



State of Arizona Acupuncture Board of Examiners
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REGULAR MEETING

April 24, 2013

OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:30 p.m. on Wednesday, April 24, 2013, at the University of Arizona, University Medical Center, Kiewit Auditorium, 1501 N. Campbell Avenue, Tucson, Arizona 85724.

Board Members Present:

Woohyung Cho, L.AC., Professional Member, Chairman
Christopher M. Clair, Consumer Member, Secretary
Teresa Buechel, L.AC., Professional Member
Patricia E. Martin, L.AC., Professional Member
John M. Rhodes, L.AC., Professional Member

Board Members Absent:

Ross Adelman, Consumer Member
Maureen Bronson, Consumer Member
Robert L. Gear, NMD, DC, Professional Member
Vacancy, Professional Member

Administrative Staff:

Pete Gonzalez, Executive Director

Attorney General Representative:

Montgomery Lee, Assistant Attorney General (available by phone)

Call to Order

Chairman Cho called the meeting to order at 1:37 p.m.

The following order of business was then considered:

Declaration of Conflicts of Interest

None.

Project Reach Spring 2013 Update

Project Manager Lubna Govindarajan from the University provided the following information on Project Reach to the Board:

Tailored Program for Complimentary and Integrative Medicine Practices *Talking to Patients about Quitting Tobacco*

What is Project Reach?

- A research project funded by the National Cancer Institute.
- A holistic practice support program comprised of tobacco cessation training and ongoing follow-up and assistance.
- In this three phase study, the first was with Chiropractic practices, the second with Acupuncturists and the third with Massage Therapists.

What is the current status of participants in Project Reach?

- 31 Chiropractors and 146 of their patients participated in the study.
- Currently, there are 23 acupuncturists and 225 of their patients that are participating. This phase will be complete in Summer 2013.
- Study activities for massage therapists and their clients are ongoing.

What do enrolled participants do in Project Reach?

- Practitioners and staff take part in the Project Reach training about 3 months after enrollment.
- All enrolled practitioners and staff are asked to complete pre-and post training surveys as well as several, brief telephone follow up telephone interviews.
- Clients who decide to participate in Project Reach complete a short survey and take part in several, brief telephone interviews over the course of the study.

What do practitioners and staff gain through Project Reach?

- Practice-relevant information about tobacco use and its effects on health and healing.
- Motivational conversation strategies to encourage behavior change.
- Communication skills to comfortably talk to tobacco users about quitting.
- Essential information about quitting techniques and local resources.

What are the benefits of participating?

- Strengthen their role in public health.
- Received 8 CE contact hours for completion of training - free of charge.
- Practitioners who completed their training had the opportunity to have their contact information listed in an online directory of Project Reach Trained Practitioners.

What are the benefits to patients for participating in Project Reach?

- Their practitioner received specialized training about the effects of tobacco use on health, and how to help users quit.
- Their practitioners can be a resource for non-smokers who want to help a loved one to quit.

Applications for Licensure (without self-disclosures)

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

Yalda Soha

Adelman	Bronson	Buechel	Cho	Clair	Gear	Martin	Rhodes	Vacancy	Vote
		X	X	X		X	X		Aye
									Nay
									Recused
									Abstained
X	X				X				Absent

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

Britt Faellstroem

Adelman	Bronson	Buechel	Cho	Clair	Gear	Martin	Rhodes	Vacancy	Vote
		X	X	X		X	X		Aye
									Nay
									Recused
									Abstained
X	X				X				Absent

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

David K. LeGar

Adelman	Bronson	Buechel	Cho	Clair	Gear	Martin	Rhodes	Vacancy	Vote
		X	X	X		X	X		Aye
									Nay
									Recused
									Abstained
X	X				X				Absent

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

Joseph H. Garner

Adelman	Bronson	Buechel	Cho	Clair	Gear	Martin	Rhodes	Vacancy	Vote
		X	X	X		X	X		Aye
									Nay
									Recused
									Abstained
X	X				X				Absent

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

Sena L. Kimbrell

Adelman	Bronson	Buechel	Cho	Clair	Gear	Martin	Rhodes	Vacancy	Vote
		X	X	X		X	X		Aye
									Nay
									Recused
									Abstained
X	X				X				Absent

Professional Business

Dry Needling Issue

The purpose of this discussion was to provide the Board and the profession with an overview of the three stakeholder meetings conducted by the Arizona State Board of Physical Therapy: October 24, 2012 in Phoenix, February 28, 2013 in Tucson and April 18, 2013 in Flagstaff to take public input on the matter of licensed physical therapists performing Dry Needling.

Board Member Rhodes provided the following observations from the Phoenix stakeholder meeting held on October 24, 2012.

