANN <BRANON<
ACU	1094	ELISHA F <WEINBERG<
ACU	1095	PAIGE L <MARKHAM<
ACU	1096	NICOLE L <KELLNER<
ACU	1097	AMELIA <GAILEY<
ACU	1098	REBECCA <WEEKS<