

**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: June 3, 2021

Time: 1:00 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar

Members Present: Joni Kroll, D.Ac., Chairperson  
Deborah McMenemy, L.Ac., D.A.O.M, Vice-Chair  
Brooke Foreman, L.Ac., D.A.C.M., Member

Excused: Ellen Roos-Marr, Member

Staff Present: Risé Doi, Executive Officer (“EO”)  
Kelly Suzuka, Deputy Attorney General (“DAG”)  
Erin Emerson, Secretary  
Christine Dela Cruz, Secretary (Tech support)  
Stephanie Karger, Secretary (Tech support)

Guests: Becky Jacobs Hawaii Acupuncture Association  
Robert Cozzie  
Dr. Wai Low

A short video was played to explain procedures for the virtual meeting and how members of the public can participate and interact with the Board during the meeting.

1. Call to Order: There being a quorum established, Chair Kroll called the meeting to order at 1:03 p.m.

2. Approval of Minutes: Chair Kroll opened the floor to discussion of the meeting minutes of the April 1, 2021 meeting.

It was moved by Vice-Chair McMenemy, seconded by Dr. Foreman and unanimously carried to approve the meeting minutes of April 1, 2021, as circulated.

3. Executive  
Officer's  
Report:

a. Appreciation for Outgoing Board Member, Ellen Roos-Marr

EO Doi expressed her gratitude for Ms. Roos-Marr's work on the Board. She advised that the Board is now looking for two (2) public members to fill vacancies on the Board.

Chair Kroll concurred that she appreciated Ms. Roos-Marr's work, and her willingness to extend her term when it was needed. She noted that public member input is valued by the Board.

4. Applications:

a. Application for License – Acupuncturist

1. Robert Cozzie

At 1:07 p.m., it was moved by Chair Kroll, seconded by Vice-Chair McMenemy and unanimously carried for the Board to enter executive session in pursuant to HRS, §92-5(a)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in 26-9 or both;" Board members and staff entered into Microsoft Teams.

EXECUTIVE SESSION

At 1:11 p.m., it was moved by Chair Kroll, seconded by Vice Chair McMenemy and unanimously carried to move out of executive session. Board members and staff returned to the Zoom Webinar meeting.

It was moved by Dr. Foreman, seconded by Vice-Chair McMenemy, and unanimously carried to approve Robert Cozzie's Application for License – Acupuncturist.

b. Ratifications

It was moved by Chair Kroll, seconded by Vice-Chair McMenemy, and unanimously carried to ratify the following list of licensees that have been issued:

Acupuncturists

ACU 1336	KYLE WARREN BURTON
ACU 1338	APRIL E JOHNSTON
ACU 1339	NINA BERMUDEZ

5. New Business: a. Clarification of Hawaii Administrative Rules ("HAR") 16-72-17 Academic standards for use of title

Chair Kroll explained that since there is wording regarding the use of doctoral title in both HRS 436-13 and HAR 16-72-17, there has been a request for clarification on the Board's use of third-party evaluators for foreign applications.

EO Doi requested clarification on how the rules are applied when the Board receives a foreign degree and questioned if the onus is on the applicant to demonstrate that their foreign doctoral degree is equivalent to an American doctoral degree.

Chair Kroll quoted an excerpt from HRS 436E-13(d):

"For licensees who graduated from a foreign institute, school, or college, the licensee, at the licensee's own expense, shall have the licensee's transcripts and curriculum evaluated by a board approved and designated professional evaluator who shall make a determination on whether the transcripts and curriculum are at least equivalent to the United States recognized doctoral program of study in acupuncture and oriental medicine, and that the foreign institute is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in the respective foreign jurisdiction and whose curriculum is approved by the board."

Chair Kroll stated that since the Board is unable to assess foreign schools, this law allows them to use a professional evaluator to interpret the applicant's documentation.

