



State of Arizona Acupuncture Board of Examiners

1400 West Washington, Suite 230, Phoenix, Arizona 85007

(602) 364-0145 FAX (602) 542-3093

REGULAR MEETING

March 28, 2012

OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:00 p.m. on Wednesday, March 28, 2012, at 1400 West Washington, Conference Room B-1, Phoenix, Arizona.

Board Members Present:

Toni Bennalley, L.AC., Secretary
Maureen Bronson, Consumer Member
Woohyung Cho, L.AC., Professional Member
Dianne Darcy, L.AC., Professional Member
Robert L. Gear, NMD, DC, Professional Member
Alan H. Scott, DO, Professional Member

Board Members Absent:

Ross Adelman, Consumer Member, Chairman
Christopher M. Clair, Consumer Member
Patricia E. Martin, L.AC., Professional Member

Administrative Staff:

Pete Gonzalez, Executive Director

Attorney General Representative:

Monty Lee, Assistant Attorney General

Call to Order

Secretary Bennalley called the meeting to order at 1:03 p.m.

The following order of business was then considered:

Declaration of Conflicts of Interest

Board Member Bernalley declared a conflict of interest on Agenda Item 5 (A) License Application for Stephen M. Getz.

Discussion and Approval of Minutes

Board Member Bronson moved the adoption of the minutes for the January 25, 2012 regular board meeting with Board Member Scott providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

Board Member Bronson moved the adoption of the executive session minutes for the January 25, 2012 regular board meeting with Board Member Scott providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

Board Member Bronson moved the adoption of the minutes for the February 22, 2012 regular board meeting with Board Member Scott providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

Complaints/Investigations

Follow up to Complaint #2012-07 (Unlicensed to Practice) re: Henry Ojeniye—
Natural Health Works Clinic

The Executive Director informed the Board on the status of this complaint as it was forwarded to the Office of the Attorney General to seek an injunction to prevent this individual from practicing without a valid acupuncture license. No action was taken by the Board on this item.

Complaint #2012-06 (Unprofessional Conduct) re: David Epley, L.AC.

Executive Director Gonzalez provided a chronological review of what has taken place to date on this complaint.

Board Member Bernalley suggested this complaint is a matter between the individual making the complaint and the Arizona School of Acupuncture and Oriental Medicine.

Board Member Scott stated in his review of the complaint did not see any violation of acupuncture by anyone. Furthermore, this issue does not appear to fall under the authority of the Board.

Assistant Attorney General Lee stated the Board will need to determine if this item is within the statutory authority of the Board. In addition, this item does not specify any violation in the practice of acupuncture.

Board Member Gear moved to forward this complaint to the Arizona Private Postsecondary Education Board with Board Member Scott providing a second. The motion carried by unanimous vote: 5-0. Board Member Bronson abstained on this agenda item.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X		X		X	X		X	Aye
									Nay
									Recused
		X							Abstained
X				X			X		Absent

Applications for Licensure (without self disclosures)

The Board reviewed the license applicant chart and Board Member Bronson moved for the approval of the applicants for licensure listed below with Board Member Darcy providing a second. The motion carried by unanimous vote: 6-0.

Jui Lien Chen
 Melissa Camacho
 Catherine L. Travis
 Young Ho Lee

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

Board Member Bronson assumed the chair due to conflict of interest by Board Member Bennalley on this agenda item.

The Board reviewed the license applicant chart and Board Member Bronson moved for the approval of the applicant for licensure listed below with Board Member Darcy providing a second. The motion carried by unanimous vote: 5-0.

Stephen M. Getz

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
		X	X		X	X		X	Aye
									Nay
	X								Recused
									Abstained
X				X			X		Absent

Board Member Bronson returned the chair to Board Member Bennalley.

Other Applications/ Requests - Continuing Education

“Aging and Prevention” provided by Martha Lucas, Ph.D., L.AC. for 7.5 hours in Tucson, Arizona on April 29, 2012.