The authority of the Arizona Acupuncture Board of Examiners is limited to the enforcement of Arizona state law as it relates only to licensed acupuncturists. When anyone meets the requirements to practice as a licensed acupuncturist in Arizona, they agreed to abide by the rules and regulations governing license acupuncturists. If a licensed acupuncturist does not abide by the rules and ethical standards, they can sustain disciplinary action and possibly lose the privilege of legally practicing acupuncture in Arizona.

If anyone says they are an acupuncturist or that they can provide acupuncture services and are not a licensed acupuncturist in the state of Arizona, they can sustain disciplinary action to the full extent of the law.

Any licensed health care provider or licensed service provider falls under the jurisdiction of their licensing board and their law, rules and regulations. Any other licensing board has no jurisdiction over a licensed practitioner who is under the jurisdiction of another board unless what they are doing and the services they are providing, are described under law as being within the scope of practice of another licensing board and not specified in their own law.

Some physical therapists have been inserting acupuncture needles as part of a treatment modality they are calling dry needle technique. If they are not describing their treatment routine as acupuncture and if they are not saying they are acupuncturists, they do not fall within the jurisdiction of the Arizona Acupuncture Board of Examiners. What must be determined is whether the service they are providing is, by definition, outside their scope of practice and subsequently falls under the jurisdiction of the Acupuncture Board of Examiners. Until that determination is made, any legal recourse or any legal restraints placed on the physical therapists practice of dry needling, would come from a legal confrontation or complaint by a consumer, a professional association, or a patient who may have been injured and can initiate an investigation into the lack of appropriate training on the part of the physical therapist.

The purpose of the Town Hall meetings is to provide a forum for licensed acupuncturists and licensed physical therapists, consumers, educators and any concerned individuals, to provide input that will assist the Physical Therapy Board of Examiners to determine if dry needling is by definition acupuncture; if the amount of education that the practitioner has undertaken has provided enough experience to avoid danger to the consumer; and if the practice of dry needling is outside of the scope of practice of physical therapy.

Historically, physical therapists have been very progressive in the addition of modalities to their practice that facilitates the treatment of their patients; including diagnostic ultrasound, electrical diagnostic studies, and other treatment modalities that may or may not have been met with resistance from other licensed professionals. The Physical Therapy Board of Examiners is responsibly considering the input from licensed acupuncturists in determining the next steps that should be taken in the area of dry needling.

In Phoenix we heard for the first time from physical therapists who described years of experience in dry needling with no apparent injuries and many examples of success in the treatment of musculoskeletal injuries by using acupuncture needles to resolve muscle spasm and pain. Of course, this information is well known by any licensed acupuncturist who along with years of educational background, knowledge of contraindications and appropriateness or inappropriateness of specific acupuncture points and their energetics, have treated patients, for years, even generations with acupuncture, safely and effectively.

It is my observation that the acupuncturists, appropriately so, are much more passionate and emotional when it comes to patient safety, concern for effective treatment with the use of acupuncture needles, and the desire to educate the consumer about the unsafe and inappropriate use of acupuncture in the hands of unqualified professionals. Even the idea of another licensed healthcare provider being so selfpromoting and seemingly arrogant, served to promote the concept that these two licensed professional groups are not peers and that there is little mutual respect.

It was my feeling that the Phoenix town hall regarding physical therapy dry needling, was handled very professionally and everyone had the opportunity to speak and express their personal opinions on the topic. Physical therapists described more clinical situations while emphasizing the absence of any documented injuries. There were patients who testified to the effectiveness dry needle technique in their physical therapy office. Experience seemed to be the predominant focus of the success of dry needling and the absence of injury.

As acupuncturists, we experienced firsthand the extent of dry needling within the physical therapy profession. Our response has been justifiable but our impact seems to be minimized because of our lack of experience and possible misdirection of our energies relating to the purpose of these Town Hall meetings. For many of us this is the first real threat that we have faced within our profession. I am delighted to see that our response at the two subsequent Town Hall meetings was more balanced and organized. This issue has served to solidify our profession out of necessity. We will be stronger as a result.

Board Member Martin provided the following comments prepared by Board Member Bronson who was unable to attend this meeting.

Most PTs who spoke at the Phoenix meeting stated that DN is already in their scope of practice. PTs do not think that DN is acupuncture. PTs think that their training is adequate and that DN is very safe. A couple of patients talked about how DN was a miracle and that PTs should be able to continue doing it.

John Rhodes gave an excellent rebuttal, saying that PTs need a lot more training if they want to add DN to their SOP. He and other acupuncturists talked about bad things that can and have occurred due to DN. Unfortunately, no patients were there to attest to this.

A discussion of where and when the term “Dry Needling” was created. Board Members Rhodes and Martin share their respective knowledge of this item.

Former Board Member Malone reminded the Board of the concern with dry needling as performed by physical therapists is a public safety issue and lack of appropriate training.

