



State of Arizona Acupuncture Board of Examiners

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REGULAR MEETING

September 25, 2013

OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:00 p.m. on Wednesday, September 25, 2013, at 1400 West Washington, Conference Room B-1, Phoenix, Arizona.

Board Members Present:

Woohyung Cho, L.AC., Professional Member, Chairman

Ross Adelman, Consumer Member

Maureen Bronson, Consumer Member

Teresa Buechel, L.AC., Professional Member

Patricia E. Martin, L.AC., Professional Member

John M. Rhodes, L.AC., Professional Member

Board Members Absent:

Christopher M. Clair, Consumer Member, Secretary

Vacancy, Professional Member

Vacancy, Professional Member

Administrative Staff:

Pete Gonzalez, Executive Director

Attorney General Representative:

Montgomery Lee, Assistant Attorney General

Call to Order

Chairman Cho called the meeting to order at 1:08 p.m.

The following order of business was then considered:

Declaration of Conflicts of Interest

None.

Discussion and Approval of Minutes

Board Member Bronson moved the adoption of the August 28, 2013 regular board meeting minutes with Board Member Rhodes providing a second. The motion carried by unanimous vote: 6-0.

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

Board Member Martin moved the adoption of the August 28, 2013 executive session meeting minutes with Board Member Bronson providing a second. The motion carried by unanimous vote: 6-0.

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

Review, Discussion, and Possible Action on Draft Board Resolution regarding the practice of Acupuncture

Chairman Cho shared the following comments:

Before we proceed with Agenda Item #4 regarding the Draft Resolution before you, I would like to provide a brief synopsis on the path that has led us to this point.

About two years ago, we begin to hear about “Dry Needling” as performed by physical therapists in other states. Shortly, thereafter we received complaints about physical therapists practicing dry needling in Arizona. In response, this Board approached the Physical Therapy Board to discuss this “Dry Needling” issue, but little interest was expressed by the PT Board.

Another attempt to engage the Physical Therapy Board was met with a small modicum of interest so stakeholder meetings were scheduled across the state by the PT board and acupuncture practitioners. In addition, this Board pushed for the creation of a study committee to examine the “dry needling “ issue and the PT board executive director appointed three lay people to serve as their representatives on the committee.

The many stakeholder meetings and the three study committee meetings have been held and still no resolution on the issue of dry needling as performed by physical therapists. At this time, the Board will be discussing the draft resolution before us to determine our future course of action. This resolution is the culmination of the Board hearing from the various constituencies/interested parties for the past two years at board, stakeholder, and committee meetings.

Finally, this draft resolution is a document that has been discussed and reviewed with the Office of the Attorney General, members of the Legislature and the Aaron’s Company (the Board’s consultant) and will serve as the Board’s position on the practice of acupuncture.

The Board discussed how the Board arrived at drafting this resolution and provided the audience with an explanation on the complexity of law in addressing this matter.

Charles Brown, Executive Director from the Arizona State Board of Physical Therapy, addressed the Board and provided an overview of the process used by the PT board to consider the concerns surrounding dry needling as performed by physical therapists. Mr. Brown indicated the PT board will be discussing this matter at their October 22, 2013 board meeting. All documents and information gathered from stakeholder meetings and other events will be shared with the PT board. Mr. Brown indicated he is baffled by the Board’s effort to adopt this resolution given all the efforts provided by the PT board.

Board Member Adelman stated Mr. Brown should not be taken aback by the action of the Board since a number of efforts have been made to bring the PT board into the discussion for the past two years.

Board Member Cho moved to enter executive session to receive legal advice at 1:49 p.m. with Board Member Adelman providing a second. The motion carried by a vote: 6-0.

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

The Board returned to regular session at 2:49 p.m.

Complaint #2014-02 Kennedy Vo, L.AC.

The Board asked Mr. Vo to describe his treatment of Ms. Thanh Lan Nguyen. The Board asked Mr. Vo if he take the health history of the patient and Mr. Vo answered in the affirmative. The patient did not provide any history of taking medication to Mr. Vo.

Board Member Rhodes had a question about the fee charged by Mr. Vo. The patient was only treated with herbs and no acupuncture.

The Board determined to have Ms. Nguyen available to answer questions at a future board meeting.

Board Member Martin moved to table the complaint for a future board meeting with Board Member Rhodes providing a second. The motion carried by unanimous vote: 6-0.

