

BOARD OF ACUPUNCTURE
Professional and 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 Lieutenant Governor, as required by §92-7(b), Hawaii Revised Statutes ("HRS").

Date: Thursday, December 5, 2019

Time: 1:00 p.m.

Place: Princess Likelike Conference Room
King Kalakaua Building, 3rd Floor
335 Merchant Street
Honolulu, HI 96813

Members Present: Joni Kroll, D.Ac., Chairperson Pro Tem/Chairperson
Deborah McMenemy, D.Ac., D.A.O.M, Vice-Chairperson Pro Tem/Vice-Chairperson
James Corcoran, Ph.D., Member
Ellen Roos-Marr, Member

Staff Present: Relley Araceley, Executive Officer
W. Max Levins, Esq. Deputy Attorney General ("DAG")
Kellie Teraoka, Secretary

Guests: Antonio Provencio, Hawaii Acupuncture Association ("HAA")

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

Election of Board Officers: Executive Officer Araceley requested that Board members could either indicate interest or nominate member(s) for the position of Board Chairperson. Dr. McMenemy nominated Dr. Kroll as Chairperson and it was unanimously carried to elect Dr. Kroll as Chairperson.

Executive Officer Araceley requested that Board members could either indicate interest or nominate member(s) for the position of Board Vice-Chairperson. Chair Kroll nominated Dr. McMenemy as Vice-Chairperson and it was unanimously carried to elect Dr. McMenemy as Vice-Chairperson.

Approval of the Minutes: It was moved by Vice-Chair McMenemy, seconded by Dr. Corcoran, and unanimously carried to approve the minutes of the October 3, 2019, meeting with the following amendments:

d. Mrs. Meisel

Dr. Kroll noted that if the program that she graduated from could accept all the hours then the requirements would be met.

The Board moved out of order to agenda item 7. New Business.

New Business: A. Hawaii Acupuncture Association 2020 legislative proposals

Chair Kroll introduced Mr. Provencio from the HAA. Executive Officer Araceley distributed a letter from the HAA to the Board members for their review. Mr. Provencio explained that they are proposing for revisions to be made to HRS chapter 436E that would be necessary immediately, however they intend to make bigger changes to the scope of practice in the future. Mr. Provencio requested for the Board's assistance or support to provide guidance, as the HAA is unfamiliar with the legislative process. Chair Kroll questioned if the HAA is submitting their smaller revisions first, just to learn the legislative process. Mr. Provencio responded that they do want to learn the process but also feel that these changes are necessary immediately. Mr. Provencio added that in the future they intend to address more encompassing issues such as the opioid initiative. The way that the scope of practice is listed now is very vague, basic, and outdated in comparison to other states. Chair Kroll explained that the Board also experienced a similar issue when revising their rules, which included outdated information regarding licensing and training that are no longer applicable. Chair Kroll suggested that it would be a good time to remove the educational ties to the national standard of accredited schools, however the Board cannot make this revision, as it needs to come through the public. HAA will look into those revisions.

Chair Kroll explained that the legislative process is very time consuming, so it may be better to submit all revisions at once. Chair Kroll asked if a member of the Board could sit on the committee with HAA to go over changes. DAG Levins stated that he is not aware of anything that would prohibit this, as long as there are no conflicts or compensation involved. If the Board intends to do this, DAG Levins can look further into this issue to prevent ethical concerns. Executive Officer Araceley added that if a Board member is associated with outside committee, they are not allowed to speak for the Board and can only attend as representation of the Board for informational purposes.

Chair Kroll explained that when the HAA's bill goes to the Legislature, only then will it come to the Board for an official statement of position in their testimony. The Board cannot take a position until seeing the final bill. Chair Kroll asked if the Board agrees that all revisions should be submitted at once. DAG Levins responded that it depends on subject matter and the interest of Legislators. Mr. Provencio explained that they would need go back and look more in depth as they weren't prepared to propose all their changes at once. Chair Kroll advised that if the HAA feels that this proposal is essential and ready, then they should proceed.

Mr. Provencio asked if the Board would consider their request to change the term “human body” to “patient.” Ms. Roos-Marr questioned why the HAA is requesting to make change to the wording. Mr. Provencio explained that acupuncture can be applied to other living beings, such as animals. DAG Levins advised that he does not think changing the term to “patient” would allow acupuncturists the ability to practice on animals. DAG Levins further advised that that “human body” is also used in the statute, and that would need to be changed first to avoid exceeding the statutory authority. Also, in terms of timing, the Board is in the middle of amendments to their rules and should complete that process before the statute is changed, as it would require another amendment. Chair Kroll asked if the Board could change the wording in the rules before it is changed in the statutes. DAG Levins advised that it depends on what the statute is ultimately changed to and if it would require another amendment. It would also depend on what is currently in the rules at that point since both HAR and HRS should be congruent. DAG Levins also brought up another issue that even if given the ability, acupuncturist should not perform or give authority to perform procedures that are solely under the scope of veterinarians.