Executive Director Gonzalez reviewed the history of this topic—Dry Needling by physical therapists. The first meeting with the Arizona State Board of Physical Therapy on this matter was held on April 19, 2011. As a result, the Board invited the President and Executive Director from the Arizona State Board of Physical Therapy to attend the June 22, 2011 board meeting. Since this date, a number of meetings have been conducted between the Board offices to address dry needling. The Acupuncture Board of Examiners has continuously stated this issue is one of public safety.

Jointly both boards agreed to have three members from each board to resolve the issues associated with dry needling as performed by physical therapists. This group will provide recommendations to both boards on how to resolve the concern of physical therapists providing dry needling treatments.

The Board heard from practitioners who spoke on a number of topics surrounding dry needling such as seeking out assistance from national organizations such as the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) and others to prevent physical therapists from using dry needling without required training.

Marcey Rosin, L.AC., informed the Board of upcoming meetings to organize licensed acupuncturists in the hopes of providing a unified voice in opposition to dry needling performed by physical therapists. This effort is not led by any one organization, but an effort to unite all the organizations/individuals from the acupuncture community.

Board Member Clair emphasized the need to keep public safety as the priority in addressing the dry needling issue. His focus is consumer protection and thanks everyone for their patience in resolving this matter, but the hard work needs to begin immediately.

Jennifer Sandoval, L.AC. provided the following comments:

The meeting in Tucson was well attended by both Acupuncturists and Physical Therapists. The mood was respectful and inquisitive. I presented a paper vocally and in writing stating that; dry needling is acupuncture, Insurance companies for Physical Therapists are taking a position to not insure them for liability or malpractice if they are including dry needling in their practice, even if the complaint does not include dry needling, the education provided is not enough to provide for public safety, there are no state or federally mandated exams to show competency.

PT's are committing insurance fraud by billing insurance under manual therapy and inter muscular therapy. There is not enough education to understand the contraindications of certain points or needling techniques.

A Physical Therapist spoke up, she has been licensed in PT in 1960, over the years she has taken over 1600 hours of CEU's in Oriental Medicine, she stated that no Physical Therapist has the ability or right to do dry needling on their patients. She said there is a lot more to acupuncture than they understand and that even she does not feel adequately trained to do dry needling.

Another PT presented that she had just completed her dry needling training and was expecting her kit any day, she couldn't wait to get started, she had recently graduated. She also stated she is not doing acupuncture because she does not use meridians.

Della Estrada LAc., explained that we agree it is an effective modality. It is acupuncture and acupuncture works. That is not the issue, it is illegal to practice without the proper training.

A patient spoke up and said she had gone to many therapists including PT's, Acupuncturists, and Chiropractors but found no relief from her accident injuries until she went to a PT that did dry needling on her and now has his assistant do dry needling on her. She goes every two weeks for dry needling or the symptoms return.

A PT spoke of how there are no acupuncturists in her area so she felt to best serve the area she had the right to do acupuncture.

There was discussion of deep bruising that comes from dry needling, a patient that came to her acupuncturist three days after being treated for constipation by a PT, inserting four needles into the abdomen, three bled at the time of the treatment after two days the bruising was dark purple and larger than a quarter. Another patient was described after shoulder dry needling, also showing two large deep purple bruises a week later.

The acupuncturists very respectfully brought forward that PT's are welcome to practice acupuncture or dry needling if they will acquire the proper education and have state or federally mandated tests to show adequacy. This is not an effort to bar them from safely practicing acupuncture. The acupuncturists concern is for the reputation of acupuncture and the safety of the public.

Board Member Buechel provided the following comments from the Flagstaff stakeholder meeting held on April 18, 2013.

- 1. Insurance fraud: no billing code for dry needling. Trigger point injections involve injections, and this isn't happening with dry needling. "Intramuscular manual therapy" is sometimes being billed under "manual therapy". A PT billing using either of these codes is committing fraud. The most fitting code would fall under acupuncture, in which case there would have to be an admission that dry needling*

is in fact acupuncture. BUT billing using acupuncture codes would also be fraud, since the current training that PT's receive for dry needling doesn't qualify them to practice acupuncture. The only other option is to provide DN as a free service, and not bill at all.