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

Administrative Inquiries

Review of Anonymous Complaint regarding Brazos Minshew.

The Board was briefed by Executive Director Gonzalez on the letter and materials submitted to the Board office alleging Mr. Brazos Minshew is practicing acupuncture without a license.

After some discussion, the Board instructed the Executive Director to request information from Mr. Minshew on the allegation that he may be practicing acupuncture without a license.

Board Member Martin moved for the Executive Director to contact Mr. Minshew with Board Member Bronson providing a second. The motion carried by unanimous vote: 6-0.

Adelman	Bronson	Buechel	Cho	Clair	Martin	Rhodes	Vacancy	Vacancy	Vote
X	X	X	X		X	X			Aye
									Nay
									Recused
									Abstained
				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 Rhodes providing a second. The motion carried by unanimous vote: 6-0.

Janet J. Althen
 Paul R. Kerzner
 Melanie A. Kuehn
 Nicole M. Myers-Koenig
 Jessica L. Myrick
 D. Anaya Palay

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

Applications for Auricular Certificate (without self-disclosures)

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

Stephanie D. Zugaide
 Dana M. Poverman

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

Other Applications/Requests – Continuing Education

“Understanding Acupuncture Regulation and Legislation” provided by the Arizona Society of Oriental Medicine and Acupuncture for 1.5 hours on November 8, 2013 as part of the Arizona Society of Oriental Medicine and Acupuncture Fall Conference in Phoenix, Arizona.

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

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

“Quickbooks For Acupuncturists’ provided by the Arizona Society of Oriental Medicine and Acupuncture for 1.5 hours on November 8, 2013 as part of the Arizona Society of Oriental Medicine and Acupuncture Fall Conference in Phoenix, Arizona.

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

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

“EHR—Electronic Health Recording for Compliance and Success” provided by the Arizona Society of Oriental Medicine and Acupuncture for 2 hours on November 10, 2013 as part of the Arizona Society of Oriental Medicine and Acupuncture Fall Conference in Phoenix, Arizona.

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

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

“Using Systems to Help More Patients With Better Outcomes” provided by the Arizona Society of Oriental Medicine and Acupuncture for 10 hours on November 9-10, 2013 as part of the Arizona Society of Oriental Medicine and Acupuncture Fall Conference in Phoenix, Arizona.

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

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

Board Member Cho moved to enter executive session to receive legal advice at 3:34 p.m. with Board Member Rhodes providing a second. The motion carried by a vote: 6-0.

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

The Board returned to regular session at 4:16 p.m.

Complaints/Investigations

Board Member Martin moved to dismiss the following complaints, without prejudice, with Board Member Adelman providing a second. The motion carried by unanimous vote: 6-0.

- Complaint #2012-02 Sara Strawn Demeure, PT
- Complaint #2012-03 Nate Koch, PT
- Complaint #2012-04 Sean O. Flannagan, PT
- Complaint #2012-05 Molly Mikles, PT
- Complaint #2014-01 Toni Munoz, PT
- Complaint #2014-04 Sara Demeure, PT
- Complaint #2014-06 Justin Dunaway, PT
- Complaint #2014-12 Dianna L. Munger, PT
- Complaint #2014-13 Kenny Sargent, PT

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

Professional Business

Discussion of future legislative advisory committee meeting(s)

Executive Director Gonzalez provided the Board with an overview of the 2013 legislative session whereby the Board’s bill (SB 1037) was not enacted. The Board will need to reintroduce this needed legislation in the 2014 legislative session so the legislative advisory committee will have to meet and forward their recommendations to the Board by the November board meeting.

Executive Director Report

License and Certificate Status Report:

Active Licensed Acupuncturists: 550
 Expired Licenses: 4
 Active Certified Auricular Acupuncturists: 40

Board Office Information/Activities:

- Pursuant to Arizona Revised Statutes §32-3925 (B), license and certificate renewal notices for November 2013 licensees were prepared and sent. In addition, expired license and certificate letters for the month of August 2013 were sent.
- Prepared FY 2015 budget submission to the Office of the Governor.
- Meeting with public policy consultant on dry needling issue.
- Completed and submitted Certificate of Delegated Procurement Authority to the Arizona Department of Administration.
- Submitted the third quarter lobbyist expenditure report to the Secretary of State’s office.
- Received 15 complaints from the Arizona Coalition of Arizona Acupuncture Safety against physical therapists practicing dry needling in the state.