EO Doi quoted HAR 16-72-17(c)(1):

"An earned doctoral degree in acupuncture or traditional Oriental medicine from an approved school, or shall have completed a program approved by the board in the study or practice of acupuncture or traditional Oriental medicine that consisted of at least five hundred hours in advanced academic education and training that is beyond that required for the L.Ac. entry level. The five hundred hours may include any combination of topics covered in categories I and II listed in "Appendix A" dated April 6, 2000, entitled "Doctoral Program" for determination of credential evaluation"

EO Doi asked the Board to clarify the Board's interpretation of "or shall have completed a program approved by the board" and how the rule is applied when they are unable to approve an application under HAR 16-72-17(c)(1) due to the Board's inability to evaluate a foreign program.

Chair Kroll confirmed that the Board has the authority to approve an application based on HAR 16-72-17(c)(1); however, they do not have the expertise to evaluate foreign schools and rely on HRS 436E-13(d) to allow for the use of professional evaluators.

Vice-Chair McMenemy agreed with Chair Kroll's clarification.

b. Email inquiry from Caroline Bales: Is ordering tests that are high-complexity and Clinical Laboratory Improvement Amendments ("CLIA") certified within the Hawaii scope of practice?

Chair Kroll explained that this question had been brought to the Board in the past, however the HRS and HAR are both silent on the issue.

Chair Kroll noted that the Department of Health HAR 11-110.1-2, which pertains to clinical laboratories and laboratory personnel, defines "authorized person" to include "...others deemed qualified". She suggested that if the Board of Acupuncture wanted acupuncturists to be included on the list of qualified personnel, they could request to be added by the Department of Health.

Dr. Foreman stated that she would like to have the request submitted.

Vice-Chair McMenemy concurred.

Chair Kroll made a motion to direct EO Doi to send a letter from the Board of Acupuncture to the Department of Health asking for them to clarify that licensed acupuncturists be included under "...and others deemed qualified" in HAR 11-110.1-2; and notify Ms. Bales of the outcome of the discussion.

The motion was seconded by Vice-Chair McMenemy, and unanimously carried.

It was approved by all Board members for EO Doi to contact Chair Kroll for final approval of the wording for the requested letter.

5. Ongoing Business:

a. Hawaii Administrative Rules (HAR) Chapter §16-72 amendments

Chair Kroll explained that this item was placed on the agenda to revisit the HAR revision wording for 16-72-6 Records:

“Records shall be kept on file for at [a minimum of seven] least five years...”

Chair Kroll advised that DAG Suzuka and EO Doi had researched the record keeping standards of other professions. She noted that professions similar to acupuncture state that records must be kept for seven (7) years.

EO Doi referenced HRS 622-58 Retention of medical record which states that records shall be maintained “for a minimum of seven years...”. She mentioned that the Medical Board’s statutes are silent, but the medical record retention statute requires seven years. EO Doi explained that there are a number of professions, including massage therapy, chiropractic, naturopath, optometry, psychology, and occupational therapy that do not include any wording on record retention in the rules or statutes. The Dental Board is working on rule revisions to retain dental records for seven years and the Board of Pharmacy requires that prescription records and dispensing records be retained for five years.

Chair Kroll requested DAG Suzuka’s opinion.

DAG Suzuka stated that her preference is for HAR wording to be general enough to allow for the rules to remain consistent with the existing statutes. She noted that if the wording is broad, it may also encompass additional laws that are passed in the future.

After discussion between the Board members, EO Doi and DAG Suzuka, the following amendment to the HAR 16-72-6 Records, was settled upon:

- Remove “kept on file for at least five years” after “Records shall be”
- Add “maintained in accordance with applicable law” after “Records shall be”

It was moved by Chair Kroll, seconded by Vice Chair McMenemy, and unanimously voted to accept the HAR Chapter 16-72 amendments, as discussed.

Next Meeting: Thursday, August 5, 2021  
1:00 p.m.  
Virtual Meeting – Zoom Webinar

Adjournment: Chair Kroll adjourned the meeting at 1:42 p.m.

Reviewed and Approved by:

/s/Risé Doi

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Risé Doi,  
Executive Officer

Taken and recorded by:

/s/Erin Emerson

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Erin Emerson,  
Secretary

RD:ee  
06/07/21

- [ x ] Minutes approved as is.  
[ ] Minutes approved with changes.