Chair Kroll added that the Board of Acupuncture went to the Hawaii Board of Veterinarians last year requesting to work together to allow acupuncturists to complete the 300-hour certification limit under supervision. The Hawaii Board of Veterinarian’s position was that there are a sufficient amount of veterinarians who are already certified in their own formal advanced acupuncture training, and felt that it was unsafe for acupuncturists to work with animals. Chair Kroll advised that the Board does not have a conflict with the word “patient,” however, that term does not necessarily mean animals. The scope of practice will be determined in a different process between both Boards.

At 1:23 p.m., the Board returned to the regular order of business.

Executive Officer’s
Report:

A. Board membership update for upcoming term

Executive Officer Araceley informed Board members that Dr. Tsuchiyama’s term ended on July 19, 2019, so she is no longer on the Board. Dr. Corcoran remains a holdover member until June 6, 2020. Ms. Roos-Marr’s term ends on June 30, 2020. Executive Officer Araceley noted that both Vice-Chair McMenemy and Chair Kroll have both reapplied for their second terms. Executive Officer Araceley also stated that there have been new applicants who applied, both acupuncturists and public members. Once reappointed, Vice-Chair McMenemy and Chair Kroll will be able to serve for an additional 4 years.

B. Discrimination/Harassment-Free Workplace Policy

Executive Officer Araceley advised Board members to review the DHRD policies included in their packets. Once reviewed, they are required to

sign an acknowledgement form and copies of the policies will be included in their Board operational manuals for future reference.

Applications:

B. Applications:

It was moved by Vice-Chair McMenemy, seconded by Dr. Corcoran, and unanimously carried to enter into executive session at 1:27 p.m., pursuant to HRS §92-5(a)(1), to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9, and, pursuant to HRS §92-5(a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

Acupuncturists

1. Yvonne Taylor
2. Michelle Daniel
3. Laura Meisel

It was moved by Chair Kroll, seconded by Vice-Chair McMenemy, and unanimously carried to return to the open meeting at 2:12 p.m.

Vice-Chair McMenemy left the meeting room at 2:12 p.m. and returned at 2:15 p.m.

Applications:

A. Ratifications:

It was moved by Dr. Corcoran, seconded by Ms. Roos-Marr, and unanimously carried to ratify the following list of licenses that have been issued:

Acupuncturists

ACU 1288 Rabakka Fulkerson
ACU 1289 Raina L. Chang
ACU 1290 Chelsea C. Miyashiro
ACU 1291 Christy Taylor
ACU 1292 Sun Yun
ACU 1293 Charmaine Marck
ACU 1294 Tricia C. Oki

B. Applications:

1. Yvonne Taylor

It was moved by Dr. Corcoran, seconded by Ms. Roos-Marr, with the exception of Vice-Chair McMenemy who recused herself from voting, and carried by the majority to defer Ms. Taylor's application.

2. Michelle Daniel

It was moved by Vice-Chair McMenemy, seconded by Ms. Roos-Marr, and unanimously carried to approve Ms. Daniel's application.

3. Laura Meisel

It was moved by Vice-Chair McMenemy, seconded by Dr. Corcoran, and unanimously carried to approve Ms. Meisel's application.

Ongoing Business: A. Hawaii Administrative Rules ("HAR") Chapter 16-72 Revisions Update

Executive Officer Araceley updated the Board that the Administrative Services Office is currently formatting the approved draft of HAR chapter 16-72. Once formatting is complete, the Attorney General's office will review the draft, and then Executive Officer Araceley will move forward in completing the rules process.

Chair Kroll informed the Board that Executive Officer Araceley received an inquiry asking if it is permissible for Acupuncturists to order blood tests. Chair Kroll noted that there is no reference to this matter in HAR chapter 16-72. Chair Kroll continued to state that the Department of Health ("DOH") has an outdated list of permitted individuals who are able to order blood tests, but Acupuncturists are not on the list. Chair Kroll suggested that the HAA could pursue this issue with the DOH.

Executive Officer Araceley distributed the 2020 Board meeting schedule and asked if there were conflicts in dates, which there were none.

Public Forum: None.

Next Meeting: Thursday, February 6, 2020
1:00 p.m.
Princess Likelike Conference Room, 3rd floor
335 Merchant Street
Honolulu, Hawaii 96813

Adjournment: Chair Kroll adjourned the meeting at 2:22 p.m.

Reviewed and approved by:

/s/ Relley Araceley

Relley Araceley
Executive Officer

Taken and recorded by:

/s/ Kellie Teraoka

Kellie Teraoka
Secretary

RA:kt
12/16/19

- Minutes approved as is.
- Minutes approved with changes: see minutes of the February 6, 2020 meeting