The Board reviewed the application and Board Member Bronson moved for the approval of the application with Board Member Bennalley providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“Herb-Drug Interactions” provided by Joseph Garner, L.AC., for 15 hours in Phoenix, Arizona on May 19-20, 2012.

The Board reviewed the application and Board Member Bronson moved for the approval of the application with Board Member Cho providing a second. The motion carried by unanimous vote: 5-0.

Board Member Gear abstained on this item as he would like to see a definition of nutritional substance herb and Chinese medicinal dietary supplement as opposed to the definition of drug as found in Arizona.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X			X	Aye
									Nay
									Recused
						X			Abstained
X				X			X		Absent

“Face Rejuvenation with Acupuncture” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 6 hours in China on April 20, May 18, September 21, and October 19, 2012.

Board Member Bennalley mentioned that practitioners should check with their malpractice insurance carriers when performing facial rejuvenation treatments.

The Board reviewed the application and Board Member Bennalley moved for the approval of the application with Board Member Gear providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“Treating Stroke with Acupuncture” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 4 hours in China on April 19, May 17, September 20 and October 16, 2012.

The Board reviewed the application and Board Member Gear moved for the approval of the application with Board Member Scott providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“Prescribing Internal Herbs—Women’s Health” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 4 hours in China on April 18, May 16, September 19 and October 17, 2012.

The Board reviewed the application and Board Member Bernalley moved for the approval of the application with Board Member Scott providing a second. The motion carried by unanimous vote: 5-0.

Board Member Gear abstained on this item as he would like to see a definition of nutritional substance herb and Chinese medicinal dietary supplement as opposed to the definition of drug as found in Arizona.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X			X	Aye
									Nay
									Recused
						X			Abstained
X				X			X		Absent

“Emergency TCM” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 8 hours in China on April 13, May 11-12, September 14-15 and October 12-13, 2012.

The Board reviewed the application and Board Member Bernalley moved for the approval of the application with Board Member Cho providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“TCM Orthopedics and Traumatology” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 12 hours in China on April 10-12, May 8-10, September 11-13, and October 9-11, 2012.

The Board reviewed the application and Board Member Scott moved for the approval of the application with Board Member Bernalley providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“Herbal Safety ” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 4 hours in China on May 7, May 14, September 10, September 17, October 8, and October 15, 2012.

The Board reviewed the application and Board Member Darcy moved for the approval of the application with Board Member Bernalley providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“TCM and Nutrition—Treating Illness with Food” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 6 hours in China on April 27, May 25, September 28, and October 26, 2012.

The Board reviewed the application and Board Member Darcy moved for the approval of the application with Board Member Bernalley providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“Prescribing Internal Herbs—Kidney Disease” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 4 hours in China on April 17, May 15, September 18, and October 16, 2012.

The Board reviewed the application and Board Member Bernalley moved for the approval of the application with Board Member Cho providing a second. The motion carried with a vote of: 4-1.

Board Member Gear abstained on this item as he would like to see a definition of nutritional substance herb and Chinese medicinal dietary supplement as opposed to the definition of drug as found in Arizona.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X				Aye
								X	Nay
									Recused
						X			Abstained
X				X			X		Absent

“Medical Qi Gong for Diagnoses and Healing” provided by the Great Wall Chinese Medicine and China Academy of Chinese Medical Sciences for 20 hours in China on April 23-26, May 21-24, September 24-27, and October 22-25, 2012.

The Board reviewed the application and Board Member Darcy moved for the approval of the application with Board Member Bernalley providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

“Arizona Oriental Medicine Vision – 2012” provided by the AZ OM Vision Team for 7.5 hours in Chandler, Arizona on April 14-15, 2012.

Jessica Jordan, L.AC., addressed the Board to better explain the content of this continuing education application.

The Board reviewed the application and Board Member Darcy moved for the approval of the application with Board Member Bronson providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

Professional Business

Status report by the Arizona Society of Oriental Medicine and Acupuncture regarding dry needling complaints filed with Arizona State Board of Physical Therapy.