Budget Submission

- Prepared and submitted the FY 2015 budget request for the Board. Included in this request are additional monies to hire contract investigators in addressing complaints filed with the Board and monies to contract with a court reporting service for complaint hearings.

Future Meeting Dates

October 23, 2013
November 14, 2013 (Thursday)
December 10, 2013 (Tuesday)

Call to the Public

Y.M. Chen, L.AC., expressed his sadness with the dismissal of complaints filed against physical therapists. His concern is for the safety of the public.

Marcey I. Rosin, L.AC. submitted the following statement:

I can think of no other profession that has been so broadly co-opted by other professions than the practice of acupuncture. Acupuncture, when performed by those who have been adequately trained and licensed is a safe and effective procedure. It is precisely because of its safety and efficacy that it has become so popular.

Acupuncture is safe because until recently it was predominately practiced by licensed acupuncturists and, at least in the State of Arizona, standards of competency and regulation fell under the jurisdiction of a single board. Such consistent oversight, by a single board, is a safety net, ensuring the public that only the most highly qualified professionals would be performing this invasive procedure.

In the past few years reported injuries by acupuncture have been increasing. This increase in reported injuries may very well correspond to an increase in unregulated professions performing acupuncture. Regardless of whether the practitioner calls the procedure dry needling or acupuncture, when a patient ends up in the emergency room with a collapsed lung after someone has inserted a solid needle into their chest wall, that injury is listed as an acupuncture injury (for example, two recent cases: one involving a woman in Colorado who suffered a pneumothorax after receiving dry needling at a physical therapy clinic and the other case of the Canadian Olympic athlete who suffered a pneumothorax after receiving dry needling by a massage therapist were both recorded as acupuncture injuries even though, in both cases, the person performing the procedure WAS NOT a licensed acupuncturist).

Unfortunately statistics do not exist differentiating injury caused by acupuncture performed by licensed acupuncturists vs injuries caused by other professions. ***This issue alone should be a glaring red light that in order to ensure public safety there has to be better regulation of who is qualified to perform procedures entailing the subcutaneous insertion of solid, filiform needles into patients for therapeutic purposes.*** Arizona State Law already delegates the regulation of puncturing the skin with solid needles to affect a positive therapeutic response to the Arizona Acupuncture Board of Examiners.

For the past year the Arizona Acupuncture Board of Examiners has made every accommodation possible to cooperate with the Arizona Physical Therapy Board of Examiners to develop a strategy ensuring that physical therapists who engage in the therapeutic practice of puncturing patient’s skin with solid needles, are properly trained and regulated. The exclusive purpose of any regulatory board, the Physical Therapy Board included, is to protect the public. The Physical Therapy Board, however, chose instead, to act as a trade association. Rather than an impartial review of the evidence by members appointed to the Physical Therapy Board, the Physical Therapy Board of Examiners abdicated its role to protect the public and instead appointed a study committee, composed of practicing physical therapists who stand to profit from the practice of inserting solid needles into patients to affect a therapeutic response. This is unconscionable as it places for profit interests of Physical Therapists above the safety of the residents of Arizona. It will only be a matter of time before an increasing number of Arizona residents show up in the emergency room with injuries sustained by untrained professionals performing acupuncture. Must we wait for a disaster to happen before proper regulatory oversight is established?

Since the Physical Therapy Board has demonstrated a lack of initiative in protecting the public, the Arizona Acupuncture Board of Examiners is the last line of defense protecting an unsuspecting public from poorly trained persons practicing acupuncture. Let’s nip this problem in the bud before it turns into a public health nightmare.

Discussion of Items to be place on a future meeting agenda

- Special Board Meeting on Resolution
- Rules review
- Strategic Plan
- Reports submitted by the schools of acupuncture

Adjournment

Board Member Bronson moved for adjournment and Board Member Adelman provided a second. The motion carried by unanimous vote: 6-0. The Board adjourned at 4:59 p.m.

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

Respectfully Submitted,

A handwritten signature in black ink that reads "Pete Gonzalez". The signature is written in a cursive style with a large, stylized initial "P".

Pete Gonzalez
Executive Director

Approved by the Board: December 10, 2013