2. *One practitioner talked about a conversation he had with someone who has recently experienced DN. The patient was suffering from cervical degeneration and chronic migraines and received DN from a PT. After the DN treatment, the patient reported "their worst migraine to date". This individual never returned for treatment, and has since formed a negative opinion about the efficacy of acupuncture. Upon further questioning, it came up that the PT needled directly into the cervical area. Any trained L.Ac. knows this is a contraindicated procedure for someone with any kind of headache. (distal points are always needled first)*
3. *Several people made the point that DN IS acupuncture.*
4. *Several people made the point that there is no proper length of education...no test or regulation for DN by PT's.*
5. *Several people made the point that there is clearly a public health/safety factor. There are many contraindicated points for certain types of conditions. An example that came up: going to a PT for wrist pain and receiving LI 4 point could potentially cause a miscarriage. Shoulder pain and receiving GB 21, and ankle pain and receiving SP 6...all these points can stimulate uterine contractions and thereby cause miscarriage. The PT board will eventually have to handle numerous complaints about their licensees if this isn't taken into consideration. Not a matter of IF but a matter of WHEN.*

There were far more L.Ac.'s that spoke than PT's. (only 2 PT's in fact spoke at the meeting). One of the PT's went so far as to say that there are no actual studies showing that needling certain points can cause miscarriage, or any other negative side effect. Of course, this is completely untrue and is just one example of how the limited hours PT's have with DN could cause potentially devastating effects on public safety

Numerous people spoke of their wishes to work along-side PT's...that ideally PT's and L.Ac.'s would stick to what each profession is good at, and refer back and forth accordingly. (I don't think this line of thinking has come up before...this was something new). Ideally there would be more of collaboration between 2 professions.

The Board held a discussion on the representation from both boards which will be holding a joint committee to resolve this matter. At the present time, Board Members Woohyung Cho, Patricia Martin, and Maureen Bronson. The Arizona State Board of Physical Therapy will be naming their representatives to the joint committee in the coming days.

Chairman Cho would like to see John Rhodes as part of the joint committee given his unique knowledge and experience as a physical therapist and licensed acupuncturist. The Board determined to wait on this appointment due to the interest expressed by the Arizona State Board of Physical Therapy in naming Board Member Rhodes to their joint committee membership. Mr. Rhodes was approached to serve before he was appointed to the Arizona Acupuncture Board of Examiners. The Board instructed Executive Director Gonzalez to bring this matter for action at next month's meeting.

Jennifer Sandoval, L.AC., shared her thoughts on the Tucson stakeholder meeting and found the event to be both informative and friendly. Ms. Sandoval and others mentioned the discussion that focused on insurance billing by physical therapists performing dry needling.

Executive Director Gonzalez read the following comments provided by Board Member Adelman.

There were 21 people in attendance. 5 were PTs from what I could tell, remainder were LAc. Several people did speak. Chuck Brown did a good job at running it. Had a definite "protect the consumer" and public safety spin on the whole evening.

Heard concern on lack of training by physical therapists. Some PTs believe dry needling is in their scope of practice.

Strategic Plan

The Board reviewed the 2013 Strategic Plan and the Executive Director asked the Board to take a closer look at the Plan and send their thoughts on what items should be prioritized for consideration to the Board office.

Executive Director's Report

License and Certificate Status Report:

Active Licensed Acupuncturists: 542
Expired Licenses: 10
Active Certified Auricular Acupuncturists: 42

Board Office Information/Activities:

- Pursuant to Arizona Revised Statutes §32-3925 (B), license and certificate renewal notices for June 2013 licensees were prepared and sent. In addition, expired license and certificate letters for the month of March 2013 were sent.
- Addressed the addition of new board members with the Human Resources department within the Arizona Department of Administration.

- Attended the Arizona State Board of Physical Therapy Public Meeting on the Use of Dry Needling in Flagstaff on April 18, 2013.
- Working with the Executive Director of the Arizonan State Board of Physical Therapy to outline a schedule of meetings to review the information gathered at the three stakeholder meetings held in Phoenix, Tucson, and Flagstaff.

Budget Information

- The Governor's office and the Legislature have begun discussions on the state budget. At this time, the Board's funding requests have been recommended for approval.

Legislation

Senate Bill 1037, introduced by Senator Nancy Barto, includes the Board's legislative recommendations as developed by the continuing education advisory and legislative advisory committees.

SB 1037 was approved by the Arizona State Senate on February 11, 2013 by a vote of 28 ayes and 1 nay and sent to the Arizona House of Representatives for action.

The Arizona House of Representatives Health and Rules have approved SB 1037 with unanimous votes. The Arizona House of Representatives Majority and Minority caucuses have approved the bill and the bill is awaiting committee of the whole action by the Arizona House of Representatives.

Future Meeting Dates

May 22, 2013

June 26, 2013

Call to the Public

No requests were made.

Discussion of Items to be place on a future meeting agenda

- Complaint #2013-03
- Dry Needling

Adjournment

Board Member Martin moved for adjournment and Board Member Buechel provided a second. The motion carried by unanimous vote: 5-0. The Board adjourned at 3:35 p.m.

Adelman	Bronson	Buechel	Cho	Clair	Gear	Martin	Rhodes	Vacancy	Vote
		X	X	X		X	X		Aye
									Nay
									Recused
									Abstained
X	X				X				Absent

Respectfully Submitted,



Pete Gonzalez
Executive Director

Approved by the Board: May 22, 2013