The Arizona Society of Oriental Medicine and Acupuncture (AZSOMA) has resubmitted complaints with the Arizona State Board of Physical Therapy on physical therapists practicing acupuncture. The complaints will be scheduled for review in April or May of 2012 by the Arizona Board of Physical Therapy.

Jonathan Lindsey, representing the Phoenix Institute of Herbal Medicine and Acupuncture, provided the Board with copy of a letter prepared by the law firm of LaSota & Peters on the topic of dry needling as performed by physical therapists.

This letter analyzed whether dry needling falls within the physical therapists’ scope of practice under Arizona law. The letter concludes with the following statement:
 “ ...Thus, we conclude that dry needling does not implicitly fall within the scope of a physical therapists’ practice in Arizona and any expansion of the scope of practice to include such a technique would require further regulation by the legislature”.

Board Member Scott is interested to hear what the Governor’s Office thinks about this issue.

No action was taken on this agenda item.

Review, discussion and possible action regarding Executive Director’s return to full time status.

The Board reviewed the memo regarding the Executive Director’s return to full time status and Board Member Bernalley moved for the approval of the Executive Director returning to full time status with Board Member Bronson providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	Aye
									Nay
									Recused
									Abstained
X				X			X		Absent

Executive Director Report

License and Certificate Status Report:

Active Licensed Acupuncturists: 522
 Expired Licenses: 7
 Active Certified Auricular Acupuncturists: 48

Board Office Information/Activities:

- Pursuant to Arizona Revised Statutes §32-3925 (B), license and certificate renewal notices for March and April 2012 licensees were prepared and sent. In addition, expired license and certificate letters for the months of January and February 2012 were sent.
- Completed and submitted the Principal/Public Body Annual Report of Lobbying Expenditures and Lobbyist 4th Quarter (2011) Expenditure reports to the Arizona Secretary of State’s office.
- Completed and submitted the Office of the Attorney General’s Licensing and Enforcement Section’s agency survey.

- Participated on the NCCAOM Professional Development Activities (PDA) Advisory Panel meeting on March 13, 2012.
- Preparing for the April 25, 2012 board meeting in Tucson at the University of Arizona Medical Center.

Future Meeting Dates

April 25, 2012 (Tucson)
 May 23, 2012 (if necessary)

Call to the Public

Catherine Niemiec, JD, L.AC., President of Phoenix Institute of Herbal Medicine and Acupuncture addressed on the matter of Complaint #2012-08 as filed by Yeon He Park. Ms. Niemiec shared her thoughts on the disposition of this complaint. Copies of Ms. Niemiec’s comments were submitted for the record.

Mr. David Lowenstein, DC, L.AC. expressed his concerns to the Board on alleged acts of unprofessional conduct by Arizona licensed acupuncturists in the State of Arizona. He would like the Board to address this matter so the safety of Arizona citizens is maintained in the practice of acupuncture.

Mr. Lowenstein states the Arizona Acupuncture practice needs a clear definition for unprofessional conduct. He provided the following language for consideration:

Naturopathic Statute 32-1529.3 “Be board certified in the specialty by a specialty board of examiners that is recognized by the board.”

Chiropractic Rule: R4-7-901 Advertising of a Deceptive and Misleading Nature

The Board shall investigate an allegation of advertising in a false, deceptive, or misleading manner by a licensee and may sanction a licensee for a violation under A.R.S. §32-924. Advertising of a false, deceptive, or misleading manner includes, but is not limited to, the following:

1. Advertising painless procedures;
2. Advertising complete health services; or
3. Advertising that uses the words “specialist,” “specializing,” or “expert.”

Discussion of Items to be place on a future meeting agenda

- Dry Needling
- Strategic Plan
- Legislative Committee

Adjournment

Board Member Bronson moved for adjournment and Board Member Darcy provided a second. The motion carried by unanimous vote: 6-0. The Board adjourned at 2:40 p.m.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
	X	X	X		X	X		X	
									Nay
									Recused
									Abstained
X				X			X		Absent

Respectfully Submitted,



Pete Gonzalez
Executive Director

Approved by the Board: April 25, 2012
Amended by the Board: August 22, 2012